

M/S Ashrafi Meat Shop, Amethi Thru. Its ... vs State Of U.P. Thru. Addl. Chief Secy. ... on 4 April, 2023

Bench: Rajan Roy, Manish Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 3

Case :- WRIT - C No. - 2212 of 2023

Petitioner :- M/S Ashrafi Meat Shop, Amethi Thru. Its Proprietor Mohd. Arif

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Food Safety And Drug Admin

Counsel for Petitioner :- Syed Zulfiqar Husain Naqvi, Shishir Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Hon'ble Manish Kumar,J.

Petitioner has challenged the order dated 11.01.2023 passed by the opposite party no. 3, cancelling the license of the petitioner for running meat shop. Contention is that no opportunity of hearing was given prior to passing of this order.

Today, Sri Rajesh Tiwari, learned Additional Chief Standing Counsel very fairly informs the Court on the basis of instructions that in fact, no notice or opportunity of hearing was given to the petitioner.

Counsel for the petitioner invites our attention to a similar order dated 24.02.2023 passed by this Court in similar circumstances in Writ C No. 1149 of 2023, which reads as under:-

"Heard learned counsel for the petitioner and learned Standing Counsel for the State respondents.

It is the case of the petitioner that by the impugned order dated 11.01.2023, the registration of the petitioner for running a meat shop has been cancelled by upholding that the N.O.C. issued in his favour by the Police Authorities has, later on, been withdrawn/cancelled. No opportunity of hearing was given to him. He has referred to the various provisions of the Food Safety and Standards Act, 2006 to show that before cancelling the registration reasonable opportunity should be given and the authority concerned should record reasons for passing orders, which has not been done in the present case.

This Court has granted time to the learned Standing Counsel to seek instructions in the matter whether opportunity was granted to the petitioner.

Learned Standing Counsel has received instructions and says on the basis of it that the authorities concerned did not feel it necessary to give opportunity of hearing as no license can be given without N.O.C. from the Police Authorities and in the case of the petitioner, the N.O.C. was cancelled by the Police Authorities. In the absence of N.O.C. from the competent officer, the license was bound to be cancelled.

This Court finds that even if, N.O.C. was cancelled by the Police Authorities since the Act provides for cancellation of license under 2.1.8 of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011, the procedure prescribed in law should have been followed.

The order impugned dated 11.01.2023 is quashed with liberty to the respondents to issue show cause notice to the petitioner within three days from today. The petitioner shall cooperate in the enquiry and in case, the petitioner does not cooperate, it shall be open for the authorities to record reasons for proceeding ex-parte and pass appropriate orders within three weeks from the date of issuance of show cause notice.

Writ petition is allowed only to the aforesaid extent."

There are other orders to the same effect challenging similar orders passed without any opportunity of hearing.

We accordingly quash the order dated 11.01.2023 passed by the opposite party no. 3 and grant liberty to the opposite parties to proceed, if they find reasonable cause for the same, afresh against the petitioner after giving proper notice and opportunity of hearing.

In the result, the present writ petition is allowed.

Order Date :- 4.4.2023 Nitesh