

# **Omkar Nath Rai And Another vs State Of U.P. And 2 Others on 2 March, 2023**

**Author: Surya Prakash Kesarwani**

**Bench: Surya Prakash Kesarwani**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 3

Case :- WRIT - C No. - 1493 of 2023

Petitioner :- Omkar Nath Rai And Another

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

Counsel for Petitioner :- Rang Nath Pandey,Rahul Pandey

Counsel for Respondent :- C.S.C.

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Anish Kumar Gupta,J.

Heard learned counsel for the petitioners and learned Standing Counsel for the respondents.

This writ petition has been filed praying for the following relief:

"(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned orders dated 8.4.2022 passed by respondent no.2 against the petitioners in Case No.5142 of 2021, State of U.P. Vs. Sri Omkar Nath Rai and others (Annexure No.3)

(ii) A writ order, or direction in the nature of certiorari quashing impugned order dated 25.11.2021 passed by respondent no.2 against the petitioners in Case No.3305 of 2021, State of U.P. Vs. Sri Omkarnath Rai and others (Annexure No.4)."

On 23.02.2023, the Court passed the following order;

"Learned standing counsel prays for and is granted a week's time to obtain instructions, particularly on the point as to whether the impugned orders are appealable under the Food Safety and Standards Act, 2006.

Put up as a fresh case on 02.03.2023, along with all connected writ petitions."

Today, learned Standing Counsel states on instruction of respondent No.2 that against the impugned order, an appeal lies before the Tribunal, under Section 70(1) of the Food Safety and Standards Act, 2006 and therefore, the petitioners may prefer an appeal before the tribunal.

In view of the statement made by the learned Standing Counsel on instruction, this writ petition is dismissed on the ground of an alternative remedy, leaving it open for the petitioners to prefer an appeal before the Tribunal under Section 70(1) of the Food Safety and Standards Act, 2006. If such an appeal is filed by the petitioners within four weeks from today along a certified copy of this order, it shall be decided by the Tribunal in accordance with law on merit without raising any objection as to the limitation.

Certified copy of the impugned order shall be returned by the office to the learned counsel for the petitioners within three days, after retaining a photostat copy of the same in the record.

It is made clear that we have not expressed any opinion on merits of the case of the petitioners.

Order Date :- 2.3.2023 SFH