

M/S Al Adnan Food vs State Of U.P. And 6 Others on 11 January, 2021

Bench: Munishwar Nath Bhandari, Rohit Ranjan Agarwal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 40

Case :- WRIT - C No. - 22376 of 2020

Petitioner :- M/S Al Adnan Food

Respondent :- State Of U.P. And 6 Others

Counsel for Petitioner :- Vinod Kumar Tirpathi, Manoj Kumar Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Munishwar Nath Bhandari, J.

Hon'ble Rohit Ranjan Agarwal, J.

On 17.12.2020 learned Standing Counsel was directed to seek instructions in the matter. No instructions have yet been given to learned Standing Counsel, thus, matter was heard as similar writ petition has already been decided by this Court on 22.09.2020 being Writ-C No. 12552 of 2020. The order passed therein is quoted here under;

"This writ petition has been filed, inter alia, for the following reliefs:

"(1) Issue a writ, order or direction in the nature of certiorari quashing the suspension order if passed before impugned order/information dated 07.03.2020 passed by the concerned respondents (Annexure No. 3 to the writ petition).

(2) Issue a writ, order or direction in the nature of mandamus commanding/directing the respondent authorities not to interfere in peaceful business/retailer shop of Buffalo meat of the petitioners."

Heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner has stated that the license of the petitioner for running meat shop has been suspended by order dated 07.03.2020 passed by respondent no. 7 on the basis of the report submitted by the Incharge Inspector, Police Station Najibabad, District Bijnor, without giving any notice or opportunity of hearing to the petitioner, as such, the aforementioned order has been passed in utter violation of principle of natural justice.

He further referred to the regulation 2.1.8 of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011 wherein it has been provided that the Registering or Licensing Authority in accordance with the provisions of section 32 of the Food Safety and Standard Act, 2006 may, 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 these Regulations. For ready reference regulation 2.1.8 of the Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011 is quoted herein below:-

"(1) The Registering or Licensing Authority in accordance with the provisions of section 32 of the Act may, 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 these 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 Act. A copy of such statement shall be furnished to the concerned Food Business Operator whose Registration or license has been suspended."

Learned Standing Counsel appearing on behalf of the State has not disputed the aforesaid fact and has stated that he has no objection, in case the impugned order is set aside and the concerned authority is directed to pass a fresh order after issuing notice and affording opportunity of hearing to the petitioner.

No useful purpose would be served by keeping the present matter pending.

Considering the facts and circumstances of the case and keeping in view that the impugned order has been passed without issuing any notice or affording any opportunity of hearing to the petitioners, the impugned order dated 07.03.2020 passed by the respondent no. 7 is hereby set aside granting liberty to the authority concerned to pass a fresh order in accordance with law after issuing notice and affording opportunity of hearing to the petitioner.

With the aforesaid observation, this writ petition stands disposed of.

It is made clear that this Court has not expressed any opinion with regard to the merit of the case. The authority concerned shall proceed with the matter in accordance with law after affording opportunity of hearing to the petitioner.

Learned counsel for the petitioner undertakes to serve the copy of this order upon the respondent no. 7 within ten days."

The case in hand is covered by the judgment supra. In this case also, the impugned order was passed without issuing notice or an opportunity of hearing. In view of the above, the order dated 06.11.2020, passed by the respondent no. 6, Designated Officer, Food Safety & Drug Administration, Amroha (J.P. Nagar), is quashed, with a liberty to pass order afresh, in accordance with law, after issuing notice and affording opportunity of hearing to the petitioner.

Writ petition stands disposed of.

Order Date :- 11.1.2021 Shekhar