

# Akilurrehman vs State Of U P And 2 Others on 21 August, 2024

**Bench: Anjani Kumar Mishra, Jayant Banerji**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2024:AHC:133742-DB

Court No. - 3

Case :- WRIT - C No. - 16593 of 2019

Petitioner :- Akilurrehman

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Manoj Kumar Singh,Vineet Kumar Singh

Counsel for Respondent :- Ashok Kumar Singh,C.S.C.,Sanjay Kumar Mishra

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Jayant Banerji,J.

1. Heard Shri H.N. Singh, Senior Advocate for the petitioner and Shri Raj Kumar Pandey, holding brief of Shri Sanjay Kumar Mishra, who represents the respondent nos.2 and 3.

2. This petition has come up for hearing consequent to the order of remand dated 17.4.2023 passed by the Apex Court in Civil Appeal No.2840 of 2023 (Akilurrehman vs. State of U.P. & Ors.). The order of remand directs for a decision on the validity of the resolution passed by the Board of Nagar Palika Parishad on merits, which resolution is under challenge in this petition.

3. As is clear from the above, the petitioner is aggrieved by a resolution passed in a meeting of the Board on 29.11.2018. The relevant resolution reads as follows:-

"?????? ???? ?? ???? ????? ?? ??? ?????? ?? ????????? ???? ???? ???? ?? I"

4. It is submitted that this resolution was passed in the meeting although there was no agenda item regarding the same. Even otherwise, the operation of a slaughter house is to be carried out only after grant of requisite permissions as contemplated under the provisions of Food Safety and Standards Act, 2006.

5. Also under challenge is a letter communicating the resolution to the petitioner, which is dated 16.4.2019 that had been issued by the second respondent. The communication aforesaid states that the licence issued to the petitioner has been cancelled. It is also sought to be contended that the communication goes a step further and beyond the resolution itself. The slaughter house has been constructed by the petitioner under the PPP model and after a huge investment made by the petitioner. The agreement between the parties, a copy whereof is on record, was entered into on 6.10.2012 and clause (2) thereof provides that the slaughter house be operated in complete compliance of directions issued by the Ministry of Food Processing Industry.

6. It is also submitted by Shri H.N. Singh, Senior Advocate that the slaughter house had not begun its operation because requisite permissions had not been obtained even on that day and, therefore, the resolution directing for closure of the slaughter house does not make sense.

7. The parties are not at issue that any operation of a slaughter house, as on date, has to be in accordance with the provisions of the Food Safety and Standards Act, 2006 and after requisite permissions provided under the said Act have been duly obtained. It is also not in dispute that these permissions have not yet been obtained by the petitioner on account of the communication dated 16.4.2019, which stated that the licence of the petitioner had been cancelled.

8. Insofar as the resolution dated 4.10.2018 is concerned, a careful perusal of the agenda of the meeting of the said date shows that there was no agenda item regarding the slaughter house in question. The resolution itself is a single line resolution bereft of any reasons. In any case, the resolution is silent insofar as the contract between the petitioner and the respondents entered into on 6.10.2012 is concerned.

9. We also find substance in the submissions that although the resolution was only for the closure of the slaughter house with immediate effect, the communication sent to the petitioner talks of cancellation of the licence which, therefore, is clearly beyond the resolution itself.

10. Counsel for the respondents has not been able to justify the resolution dated 4.10.2018. He has also not been able to show that there was any agenda item for consideration insofar as the slaughter house is concerned. Nor has also he been able to justify as to why the communication dated 16.4.2019 talks of cancellation of the licence of the petitioner although there is no such mention in the resolution passed in the meeting on 4.10.2018.

11. Moreover, Section 87 of the U.P. Municipalities Act, 2016 provides no business to be transacted by a special resolution shall be transacted unless previous notice to transact such business has been given.

12. Under the circumstances, in our considered opinion, the resolution dated 4.10.2018 as also the communication dated 16.4.2019 cannot be sustained and are liable to be set aside.

13. Moreover, since the operation of a slaughter house can begin to operate only subject to the provisions of Food Safety and Standards Act, 2006 and the requisite permissions thereunder are obtained and granted, and subject to other statutory/regulatory compliances, we allow the petition setting aside the resolution dated 4.10.2018 and the communication dated 16.4.2019 with a further stipulation that operation of the slaughter house shall commence only after requisite permissions are obtained and compliances done by the petitioner in accordance with the aforesaid statutory/regulatory provisions and subject thereto.

Order Date :- 21.8.2024/SK