

# **M/S Swagat And Utsav Lawn Thru. ... vs Learned Food Safety Appellate/Addl. ... on 12 February, 2024**

**Author: Jaspreet Singh**

**Bench: Jaspreet Singh**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:12500

Court No. - 8

Case :- MATTERS UNDER ARTICLE 227 No. - 613 of 2024

Petitioner :- M/S Swagat And Utsav Lawn Thru. Proprietor Mr. Alok Chaudhary

Respondent :- Learned Food Safety Appellate/Addl. District Judge-Vi, Lko. And 3 Others

Counsel for Petitioner :- Skand Bajpai, Anubhav Yadav

Counsel for Respondent :- C.S.C.

Hon'ble Jaspreet Singh, J.

Heard Sri Skand Bajpai, learned counsel assisted by Sri Aditya Ranjan, learned counsel for the petitioner as well as the learned Chief Standing Counsel for the State-respondents.

The learned counsel for the petitioner at the outset submits that on an earlier occasion, the State-respondents had raised an objection regarding the maintainability of the aforesaid petition under Article 227 of the Constitution of India whereas as per the State-respondents, it should have been a petition under Article 226 of the Constitution of India.

The learned counsel for the petitioner submits that since the order impugned has been passed by the Food Safety Appellate Authority which is akin to a Tribunal, accordingly, the petition under Article 227 would be maintainable.

It has further been submitted that the petitioner has approached this Court in view of the fact that against the order passed by the Adjudicating Officer constituted under the Food Safety and Standards Act, 2006, the order is appealable in terms of Section 70 of The Food Safety and Standards Act, 2006.

It is further urged that though the appeal of the petitioner is pending before the respondent no. 1 and on few occasions the matter was heard yet neither the appeal has been decided nor the application for interim relief has been considered, as a result, the penalty which has been imposed is being sought to be recovered as arrears of land revenue by the Tehsildar despite the fact that the appeal is under consideration.

It is further urged that in pursuance of the recovery certificate, the petitioner has already deposited a sum of Rs. 40,000/- with the Tehsil Authorities and in the aforesaid circumstances, it is submitted that the appeal preferred by the petitioner may be decided expeditiously and in case the disposal of appeal takes time then at least the application for interim relief be considered as the Tehsil Authorities are making endeavours to recover the amount imposed as penalty which is under challenge in the appeal.

The learned Standing Counsel on the other hand submits that in so far as the prayer made by the petitioner regarding the expeditious disposal of the appeal as also the application for interim relief is concerned, they have no objection.

Considering the aforesaid facts and circumstances and also noticing that the appeal is pending before the respondent no. 1 and now the next date fixed is 01st March, 2024, accordingly, this Court is of the opinion that no gainful purpose will be served in keeping the aforesaid petition pending rather ends of justice can be served by directing the respondent no.1 to consider and decide the pending appeal of the petitioner as expeditiously as possible after affording full opportunity of hearing to the parties, but without granting any unnecessary adjournments to either of the parties, however, it is further provided that in case if the petitioner makes an application before the Appellate Authority for pre-poning the date and for consideration of his application for interim relief then the same shall be considered appropriately by the Appellate Authority and endeavour would be made to decide the said application for interim relief preferably within a period of ten days from the date, the such application is moved.

It is made clear that the Court has not examined the case of either of the parties on merits and the Appellate Authority shall decide the application for interim relief/appeal strictly in accordance with law.

With the aforesaid, the petition is disposed of.

Order Date :- 12.2.2024 Asheesh