

Ajay Gautam vs Union Of India Through Chief Executive ... on 20 March, 2024

Author: Manmeet Pritam Singh Arora

Bench: Manmeet Pritam Singh Arora

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 4220/2024

AJAY GAUTAM

Through: Petitioner in person

versus

UNION OF INDIA THROUGH CHIEF EXECUTIVE OFFICER
FSSAI & ORS.

Through: Ms. Supriya Juneja and
Singla, Advocates for
Mr. Santosh Kumar Tripathi
Standing Counsel (C) with
Pradyumn Rao, Mr. Kartikeya
and Mr. Rishabh Singh
Advocates with Insp. N
PS Keshav Puram
Date of Decision: 20th

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CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present petition is filed under Article 226 of the Constitution of India, as a Public Interest Litigation ('PIL') seeking direction to the Food Safety and Standards Authority of India (FSSAI) to lodge a complaint with respect to the incident which took place on 03rd and 05th December, 2023 against one Jagdish Ice Factory Pvt. Ltd and Al Zubair Foods. The Petitioner further seeks directions to SHO, P.S. Keshavpuram, Delhi to register an FIR against Jagdish Ice Factory Pvt. Ltd. and Al Zubair Foods for the same incidents.

2. The Petitioner states that a truck bearing no. HR 66 C5589 loaded with meat of ten slaughtered camels was seized by the officers of PS Keshavpuram on 03.12.2023 from the meat processing factory i.e., Jagdish Ice Factory Pvt. Ltd. It is stated that the said truck was brought to P.S. Keshavpuram and a complaint regarding the said incident was lodged by one Sh. Siddharath Malhaan, which was registered as DD No. 32A in PS Keshavpuram.

3. It is stated that on 03rd December, 2023 a team from FSSAI headed by Dr. Manisha Narayan, Designated Officer, Central Licensing Authority, collected the samples of the meat found in the truck. The said team sealed the factory on 03rd December, 2023 after the work of inspection and sampling was carried out.
4. It is stated that during the inspection carried out by the officials of FSSAI and the police, it was discovered that an Ice Factory for manufacturing edible ice was also illegally operating from the same premises.
5. It is stated that in the meanwhile, Jagdish Ice Factory Pvt. Ltd. and Al Zubair Foods filed WP(C) No. 15672/2023 before this Court for de-sealing of the factory premises. It is stated that the Petitioner herein filed an application for intervention (Intervention Application No. 693/2024) in the said writ petition, however, the said application was dismissed as withdrawn vide order dated 14th February, 2024 with liberty to take steps as available to him under law.
6. Petitioner, who appears in person states that he is aggrieved by the inaction of Respondent No. 2, FSSAI and Respondent No. 3, SHO P.S. Keshavpuram for not registering an F.I.R. against Jagdish Ice Factory Pvt. Ltd. and Al Zubair Foods for the cognizable offences committed by them. He states that the facts which are to the notice of the Respondents in view of the inspection carried out on 03rd December, 2023 and 05th December, 2023 reveal that the said persons have violated the provisions of Food Safety and Standards Act, 2006 and Prevention of Cruelty to Animals Act, 1960 and Delhi Agricultural Cattle Preservation Act, 1994.
7. He states that there are seven other F.I.Rs pending against Jagdish Ice Factory Pvt. Ltd. and Al Zubair Foods, as enlisted in the petition, however, no F.I.R. has been lodged by Respondents for the incident of December, 2023. He states that the present petition has been filed seeking a direction for registration of an FIR and formation of Special Investigation Team ('SIT') against the offenders.
8. In reply, learned counsel for Respondent No. 2, who appears on advance service, states that W.P.(C) 15672/2023 is pending before learned Single Judge of this Court and the issues arising out of the incident dated 03rd December, 2023 and 05th December, 2023 are sub-judice in the said matter. She states that as admitted in this petition, the premises owned by Jagdish Ice Factory Pvt. Ltd. were sealed by FSSAI on 03 rd December, 2023 itself. She relies upon the order dated 11th March, 2024 passed in the said writ petition and states that FSSAI has already sought leave of a learned Single Judge for de-sealing the premises so as to collect all relevant material for the purpose of initiating criminal prosecution against the offender.
9. We have heard the Petitioner and learned counsel for the Respondent No. 2. We have also perused the order dated 11 th March, 2024 passed in W.P.(C) 15672/2023 pending before the learned Single Judge.
10. Admittedly, both FSSAI and SHO PS Keshavpuram have already promptly taken steps on 03rd December, 2023 and 05th December, 2023 after the truck HR-66 C5589 was intercepted. The premises of Jagdish Ice Factory Pvt. Ltd. was sealed by FSSAI on 03rd December, 2023 itself.

11. Upon perusal of the orders passed in W.P.(C) 15672/2023 including order dated 11th March, 2024, it is apparent that the issue is already sub-judice before the learned Single Judge and perusal of the order also shows that FSSAI is already actively considering initiating criminal prosecution against the offenders. The relevant portion of the order reads as under:

"6. It is submitted by the learned Counsel for the Respondent that since the allegations against the Petitioner can lead to criminal prosecution for which a complaint has to be filed against the Petitioner under the FSSAI Act and for that purpose the documents lying inside the premises will have to be taken out from the premises. He states that the documents are lying in the premises as the matter was sub-judice.

7. Without going into the correctness or otherwise of the statement made by the Respondents, this Court is inclined to vacate the status quo order, if any, and permit the Respondents to take all the necessary documents which are lying in the premises. The Respondents are also directed to carry out videography/photography of the entire premises and collect all the material which would be necessary for the purpose of initiating a criminal prosecution. Respondents are directed to give a list of all the documents/material collected by them from the premises to the Petitioner.

8. List on 22.03.2024 in the Supplementary list.

9. Inspector Bhupinder Kumar and Dr. Manisha Narayan, the Officer of the FSSAI, are directed to be present in Court on the next date of hearing."

(Emphasis supplied) .

12. The orders also reveal that Jagdish Ice Factory Pvt. Ltd. has undertaken before the learned Single Judge that it will discontinue all business from subject premises with immediate effect.

13. We are therefore of the opinion that since the Respondents are already acting upon the complaint received against Jagdish Ice Factory Pvt. Ltd. and Al Zubair Foods including launching of a criminal prosecution; and the learned Single Judge is seized of the matter in W.P.(C) 15672/2023 the present PIL seeking constitution of an SIT and/or directions for registration of F.I.R. is not required to be entertained, in these admitted facts.

14. The Petitioner has asserted knowledge of the allegations made in this petition. Consequently, the Petitioner has available to him the remedy of filing an appropriate application Section 156(3) of the Criminal Procedure Code, 1973 in accordance with law; he however, cannot maintain this PIL to seek registration of a F.I.R.

15. The present petition is accordingly dismissed.

ACTING CHIEF JUSTICE MANMEET PRITAM SINGH ARORA, J MARCH 20, 2024/hp/sk