

Rijwan Ali vs State Of U.P. Thru. Prin. Secy. Deptt. Of ... on 19 September, 2023

Bench: Vivek Chaudhary, Manish Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2023:AHC-LK0:59887-DB

Court No. - 3

Case :- WRIT - C No. - 7636 of 2023

Petitioner :- Rijwan Ali

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Food And Safety Civil Sectr. U.P

Counsel for Petitioner :- Rizwanul Haque Ansari,Vijay Kumar Asthana

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Present writ petition has been preferred by petitioner challenging the order dated 12.07.2023 by which penalty of Rs.50,000/- has been imposed under Section 26(2)(v) and 31(2) of Food Safety and Standards Act, 2006 and also for violating Licensing Regulation 2.1.1(1), as the petitioner, without obtaining the permission for running a shop had doing the business in the shop of 6x6 feet area situated at Dhakerwa Chauraha, District Kheri.

2. Learned counsel for petitioner has submitted that the impugned order has been passed ex-parte without providing any opportunity of hearing to the petitioner. It is further submitted that

petitioner is a petty shop owner and is having only source of income from his small shop/patri dukan of cold drinks and snacks. Capital of the shop is of Rs.35,000/- and it is not possible for petitioner to pay a fine of Rs.50,000/-. It is further submitted that the petitioner has obtained permission from the authorities according to the provisions subsequent to passing of the impugned order.

3. On the other hand learned Standing Counsel has submitted that it is admitted case of petitioner that he had not obtained the required permission to run the shop as required under the statute and, therefore, providing opportunity of hearing is mere formality.

4. After hearing counsel for parties, going through the record and the supplementary affidavit filed by petitioner which is taken on record, this Court is of the view that the penalty imposed upon petitioner is disproportionate to the earnings of petitioner from a patri dukan. We find it appropriate that the said fine of Rs.50,000/- may be reduced to Rs.15,000/- to which learned Standing Counsel has no objection.

5. In view of the above, the impugned order dated 12.07.2023 is hereby modified on the prayer of petitioner and discretion of the Court to the extent that amount of penalty of Rs.50,000/- is reduced to Rs.15,000/- and petitioner is directed to deposit the same within a period of one month from today.

6. With the aforesaid, the writ petition is disposed of.

Order Date :- 19.9.2023 Arti/-

[Manish Kumar,J.] [Vivek Chaudhary,J.]