

\$~22

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

+ W.P.(C) 734/2019

PRITHVI SINGH

..... Petitioner

Through: Mr V. Shrivastav with Mr Manoj
Gautam, Advocates.

versus

ASSISTANT COMMISSIONER (SOUTH), GOVT.
OF NCT OF DELHI

..... Respondent

Through: Mr Gautam Narayan, ASC for
GNCTD with Ms Shivani Vij and Ms
Mahamaya Chatterjee, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.01.2019**

CM No.3232/2019 & 3233/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 734/2019 & CM No. 3231/2019

2. Issue notice. Mr Narayan, learned counsel appearing for the respondent accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 26.12.2018 passed by the Appellate Authority/Special Commissioner rejecting the petitioner's appeal impugning an order dated 22.10.2018, whereby Fair Price Shop (FPS) authorization issued to the petitioner was cancelled.

4. The petitioner was authorized to operate a FPS (license no.4819) situated at Circle 46, Chhattarpur. The said FPS was renewed from time to time.

5. On 02.07.2018, a suspension-cum-show cause notice was issued by the Assistant Commissioner (South) suspending the petitioner's FPS license. This action was taken on the ground that the visiting team had conducted door to door verification of the card holders and had found that several card holders were not residing at the address so provided. The said team concluded that 20.48 quintal of wheat and 5.12 quintal of rice had been diverted by the petitioner as ninety ration card holders were not found at their address. The petitioner responded to the said notice. He also sought details of the card holders that were found to be missing.

6. Subsequently, by an order dated 22.10.2018, FPS authorization issued in favour of the petitioner was cancelled on the same allegation as indicated in the suspension notice. The petitioner filed a writ petition challenging the said order twice by a writ petition (being W.P.(C) 12514/2018). The said petition was disposed of on 26.11.2018 with liberty to the petitioner to seek alternative remedy by way of an appeal under Rule 6 of the Delhi Specified Articles (Regulations of Distribution) Order, 1981. Thereafter, the petitioner preferred an appeal (Appeal No.36/2018) before the Special Commissioner, Food and Supplies, which was rejected by the impugned order.

7. A perusal of the impugned order indicates that the Appellate Authority has reproduced the petitioner's entire appeal in the first five pages of the impugned order and, thereafter, disposed of the appeal by rejecting the same in three short paragraphs. The Appellate Authority has held that the petitioner was required to distribute the Specified Food Articles (SFAs) through thumb impression (linked with Aadhaar) and in case of failure thereafter, by Iris verification and in case both of the above methods failed, by using the OTP method. The Appellate Authority (Spl Commissioner)

held that this procedure is also not followed by the FPS holder.

8. Mr Narayan, learned counsel appearing for the respondents states that SFAs were distributed to various card holders – who were not found residing at the given addresses – by verification through OTPs (one time passwords) that were received on a single mobile. Plainly, if this is correct, the allegations against the petitioner are serious. However, the impugned order does not indicate that this issue has been examined by the Appellate Authority. The impugned order does not indicate that SFAs were distributed by following OTP method where OTP was received on a single mobile number. It is also seen that the petitioner had raised several grounds. However, none of them were dealt with.

9. In view of the aforesaid, the impugned order is set aside and the appeal is restored to the file of the Special Commissioner. The petitioner shall appear before the Appellate Authority on 31.01.2019 at 10:30 AM. No adjournment would be granted to the petitioner on any ground whatsoever. It is also clarified that no fresh notice is required to be issued to the petitioner. The Special Commissioner shall pass a reasoned order after affording the petitioner an opportunity to be heard within a period of three weeks thereafter.

10. The petition is disposed of. The pending application is also disposed of.

11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

JANUARY 23, 2019/MK