

Irshad Ahmad Ansari vs State Of U.P. And 4 Others on 7 November, 2023

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:214104-DB

Court No. - 40

Case :- WRIT - C No. - 38447 of 2023

Petitioner :- Irshad Ahmad Ansari

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Parvez Alam, Mohd. Israr

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Sri Devesh Vikram, learned Additional Chief Standing Counsel for the State respondents.

2. By means of this petition, the petitioner has sought following reliefs:-

"i) Issue a writ, order or direction in the nature of certiorari quashing the order dated 07.10.2023 passed by respondent no.5, whereby the license No.127230360000140 of the petitioner for meat shop is suspended with immediate effect.

ii) Issue a writ, order or direction in the nature of mandamus directing the respondents not to interfere in peaceful running of meat shop of the petitioner situated at Teen Batti, Ledua Mahua Amardo Bha, Bakhira, Khalilabad, District Sant Kabir Nagar."

3. Learned counsel for the petitioner has vehemently submitted that the petitioner applied for and was accorded license of meat shop (retail) issued by the competent authority on 24.08.2023, which is valid upto 23.08.2024. By the impugned order dated 07.10.2023, the respondent no.5 has suspended the meat shop of the petitioner. It is submitted that neither the petitioner has violated any conditions as provided under Section 31 (5) of the Food Safety and Standards Act, 2006 nor has violated any terms and conditions provided in Food Safety and Standards (Licensing and Registration of Food Business), Regulations, 2011. It is also pressed that against the impugned suspension order, even though the petitioner has filed an objection but he has no remedy. Such situation has impelled the petitioner under Article 226 of Constitution of India.

4. Per contra, Sri Devesh Vikram, learned Additional Chief Standing Counsel has raised preliminary objection regarding maintainability of the present writ petition on the ground that the Food Safety and Standards Act, 2006 is itself a self-contained Act. Even though against the impugned suspension order the petitioner has got efficacious remedy to file an appeal, which is provided under Section 32 (4) (c) of the Act, 2006, which deals with the cases wherein any person, who is aggrieved by (a) an improvement notice; or (b) refusal to issue a certificate as to improvement; or (c) cancellation or suspension or revocation of licence under this Act, may appeal to the Commissioner of Food Safety whose decision thereon, shall be final. Therefore, it is absolutely incorrect that the petitioner has no remedy and moreover, without finalisation of the proceeding the writ petition is liable to be dismissed on both grounds, firstly, the petitioner has got efficacious remedy and secondly, without waiting for the outcome of the proceeding, the petitioner has approached this Court in haste.

5. Confronted with this situation, learned counsel for the petitioner fairly states that the petitioner has already filed a detailed objection and the same may be decided expeditiously.

6. Considering the facts and circumstances, at this stage we are not inclined to entertain the writ petition. Needless to say that it is open to the petitioner to press his objection in the ongoing proceeding.

7. The writ petition is disposed of, accordingly.

Order Date :- 7.11.2023 RKP