

Chinar Sheep And Goat Suppliers Welfare ... vs Union Territory Of J And K And Ors on 23 August, 2023

Author: Sanjay Dhar

Bench: Sanjay Dhar

Serial No. 29
Regular List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
WP(C) 905/2020 CM(2011/2020) CM(4116/2020)
c/w i)CCP(S) 147/2021
ii)WP(C) 1467/2020 CM(4035/2020).

CHINAR SHEEP AND GOAT SUPPLIERS WELFARE ASSOCIATION.

...Petitioner (s)

Through: Mr. Hakeem Suhail Ishtiyah, Advocate.

VERSUS

UNION TERRITORY OF J AND K AND ORS.
(HEALTH AND MEDICAL EDUCATION DEPARTMENT).

...Respondent(s)

Through: Mr. Mubashir Majid Malik, Dy. AG.

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE
ORDER

23.08.2023.

01. The issue involved in WP(C) No.905/2020 is whether after coming into force of the Food Safety and Standards Act, 2006 and framing of Licensing Regulations thereunder, the respondent No.3 still continues to hold the power to grant licenses for sale of mutton in terms of the Jammu and Kashmir Mutton (Licensing and Control) Order, 1973. WP(C) No.905/2020 Page 2 of 3 c/w WP(C) No.1467/2020 CCP(S) No.147/2021

02. In WP(C) No.1467/2020, the issue involved is as to whether respondent No.3, even after coming into force of the Food Safety and Standards Act, 2006, continues to have the power to grant licenses for import and sale of livestock in the Union Territory of Jammu and Kashmir in terms of the provisions of J&K Mutton (Licensing and Control) Order 1973.

03. The contention of the petitioners in both the petitions is that after coming into force of the Food Safety and Standards Act, 2006 and framing of regulations thereunder, it is not the Department of Food, Civil Supplies and Consumer Affairs but it is the Commissioner, Food Safety, J&K, and the other authorities constituted under the Food Safety and Standards Act, 2006, who are vested with the power to grant licences.

04. After noticing the aforesaid facts this Court vide Order dated 16.11.2021 directed respondent No.1 and 2 i.e Health and Medical Education Department and Commissioner , Food Safety, Jammu and Kashmir, respectively to file their response to the Writ petitions. Accordingly the said respondents have filed their reply.

05. In their reply, the said respondents have submitted that every food business operator dealing with the pressed meat (Mutton/Chicken) has to mandatorily obtain Food License/Registration in terms of the provisions of Food Safety and Standard Act, 2006. It has been further submitted that the live animals are not covered under the definition of "food" under the said Act. The said respondents have also given details of the licensed/registered Meat/Chicken shops in different Districts of Jammu and Kashmir and they have further submitted that as per Section 97 of the Food Safety and Standards Act, enactments and orders specified in the Second Schedule of the Act stand repealed.

06. Learned counsel for the respondents has produced a copy of the Notification bearing S.O No. 300 dated 1st of June, 2023, issued by the Government of Jammu and Kashmir, Department of Food Civil Supplies and Consumer Affairs, whereby the Jammu and Kashmir Mutton (Licensing and Control) Order 1973, issued Vide SRO 643 dated 1973 has been revoked with immediate effect.

07. The petitioner-Association through the medium of the instant petitions has challenged the impugned Communications/Notices which have been issued by the Director CAPD in exercise of his powers under Jammu and Kashmir Mutton (Licensing and Control) Order 1973. The said order has been revoked in terms of S.O No. 300 dated 1st June, 2023 and Director Food Civil Supplies and Consumer Affairs has been directed not to issue any such orders. Further as per Section 97 (2) of the Food Safety and Standard Act, any law in force in any State which corresponds to aforesaid Act also stands repealed. Thus even prior to issuance of S.O. No. 300 dated 1st of June, 2023, the Jammu and Kashmir Mutton (Licensing and Control) Order 1973 had by implication ceased to exist, so far it related to the subjects covered under Food Safety and Standards Act. Therefore, the impugned notices/orders have been issued without jurisdiction and the same are accordingly quashed.

08. The instant Writ petitions are disposed of accordingly.

Since the interim orders have now merged with the final order passed in the Writ petition, as such, the contempt petition against the respondents cannot proceed. The proceedings are accordingly dropped.

Contempt petition stands disposed of.

(Sanjay Dhar) Judge SRINAGAR 23.08.2023 Showkat