

Mohammad Naushad vs State Of U.P. And 2 Others on 8 May, 2023

Author: Surya Prakash Kesarwani

Bench: Surya Prakash Kesarwani

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:98391-DB

Court No. - 3

Case :- WRIT - C No. - 7136 of 2023

Petitioner :- Mohammad Naushad

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Rajesh Kumar Dubey, Mohit Gautam

Counsel for Respondent :- C.S.C.

Hon'ble Surya Prakash Kesarwani, J.

Hon'ble Anish Kumar Gupta, J.

Sri Rajiv Gupta, learned Additional Chief Standing Counsel has filed a short counter affidavit dated 06.05.2023 on behalf of respondent No.1, which is taken on record.

On 19.04.2023, this court passed the following order:

"Heard Shri Rajesh Kumar Dubey, learned counsel for the petitioner and Shri Rajiv Gupta, learned Additional Chief Standing Counsel for the State-respondents.

The impugned order dated 11.02.2021 under Section 26(2) Food Safety and Standards Act, 2006 (hereinafter referred to as 'the Act, 2006') is appealable under Section 70 of the Act, 2006.

Learned counsel for the petitioner submits that the appellate tribunal for the purposes of Section 70(1) of the Act, 2006 has not been constituted so far in the State of Uttar Pradesh.

Considering the statement made by learned counsel for the petitioner, we direct the respondent no.1 to file a short counter affidavit stating therein as to whether a tribunal for the purposes of Section 70(1) of the Act, 2006 has been constituted? If the answer is in negative, then the respondent no.1 shall show cause as to why it has not been constituted so far and how much time the State would take to constitute it?

In the event, short counter affidavit is not filed by the respondent no.1, as directed above, before the next date fixed, then he shall remain personally present before this Court and shall show cause for non-compliance of the order.

List/Put up in the additional cause list on 08.05.2023 at 2 P.M. for further hearing."

In paragraphs-3 and 4 of the aforesaid short counter affidavit, the respondent No.1 has stated as under:

"3. That it is humbly submitted that the Tribunal was constituted under the G.O. dated 23.04.2014. A true photocopy of the G.O. dated 23.04.2014 is being annexed herewith and marked as Annexure No.SCA-2 to this short counter affidavit.

4. That, as per said G.O., Appellate Authority is District Judge, Moradabad as stated in Column-4 of the G.O."

In view of the aforesaid, since a Tribunal has already been constituted, therefore, we dispose of this writ petition giving liberty to the petitioner to file an appeal before the Tribunal. In the event, such an appeal is filed within four weeks from today along with a certified copy of this order, it shall be entertained by the Tribunal without raising any objection as to limitation.

Order Date :- 8.5.2023 NLY