

V. Amratlal Patel vs State Of U.P. And 7 Others on 25 January, 2021

Bench: Manoj Misra, Ravi Nath Tilhari

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 3

Case :- WRIT - C No. - 1882 of 2021

Petitioner :- V. Amratlal Patel

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Ramesh Kumar Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Misra,J.

Hon'ble Ravi Nath Tilhari,J.

The petitioner has challenged a notice dated 29.10.2020, issued by the Additional District Magistrate (City), Ghaziabad/Adjudicating Authority, by which the petitioner has been called upon to submit an explanation as to why he be not penalized under sections 52 and 58 of the Food Safety and Standards Act, 2006.

A perusal of notice would reveal that a sample of coriander (Dhaniya) powder was taken, which, upon food analyst report dated 18.3.2020, was found sub-standard/adulterated.

The case of the petitioner is that he has filed an appeal under section 46 (4) of the Food Safety and Standards Act, 2006 which remains pending and, therefore, as food analyst's report is subject to appellate orders, the proceedings on the notice should be suspended.

As by the impugned notice, the petitioner has only been required to give his explanation, it is always open to the petitioner to inform the adjudicating authority with regard to the pending appeal or with regard to any decision taken thereon and, therefore, we do not consider it appropriate to quash the notice at this stage, particularly, when the petitioner can always raise the issue before the adjudicating authority.

In the alternative, the petitioner has also prayed that a direction be issued upon the concerned respondent to decide the appeal under section 46 (4) of the Act, 2006.

In respect of the alternative prayer, as we do not find that any number has been assigned to the alleged appeal submitted by the petitioner, we deem it appropriate to give liberty to the petitioner to move an application before the designated authority for early decision on his appeal, if the same is still pending.

This petition is, therefore, disposed off by giving liberty to the petitioner to submit his response to the impugned notice and take all legal and factual pleas as he may be advised. He is also at liberty to seek for expeditious disposal of the appeal pending under section 46 (4) of the Act, 2006, if the same is still pending Order Date :- 25.1.2021 Manish Tripathi