

# Anil Kumar vs State Of U.P. And 2 Others on 12 August, 2021

**Bench: Manoj Misra, Jayant Banerji**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 40

Case :- WRIT - C No. - 10973 of 2021

Petitioner :- Anil Kumar

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

Counsel for Petitioner :- Sanjeev Kumar Khare

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Misra,J.

Hon'ble Jayant Banerji,J.

Heard learned counsel for the petitioner; the learned Standing Counsel for the respondents 1, 2 and 3; and perused the record.

The petitioner was granted a food licence under the Food Safety and Standards Act, 2006 on 18.02.2017. The said licence was valid till 13.03.2018. During the validity period of licence, the same was cancelled by order dated 18th July, 2017 against which the petitioner filed an appeal on 28.08.2017, which was dismissed by order dated 07.11.2017.

Challenging the orders dated 07.11.2017 and 18.07.2017, Writ C No. 10697 of 2018 was filed which was allowed vide judgment and order dated 13.01.2020 in terms of the order of this Court dated 27.05.2019 passed in Writ C No. 10692 of 2018 and the impugned orders dated 07.11.2017 and 18.07.2017 were quashed and the matter was remanded back in terms of the judgment and order of this Court in Writ C No. 10692 of 2018.

Noticeably, Writ C No. 10692 of 2018 was allowed on the ground that no opportunity of hearing was afforded to the petitioner and that the grounds taken by the petitioner in his defence were not accorded consideration and no finding in that regard was recorded.

Pursuant to the order dated 13.01.2020 passed in Writ C No. 10697 of 2018, the Registering Authority, Jaunpur again examined the matter and by impugned order dated 15th December, 2020 rejected request of the petitioner for restoration/renewal of the licence on the ground that the same was valid up to 13.03.2018.

The contention of the learned counsel for the petitioner is that since before the expiry of the validity period, the licence was cancelled and that cancellation order was challenged by the petitioner before the appellate authority as well as before this Court and, ultimately, the order of the appellate authority and the licencing authority were both quashed by this Court, the prayer for renewal of the licence ought to have been considered and should not have been rejected merely on the ground that the period of validity of the licence had expired.

Upon perusal of the record, we do not find any specific application of the petitioner seeking renewal of the licence though from the application which is there at page 76 of the paper book it appears that the petitioner had applied for restoration of licence and for issuance of a fresh licence.

As, in between, the licence of the petitioner had been cancelled and that cancellation order has been set aside, the application of the petitioner for restoration of the licence should have been taken as an application for renewal of an existing licence and if the petitioner was required to complete certain formalities he should have been advised accordingly.

Under these circumstances, we partly allow this petition by directing as follows:-

The petitioner may submit an application for renewal of his past licence in the form prescribed by the Regulations after complying with all the formalities required to apply for renewal of the licence. If such an application is filed within a period of four weeks from today, the same shall be addressed and decided in accordance with law without taking notice of the earlier order of cancellation of the licence as well as the appellate order which has already been quashed by this Court.

The aforesaid exercise shall be completed, preferably, within six weeks from the date of filing of such renewal application along with copy of this order.

It is made clear that we have not expressed any opinion as to whether the petitioner in the given facts of the case is entitled to seek renewal of the licence and therefore the renewal application will be dealt with on its own merit.

Order Date :- 12.8.2021 Sunil Kr Tiwari