



**Government of Jammu and Kashmir  
Department of Food, Civil Supplies and Consumer Affairs  
Civil Secretariat, J & K Srinagar**

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**Subject: OWP No.951/2017, MP No.01/2017 titled Lateef Ahmed Wani & another V/s State of J&K and others.**

**Ref:-** Letter No.DFCS&CA/Plg/301-02 dated: 09.03.2018 of Director FCS&CA, Kashmir.

**GOVERNMENT ORDER NO. 176-FCS&CA OF 2018**

**D A T E D: 23 .07 .2018**

Whereas, the department has received a copy of Hon'ble High Court Order dated:14-08-2017 passed in subject writ petition, the relevant portion whereof is reproduced as under:-

*"The grievance of the petitioners is that their case for opening of Fair Price Shops at Ganaiepora/Khandipora, Anantnag and Salia Wanpora is pending decision before respondents authority right from the year 2009 which fact is supported by the two communications bearing Nos. DCAPDK/Plg/FPS/09/120 dated 25.04.2009 and DCAPDK/Plg/FPS/4722 dated 31.03.2009 respectively addressed by Director, Consumer Affairs & PDD Kashmir to the Secretary to Government Consumer Affairs and Public Distribution Civil Secretariat, Jammu. Till date Secretary, Consumer Affairs and Public Distribution Department has not taken any final decision, same be taken if not already not taken within a period of four weeks from today. Liberty to the petitioner to re-agitate subject to the survival of the cause".*

Whereas, pursuant to the Order dated:14-08-2018 of the Hon'ble High Court, the Director FCS&CA, Kashmir vide letter No.FCS&CA/Legal124/2017 dated:12-09-2017 has been asked to furnish a detailed report in the matter with the clarification that why the case of the petitioners have not been processed earlier which constrained them to approach the Court of law as in view of invoking of new FPS Policy after the implementation of National Food Security Act, 2013, the pending cases regarding issuance of Fair Price Shop License was returned back to the concerned Directorate with the advise to process the same in light of new

*J. K. Wani*  
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policy to be notified after implementation of National Food Security Act, 2013; and

Whereas, in 2013 in order to provide food and nutritional security to human life by ensuring access to adequate quantity of quality food at affordable prices to the people to live a life with dignity a law known as "National Food Security Act, 2013" has been enacted by the Parliament of India, which was made applicable to the State of Jammu and Kashmir in terms of cabinet Decision No. 166/13/2015 dated: 02.12.2015; and

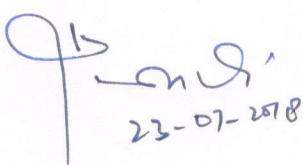
Whereas, the Ministry of Consumer Affairs, Food and Public Distribution, Government of India vide GSR No.213(E) dated:20-03-2015 promulgated an order in terms of section 3 of Essential Commodity Act, 1955 and in consonance of National Food Security Act, 2013 with the name and style of 'Targeted Public Distribution (Control) Order 2015' by repealing PDS Control Order 2001; and

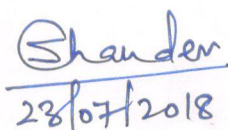
Whereas, the Administrative Department in terms of Clause 9 of the PDS Control Order 2015, for maintaining the supplies and distribution PDS Ration to the entitled beneficiaries in light of National Food Security Act, 2013 by virtue of Government Order No.127-FCS&CA of 2016 dated:04-08-2016 read with Government Order No.147-FCS&CA of 2016 dated:26-09-2016; Government order No. 352-FCS&CA of 2017 dated: 24.08.2017 and Government Order No. 70-FCS&CA of 2018 dated: 12.03.2018 issued guidelines for opening of new fair price shops; and

Whereas, in order to provide the ration to the beneficiaries at nearest door step, the department vide Government Order No.137 – FCS&CA of 2016 dated: 02-09-2016 sanctioned 4388 Fair Price Shop in the State including 03 Fair Price Shops in the Village Salia, Tehsil Mattan District Anantnag in addition to the existing sale centre; and

Whereas, the administrative department vide letter No.FCS&CA/FPS/117/2017 dated :23-08-2017 conveyed the approval for issuance of Fair Price Shop licence against the sanctioned location of the petitioner's area in favour of aspirants whose name has been recommended by the Director, FCS&CA Kashmir in terms of guidelines in vogue; and

