

# **M/S Mobeen Meat Shop And 7 Others vs State Of U.P. And 5 Others on 12 August, 2021**

**Bench: Manoj Misra, Jayant Banerji**

HIGH COURT OF JUDICATURE AT ALLAHABAD

Court No. - 40

Case :- WRIT - C No. - 15760 of 2021

Petitioner :- M/S Mobeen Meat Shop And 7 Others

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Shamsuddin Ahmad

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Misra,J.

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioners; the learned Standing Counsel for the respondents; and perused the record.

2. By this petition, the petitioners, who separately hold Buffalo Meat Shop licence issued under the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulations, 2011 (for short 2011 Regulations) framed under the provisions of Food Safety and Standards Act, 2006 (for short 2006 Act), have challenged the order of suspension of licence dated 27.05.2021 uploaded on the website concerned.

3. According to the petitioners they were granted license after obtaining No Objection Certificate from the concerned Municipal Board and they only procured buffalo meat from slaughter houses for retail sale and that they never carried out slaughter at their retail shop; and that their licenses were

suspended without giving any opportunity of hearing to them.

4. As the suspension status loaded in the website provided no reasons with regard to the suspension, the petitioners have jointly filed this petition for quashing the order of suspension, inter alia, on the grounds that the 2011 Regulations, vide Clause 2.1.8, provides for a specific procedure for suspension or cancellation of Registration Certificate or license. According to which, the Registering or Licensing Authority, after giving the concerned Food Business Operator a reasonable opportunity of being heard, suspend any registration or license in respect of all or any of the activities for which the registration/license has been granted under the Regulations after recording a brief statement of the reasons for such suspension, if there is reason to believe that the Food Business Operator has failed to comply with the conditions within the period mentioned in any Improvement Notice served under Section 32 of the 2006 Act. It is the case of the petitioners that the procedure prescribed by Clause 2.1.8 was not followed as neither opportunity of hearing nor any Improvement Notice was given/ served on the petitioners.

5. In support of the above submission, the learned counsel for the petitioners invited our attention to paragraph 9 of the writ petition wherein it is stated as follows:-

"9. That before or after suspending the licenses of petitioners neither any notice nor any improvement notice or show cause notice has been issued or served upon the petitioners nor any opportunity of being heard given to the petitioners which is against the principle of natural justice and also the violation of the statutory provision provided under the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011."

6. On 26.07.2021, we had required the learned Standing Counsel to seek written instructions from the respondents disclosing reasons for suspension of the meat shop license.

7. Learned Standing Counsel has obtained written instructions from the Registering Authority. The written instructions provided to the learned Standing Counsel have been passed on to us. The written instructions carry para-wise reply of the writ petition as well. In paragraph 3 of the instructions it is stated that a report was received from Superintendent of Police, Bijnor informing the registering authority that the licensees were not having Freezers therefore there is possibility of outbreak of diseases. In paragraph 6 of the instructions, the averments made in paragraph 9 of the writ petition, extracted above, have been replied as follows:-

^6&;gfd ;kfpdk dk izLrj 9 Lohdkj ugh gS] D;ksafd fd ;kphx.k dks foHkkxh; iksVZy ij fuyEcu vkns'k dh tkudkj gks pqdh Fkh vkSj blh vk/kkj ij mUgSa mipkj gsrq izkIr volj ds v/khu ftykf/kdkjh fctukSj dh lsok esa fnukad 28-06-2021 dks mipkjRed izkFkZuk i= izLrqR fd;k x;k gS\*\*

8. From above, it is clear that the respondents do not specifically state that before suspending the licenses of the petitioners opportunity of hearing was given to the petitioners or that they were served with improvement notices as contemplated by section 32 of the 2006 Act. The stand taken is

that the petitioners had knowledge of suspension of their license and were given opportunity to submit their response and they submitted their response on 28.06.2021. Noticeably, neither in the written instructions nor in the documents annexed therewith it is disclosed that any notice was served upon the petitioners either pointing out defect or calling for explanation before passing the order of suspension.

9. As clause 2.1.8 of the 2011 Regulations prescribe for a specific procedure to be followed before suspension of Food License/Registration, that is of giving opportunity of hearing to the licensee before passing the order of suspension, and the impugned orders of suspension have been passed without giving opportunity of hearing to the petitioners, as stated in paragraph 9 of the writ petition, which has not been specifically rebutted in the para-wise reply submitted by the Licensing Authority, the orders of suspension stand vitiated and are liable to be quashed.

10. The writ petition is, therefore, allowed. The suspension orders dated 27.05.2021 suspending the Buffalo Meat Shop License of the petitioners are hereby quashed. It is, however, left open to the respondents to pass a fresh order after giving opportunity of hearing to the petitioners in accordance with the provisions of 2006 Act, 2006 and the 2011 Regulations.

11. The written instructions supplied by the learned Standing Counsel shall be retained on record.

Order Date :- 12.8.2021 Sunil Kr Tiwari