

Prop., M/S.Fiza Enterprises, Rr Dist vs Prl Secy, Dept, Of Health, Medical And ... on 10 July, 2024

Author: B. Vijaysen Reddy

Bench: B. Vijaysen Reddy

THE HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.37739 OF 2017

ORDER :

(ORAL) This writ petition is filed by the petitioner seeking to declare the action of respondent No.2 - the Director and Commissioner Department of Food and Safety in not renewing its license bearing No.10114023000048 issued on 17.01.2014 in spite of its application for renewal dated 06.06.2015 along with requisite charges of Rs.3,000/- vide challan No.35748 dated 06.06.2015, as being illegal, arbitrary and violative of Article 21 of the Constitution of India.

2. Heard Mr. V. Nitesh, learned counsel for the petitioner; Mr. Mahesh Raje, learned Government Pleader for Medical, Health and Family Welfare, Mr. M. Durga Prasad, learned Standing Counsel for respondent No.3 and Mr. S. Chandrasekhar, learned Standing Counsel for respondent No.4, and perused the material on record.

3. The case of the petitioner is that it is a registered firm engaged in the business of export of fresh and frozen meat and meat products from Hyderabad to various Middle East countries. Petitioner obtained Registration - cum - Membership Certificate vide Registration No.166078 from respondent No.4 - the Agriculture and Processed Food Products Export Development Authority, Ministry of Commerce and Industry, which was valid till 22.11.2013. That for doing export business petitioner has to get license from respondent No.2, which has to be certified by respondent No.3 - the Greater Hyderabad Municipal Corporation.

4. It is submitted that the petitioner had been doing business in the export of meat since 2011. It made an application before respondent No.4 for renewal of license and the said application was kept pending and dodged for no reasons. Aggrieved by the same, petitioner filed W.P. No.17836 of 2014 which was disposed of by this Court on 04.07.2014 directing respondent No.2 therein to consider petitioner's representation dated 12.06.2014 and pass orders within a period of two (2) weeks from the date of receipt of a copy of that order. Despite the same, respondent No.4 did not pass any orders. Petitioner also approached the State Minority Commission vide Case No.28 of 2015. Thereafter, petitioner approached respondent No.4 several times. That on being informed that petitioner has to obtain its license first then only its application for renewal would be considered, the petitioner paid Rs.3,000/- towards charges on 06.06.2015 for renewal of its license. However, petitioner's license was not issued till today.

5. Learned Standing Counsel for respondent No.3 filed counter and submitted that all food business operators in the country have to be registered/licensed in accordance with the procedure laid down under the provisions of the Food Safety and Standards Act, 2006 (for short 'Act 2006'), the Food Safety and Standard Rules, 2011 (for short 'Rules 2011') and the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 (for short 'Regulations 2011'). However, the business operator shall submit its application to the concerned licensing authority and it shall be accompanied by a self-attested declaration as to the compliance of the food safety norms and copies and documents along with applicable fees.

6. Learned Standing Counsel submitted that validity of the license granted under these regulations shall be for a period of one (1) to five (5) years as chosen by the food business operator from the date of issue of license. Any application for renewal shall be prior to thirty (30) days from the date of expiry of license. If, the license renewal application is not filed within the above mentioned period, the food business operator shall stop all business activity at the premises and will have to apply for fresh license through online to restart the business.

7. Learned Standing Counsel also submitted that petitioner was required to submit online application for renewal of license before thirty (30) days from the date of expiry of license as per the Rules 2011 and Regulations 2011. Instead petitioner submitted physical application that too five (5) months after the date of expiry of license and respondent Nos.2 and 3 are not under any obligation to consider such application. Petitioner failed to follow the mandatory provisions under the Rules 2011 and Regulations 2011 in submitting application for renewal of its license, as such, petitioner's license cannot be renewed.

8. Learned Government Pleader for Medical Health and Family Welfare submitted that petitioner may be directed to submit application for renewal of license through online in prescribed format along with requisite fees as per the Regulations 2011. Such application will be processed as expeditiously as possible in accordance with law.

9. In view of the aforesaid submissions, the writ petition is disposed of, directing the petitioner to submit application for renewal of its license through online in prescribed format along with requisite fees as per the Regulations 2011. On receipt of such application, respondents shall pass orders, in accordance with law, within a period of six (6) weeks thereafter. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the writ petition stand closed.

_____ B. VIJAYSEN REDDY, J July 10, 2024 MS