

Priya Sweets vs The State Of Jharkhand on 29 September, 2021

Equivalent citations: AIRONLINE 2021 JHA 1688

Author: Rajesh Shankar

Bench: Rajesh Shankar

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IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 1317 of 2021

Priya Sweets, Ramgarh through its proprietor Balvinder Singh
... .. Petitioner

Versus

1. The State of Jharkhand
2. The Deputy Commissioner, Ramgarh
3. The Additional Collector-cum-Adjudicating Officer, Ramgarh
4. S.D.O.-cum-Designated Officer, Ramgarh
5. Food Safety Officer, Ramgarh
... .. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. Pratik Sen, Advocate

For the Respondents : Mr. Achyut Keshav, G.P.-I

Order No. 04 Dated: 29.09.2021 The present case is taken up through video conferencing.

2. Learned counsel for the petitioner submits that though the petitioner has statutory recourse of filing appeal before the Food Safety Appellate Tribunal in terms with Section 70 (1) of the Food Safety and Standards Act, 2006 (in short, "the Act, 2006"), yet the petitioner has directly challenged the order dated 12.02.2021 passed by the respondent no. 3- the Additional Collector-cum-Adjudicating Officer, Ramgarh in Case No. 03 of 2020 by filing the present writ petition due to the reason that the said Appellate Tribunal is not functional in the State of Jharkhand.

3. The writ petition was earlier taken up on 04.08.2021 and on the said date, the respondent-State of Jharkhand was directed to file a separate counter affidavit explaining the reason as to why the Food Safety Appellate Tribunal is not functional in the State of Jharkhand and by what time the same would be made functional. Pursuant to the said order, a counter affidavit has been filed on behalf of the respondents annexing a copy of notification no. 232 (16) dated 30.07.2020 issued by the Principal Secretary, Department of Health, Medical Education and Family Welfare, Government of Jharkhand, whereby the Principal District & Sessions Judges of the concerned districts and the Judicial Commissioner of Ranchi District have been empowered to nominate the court of any

District & Additional Sessions Judge/Additional Judicial Commissioner of their respective judgeships to hear the appeal against the order of Adjudicating Officer of the concerned district.

4. Subsequent to the said notification, the Principal District & Sessions Judge, Ramgarh, vide order no. 123 dated 16.03.2021, nominated the court of District & Additional Sessions Judge-III, Ramgarh to hear the appeal under the Act, 2006 as Food Safety Appellate Tribunal against the order passed by the Adjudicating Officer, Ramgarh.

5. Since, as per the aforesaid notification as well as the provisions contained under the Act, 2006, the petitioner has efficacious remedy of preferring appeal under the Act, 2006 before the District & Additional Sessions Judge-III, Ramgarh challenging the impugned order dated 12.02.2021 passed by the respondent no. 3 in Case No. 03 of 2020, I am of the view that the present writ petition is not maintainable at this stage. The petitioner is, however, at liberty to prefer appeal before the Food Safety Appellate Tribunal, Ramgarh as has been indicated above.

6. The writ petition is accordingly dismissed as not maintainable with aforesaid liberty.

Ritesh/

(Rajesh Shankar, J.)