

# **M/S Pooja Medical Store,Unnao Thru. ... vs State Of U.P.Thru.Prin.Secy.Food ... on 4 August, 2021**

**Equivalent citations: AIRONLINE 2021 ALL 2094**

**Bench: Rajan Roy, Ravi Nath Tilhari**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 2

Case :- MISC. BENCH No. - 16444 of 2021

Petitioner :- M/S Pooja Medical Store,Unnao Thru. Proprietor Rakesh Kumar

Respondent :- State Of U.P.Thru.Prin.Secy.Food Safety &Drug Admin,Lko.&Ors

Counsel for Petitioner :- Pramod Kumar Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Hon'ble Ravi Nath Tilhari,J.

Heard.

This petition has been filed under Article 226 of the Constitution of India challenging the order dated 16.03.2021 passed by the Adjudicating Officer/ Additional District Magistrate, District-Unnao under Section 26(2) read with Section 52(i) and Section 68 of the Food Safety and Standards Act, 2006.

Such an order is appealable before the appellate tribunal constituted under Section 70 of the Food Safety and Standards Act, 2006 read with Regulation 3.3.1 of the Food Safety and Standards Rules, 2011. The appellate tribunal has been notified vide Gazette Notification dated 05.08.2011. The

appeal is required to be filed within sixty days. However, the said period has expired in this case. But as per Section 71(5) of the Act, 2006 while mentioning the procedure and powers of the tribunal, it has been provided that the provisions of the Limitation Act, 1963, shall, except as otherwise provided in this Act apply to an appeal made to the tribunal. We do not find anything contrary in Section 26(2), read with Section 52(i) and Section 68 of the Food Safety and Standards Act, 2006, so as to, oust the application of the Act, 1963 in the proceedings of an appeal before the appellate tribunal constituted under Section 70 of the Act, 2006 read with Regulation 3.3.1 of the Food Safety and Standards Rules, 2011. Therefore, as the petitioner has not availed and exhausted the remedy of appeal, we dismiss this writ petition with liberty to the petitioner to file an appeal, if so advised, along with an application for condonation of delay in filing the same and extending the limitation under Section 5 of the Act, 1963.

With these observations, the writ petition is dismissed.

(Ravi Nath Tilhari,J.) (Rajan Roy,J.) Order Date :- 4.8.2021Shanu/-