Whereas, in reference to letter No.FCS&CA/Legal124/2017 dated:12-09-2017, the Director FCS&CA Kashmir vide letter No.DFCS&CA/Plg/301-02 dated: 09.03.2018 proposed to open two new

  
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Fair Price Shops in the village Salia in order to accommodate the petitioners; and

Whereas, on examination of the matter in the department, it was noticed that there is nothing mentioned about the viability/feasibility for opening of new Fair Price Shop location in the said Village in furtherance to locations sanctioned in the same village vide Government Order No. 137-FCS&CA OF 2016 Dated:02-09-2016; and

Whereas, the claim of the petitioners for taking decision in pursuance of recommendation made vide letter Nos. DCAPDK/Plg/FPS/09/120 dated: 25-04-2009 and DCAPDK/plg/FPS/4722 dated:31-03-2009 cannot be considered at this point of time being not covered by the guidelines in vogue as the old recommendation was supposed to have been initiated in terms of guidelines which has been repealed now by the existing guidelines; and

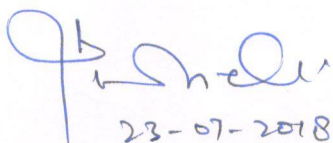
Whereas, the proposal regarding opening of two more Fair Price Shop in the village Salia is not tenable as relevant provision of clause A of the guidelines notified vide Government Order No. 127-FCS&CA of 2016 dated: 04.08.2016 reads as under:-

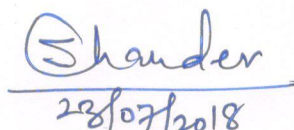
- i. *New Fair Price Shop shall be opened for every 250 RTs. However, existing Fair price Shop holder will retain more RTs if there is no feasibility of opening second fair price shop i.e there can be up to 499 RTs with a FP shops.*
- ii. *Rationees should have Fair Price Shops/Government Sale Depot within radius of 1.5 to 2 KM from their residents subject to having 250 RTs to be bifurcated."*

Whereas, clause 4 of guidelines issued vide Government Order No. 70-FCS&CA of 2018 dated: 12.03.2018 in furtherance to guidelines issued vide Government Order No. 127-FCS&CA of 2016 dated: 04.08.2016 provides as under:-

*"No Fair Price Shop dealership License shall be issued, unless the application for the said purpose shall be invited by the Licensing Authority for sanction Fair Price Shop location/area after giving wide publicity to the same in the electronic/ print media.*

*Provided that the applicants who have already applied in terms of previous orders shall have no need to apply again".*

  
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In view of the above back drop, the case of the petitioners having been considered in light of guidelines in vogue and being devoid of merit is hereby rejected. However, the Director FCS&CA Kashmir shall examine the feasibility/viability for opening of new Fair Price Shop location afresh in terms of law/rules/guidelines governing the subject and shall submit recommendation to the administrative department accordingly, thereafter, the matter of creation shall be considered and FPS license shall be issued after inviting the application from local unemployed youth, by the licensing authority after giving wide publicity through electronic/print media, wherein the petitioners can also participate in the selection process subject to condition that they are eligible in terms of the existing guidelines.

**By order of the Government of Jammu and Kashmir.**

**Sd/-**

**(Dr. Abdul Rashid) KAS**

Commissioner/Secretary to the Government  
Department of Food, Civil Supplies &  
Consumer Affairs

No. CAPD/Legal/124/2017

Dated: 23.07.2018

Copy to the:-


1. Director, Department of Food, Civil Supplies and Consumer Affairs, Kashmir, for information.
2. Director, Archives and Archeology and Museum, J&K, Srinagar.
3. Additional Advocate General, J&K High Court, Srinagar for information with the request to apprise the Hon'ble High Court.
4. Pvt. Secretary to the Advisor (K) of the Hon'ble Governor for kind information of the Advisor (K).
5. Pvt. Secretary to the Commissioner/Secretary to the Government, Department of Food, Civil Supplies and Consumer Affairs, for kind information of the Commissioner/Secretary.
6. Mr. Lateef Ahmad Wani and Peerzada Arif Hussain (the petitioners) residents of village Salia, Tehsil Mattan, District Anantnag, Kashmir.
7. I/c Website Department of Food, Civil Supplies and Consumer Affairs.
8. Government order file(w.3.s.c)

  
**(Manoj Kumar Pandit)**

Under Secretary to the Government

Department of Food, Civil Supplies &

Consumer Affairs

  
**Shander**

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