

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9756/2009

RAM PRASAD ..... Petitioner  
Through Mr. Pradeep Gupta, Mr. Suresh Bharti  
and Mr. Eklavya Gupta, Advocates.

versus

COMMISSIONER OF FOOD & SUPPLY DEPTT. & ORS. ... Respondent  
Through Ms. Ruchi Sindhwani, Adv.

**CORAM:**  
**HON'BLE MR. JUSTICE SANJIV KHANNA**

**ORDER**  
% **26.10.2009**

1. On 17<sup>th</sup> March, 2005, the enforcement team of Food and Supply Department, Government of NCT of Delhi, carried out surprise inspection of the fair price shop of the petitioner located at 16/498E, Bapa Nagar, Karol Bagh. The following four deficiencies were noticed by the Enforcement Directorate:-

- (i) Kerosene oil depot (KOD for short) was found to be closed at the time of visit.
- (ii) Net variation or shortage in stock of 548.600 ltrs. of kerosene oil was found on physical inspection.
- (iii) Card Register was not made available.

(iv) Complaint book was not made available.

2. Counsel for the petitioner submits that the petitioner had filed affidavits of 61 cardholders before the Appellate Authority that they had received kerosene oil as per the entitlement and this explains shortage of 540.600 ltrs.of kerosene oil at the time of inspection.

3. This contention of the petitioner has been dealt with by the Appellate Authority in the order dated 3<sup>rd</sup> July, 2006. No doubt that 41 cardholders were found at the given addresses but in other cases discrepancies were noticed. The possibility, that the petitioner would have secured the said affidavits, cannot be denied. In the reply to the show cause notice dated 25<sup>th</sup> April, 2005, the petitioner had stated that on 17<sup>th</sup> March, 2005, 524 ltrs. Kerosene oil was issued to 100 cardholders and the sales were effected by making entries in the cash memos. The stand, now taken by the petitioner is that the said sales were made to 61 cardholders and entries instead were made in the stock/sale register. The reply dated 25<sup>th</sup> April, 2005, does not refer to the stock/sale register and the entries made therein. Admittedly, the register was not produced before the enforcement team on 17th March, 2005. The reply to the show cause notice dated 25<sup>th</sup> April, 2005, states that sales were effected by making entries in the cash memos. The said cash memos were not made available

and produced before the enforcement team. The plea raised by the petitioner in his reply dated 25<sup>th</sup> April, 2005, was that the said cash memos were filled up by his salesman, Mr. Satish, who had suddenly left for hospital at 5 P.M. on 17<sup>th</sup> March, 2005. The license holder, i.e., the petitioner, was not aware that the salesman, Mr. Satish had started using a new cash memo book and had left the cash memos in a drawer. The respondents have rejected the said explanation stating that it is an afterthought and a sham excuse, which does not merit acceptance. In view of the aforesaid, the order passed by the respondent authorities does not require any interference. The writ petition has no merit and the same is accordingly dismissed.

**SANJIV KHANNA, J.**

**OCTOBER 26, 2009**  
**NA**