

P.A.Nizar vs Food Safety And Standards Institute Of ... on 20 October, 2021

Author: P.B.Suresh Kumar

Bench: P.B.Suresh Kumar

WP(C) No.15880/2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR
Wednesday, the 20th day of October 2021 / 28th Aswina, 1943
WP(C) NO. 15880 OF 2021(H)

PETITIONERS:

1. P.A.NIZAR, PALACHUVATTIL HOSUE, KAKKANAD WEST P.O., COCHIN-682 030.
2. P.ABDUL AZEEZ, PALACHUVATTIL HOUSE, KAKKANAD WEST P.O., COCHIN-682 030.

RESPONDENTS:

1. FOOD SAFETY STANDARDS INSTITUTE OF INDIA, FDA BHAVAN, KOTLA ROAD, NEW DELHI-110 002 REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.
2. FOOD SAFETY OFFICER, THRIKKAKARA CIRCLE, THRIKKAKARA, ERNAKULAM, PIN-682 030.
3. ASSISTANT COMMISSIONER OF FOOD SAFETY (DESIGNATED OFFICER), ER00R SOUTH P.O. TRIPUNITHURA 682 306.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all further proceeding pursuant to Exhibit P5.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SHRI.PREMJIT NAGENDRAN, Advocate for the petitioners, STANDING COUNSEL for R1(B/o) and of GOVERNMENT PLEADER for R2 & R3 (B/o), the court passed the following:

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P.B.SURESH KUMAR, J.

W.P.(C) No.15880 of 2021

Dated this the 20th day of October, 2021.

ORDER

Admit.

Standing Counsel takes notice for the first respondent. Government Pleader takes notice for respondents 2 and 3.

2. Ext.P5 communication issued by the third respondent in compliance of Rule 2.4.2(6) of the Food Safety and Standards Rules, 2011, informing the first petitioner that the sample of water collected from him on 12.11.2020 does not conform to the standards prescribed for drinking water in terms of Regulation 2.10.9 of the Food Safety and Standards (Food Products Standards & Food Additives) Regulations, 2011, is under challenge in the writ petition. The case of the petitioners in the writ petition in essence is that the sample of the water referred to in Ext.P5 being collected from the water drawn by the first petitioner for sale from a well in his residential premises, the same does not fall within the scope of Regulation 2.10.9 of the Food Safety and Standards (Food Products Standards & Food Additives) Regulations, 2011.

3. A statement has been filed by the first respondent and a counter affidavit has been filed by respondents 2 and 3.

4. There is no dispute to the fact that the sample of the water referred to in the impugned communication is one collected from the water drawn from a well in the residential premises of the first petitioner. The first respondent admits in the statement that there is no standard fixed for well water in terms of the Food Safety and Standards Act, 2006. Though water would fall within the definition of "food" in terms of the said statute, the sample involved in this matter does not appear prima facie to fall within Regulation 2.10.9 of the Regulations referred to above.

In the circumstances, there will be an interim order as prayed for.

Sd/-

P.B.SURESH KUMAR, JUDGE.

YKB 20-10-2021 /True Copy/ Assistant Registrar APPENDIX OF WP(C) 15880/2021 Exhibit P5 A
TRUE COPY OF THE LETTER NO.36/ADJ/2020-21/ACFS/EKM DATED 14.1.2021.