

Ankur Kesharwani vs Additional Collector (Finance And ... on 20 January, 2021

Bench: Naheed Ara Moonis, Dinesh Pathak

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 39

Case :- WRIT - C No. - 1116 of 2021

Petitioner :- Ankur Kesharwani

Respondent :- Additional Collector (Finance And Revenue) And 2 Others

Counsel for Petitioner :- Anand Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Naheed Ara Moonis,J.

Hon'ble Dinesh Pathak,J.

Heard learned counsel for the petitioner and Sri B.P. Singh Kachhawah, learned Standing counsel for the respondents.

The instant writ petition has been filed seeking following relief:

"(i) Issue a writ order or direction in the nature of certiori quashing the impugned order dated 31.8.2020 passed by the respondent no. 1 (A-3 to the writ petition).

(ii) a writ, order or direction in the nature of certiorari quashing the recovery certificate dated 15.10.2020 for Rs. 35,000/-(A-4).

(iii) Issue a writ, order or direction in the nature of mandamus commanding the respondents not to adopt coercive measure against the petitioner for recovering the aforesaid amount.

(iv) Issue a writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) Award the cost of writ petition to the petitioner."

The submission of the learned counsel for the petitioner is that the petitioner is running a grocery shop in village Saiyad Sarawan, Kaushambi. The respondent no. 2 Food Safety Officer on 9.1.2018 at 1.40 P.M. inspected the shop of the petitioner and took the sample of pea flour from the shop of the petitioner and sent the sample for analysis to the Food Analyst for submitting its report. The Food Analyst, U.P. Lucknow analyzed the sample under the provisions of Food Safety and Standards Act, 2006 and submitted its report dated 27.1.2018 by observing that gram starches are present in the sample. On the basis of the report dated 27.1.2018 the respondent no.1 passed an order dated 31.8.2020 imposing fine of Rs. 35,000/- upon the petitioner and in pursuance thereto the recovery certificate dated 15.10.2020 was issued. Thereafter, the District Magistrate, Kaushambi directed the Tehsildar to recover the amount from the petitioner as land revenue.

Learned counsel for the petitioner submits that the action of the respondents is wholly illegal and arbitrary in proceeding against the petitioner to recover Rs. 35,000/- as fine to be deposited by him within a period of one month, failing which the proceeding for recovery will be initiated as land revenue. The learned counsel for the petitioner submits that the petitioner is ready to deposit the amount of fine in easy installments.

The learned counsel appearing on behalf of the respondents submits that if the petitioner is ready to deposit the amount within specified period, the Collector shall not demand the collection charges from the petitioner.

In this view of the matter, the writ petition is disposed of directing the petitioner to deposit the aforesaid amount in two easy instalments within 4 months, failing which the recovery proceeding shall be revived in accordance with law.

Order Date :- 20.1.2021 Shahnawaz