

Daya Shankar Rathaur vs Food Safety And Standards Authority Of ... on 11 December, 2023

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:234269-DB

Court No. - 40

Case :- WRIT - C No. - 38225 of 2023

Petitioner :- Daya Shankar Rathaur

Respondent :- Food Safety And Standards Authority Of India And 2 Others

Counsel for Petitioner :- Ravi Sahu

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner and Shri R.M. Upadhyay, learned Addl. Chief Standing Counsel for State respondents.

2. Present writ petition has been preferred for the following reliefs:-

"I. Issue a writ, order or direction in the nature of certiorari quashing the order dated 19.12.2022 passed by the Adjudicating Officer/ Additional District Magistrate (City) Kanpur Nagar in Case No.00730 of 2019, Computer Case No.D201903410000730 (State v. Daya Shankar Rathaur) and warrant of demand dated 12.07.2023 issued by the Tehsildar, Sadar, Kanpur Nagar in pursuance of order dated 19.12.2022 passed by the Adjudicating Officer/ Additional District Magistrate (City) Kanpur Nagar in Case No.00730 of 2019, Computer Case No.D201903410000730 (State Versus Daya Shankar Rathaur).

II. Issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere in peaceful operation of shop Maa Kali Cold Drinks situated at E.W.S. 01 Barra South, Gunjan Behal Karrahi Road P.S. Barra Kanpur Nagar."

3. Learned Addl. Chief Standing Counsel has raised a preliminary objection regarding maintainability of the writ petition on the ground that against the order impugned the petitioner has got efficacious alternative remedy to file an appeal before the Food Safety Appellate Tribunal under Section 70 of the Food Safety and Standards Act, 2006 (in short, Act, 2006) and as such, the writ petition is liable to be dismissed.

4. Considering the facts and circumstances, we are of the considered opinion that the petitioner has got efficacious remedy under Section 70 of the Act, 2006 to prefer an appeal before the Food Safety Appellate Tribunal and the order impugned can be assailed under Section 70 (1) before the Tribunal.

5. Once alternative remedy is available to the petitioner, we cannot come for rescue and reprieve of the petitioner at this stage. However, if the petitioner files an appeal before the Food Safety Appellate Tribunal within two weeks from today, the same would be considered on merits strictly in accordance with law.

6. The writ petition is, accordingly, disposed of.

Order Date :- 11.12.2023 SP/