

Ratan Ghee Depot Pvt. Ltd. And Another vs Food Safety Officer And 4 Others on 15 July, 2022

Author: Sunita Agarwal

Bench: Sunita Agarwal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 39

Case :- WRIT - C No. - 12296 of 2022

Petitioner :- Ratan Ghee Depot Pvt. Ltd. And Another

Respondent :- Food Safety Officer And 4 Others

Counsel for Petitioner :- Akank Kumar Jain

Counsel for Respondent :- C.S.C.

Hon'ble Mrs. Sunita Agarwal,J.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

The present writ petition has been filed challenging the order dated 14.03.2022 passed by the Commissioner, Food Safety and Drug Administration Department, Sector-C, Aliganj, Lucknow, namely, the respondent no. 5 in the appeal under Section 46 (4) of the Food Safety and Standards Act, 2006. The petitioner had raised objections with regard to the laboratory report by filing an appeal under Section 46 (1) of the Act, 2006. The order impugned records that as per the Food Safety and Standards Rules, 2011, the appeal against the order of Food Analyzer be submitted by the businessman before the prescribed authority under Section 46 (4) of the Act, 2006 in a prescribed format within 30 days of the receipt of the expert's report, whereas the petitioner herein had submitted the appeal after two months of the receipt of the laboratory report. As the appeal was not filed within the statutory period, it has been rejected. The issue arising out of the offence committed

by the petitioner is subject matter of consideration before the Additional District Magistrate, City, Prayagraj.

The prayer made before us by the learned counsel for the petitioners is that this Court may direct for retesting of the seized sample of ghee, as the laboratory report is not correct.

We may record that the sample was collected on 22nd March, 2021 and was sent to the laboratory on 23rd March, 2021. The report of the laboratory was received on 04th May, 2021. The copy of the said report had been forwarded to the petitioner on 14.06.2021. The petitioner was required to file the appeal within 30 days of the receipt of the laboratory report but it was filed after two months, which had been rejected by the order impugned dated 14.03.2022.

In the above circumstances, we find that after a period of about 01 year and 04 months of collection of sample, there is no justification to direct for re-sampling of ghee, as the chemical property of the sample must have been changed with the passage of time, in natural way. The prayer for quashing of the order dated 14.03.2022, therefore, is not to be entertained, as no relief can be granted to the petitioner, even if the said order is found bad on merits.

As regards the submission of the learned counsel for the petitioners about the proceeding undertaken by the department in sealing his business premises, remedy before him is to approach the competent authority.

The present writ petition is, accordingly, disposed of.

Order Date :- 15.7.2022 gp