

Constitution Of India vs Unknown on 21 July, 2023

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

Writ Petition No.18107 of 2023

ORDER:

-

This Writ Petition is filed, under Article 226 of the Constitution of India, seeking the following relief:

"....to issue an appropriate Writ, order or direction mostly one which is in the nature of a Writ of Mandamus declaring the closure notice/order of the Respondent No.3 dated 18.07.2023 issued on instructions of Respondent No.2 with respect to M/s.Manasa Cake Wala of the petitioner situated in Air Bypass Road, Hathi Ramji Colony, Tirupati City and District as illegal, arbitrary, unreasonable, unfair, unconstitutional, unjustified, violative of principles of natural justice, without jurisdiction and unsustainable and set aside the same ."

2. Heard Ms.Sodum Anvesha, learned counsel for the petitioner, learned Government Pleader for MA & UD, appearing for the Respondent No.1 and Mr.Suresh Kumar Reddy Kalava, learned Standing Counsel, appearing for the Respondent Nos.2 and 3. Perused the material on record.

3. Learned counsel for the petitioner submits that the petitioner is the owner of M/s.Manasa Cake Wala, which is established for the purpose of manufacturing bakery products. He has got all the permissions from the District Industrial Center, Tirupati. He has also obtained Form-C License under the provisions of Food Safety and Standards Act, 2006 for running the said business and renewing the same from time to time. Learned counsel for the petitioner further submits that, while so, on 06.07.2023, the Food Safety Officer, by exercising his power under Section 38 of FSSA, 2006, took a sample of Bread bearing Code No.026/TPT/DI/38316/23-24 and sent the same to the State Laboratory in JNTU, Kakinada. Pending the same, the 3rd respondent along with other sanitary Inspectors and Sanitation Secretary searched the premises of the petitioner's bakery. The Health Officer has informed the 2nd respondent about the sanitation irregularities in manufacturing of bakery products of the petitioner. Based on the said information, the 2nd respondent deputed the 3rd respondent to search the premises of the bakery and seize the same. Accordingly, the 3rd respondent under Sections 483, 484, 487, 493, 498, 521, 622, 623 and 624 of the Act, 1955 highhandedly closed the shop of the petitioner without issuing any notice or providing an opportunity to explain the alleged sanitation irregularities, if any. Aggrieved, the petitioner filed the present writ petition.

4. On the other hand, the learned Standing Counsel, appearing for the Respondent Nos.2 and 3 fairly conceded that without issuing any notice or opportunity to the petitioner, the 3rd respondent has issued closure order dated 18.07.2023.

5. On hearing the submissions of both the learned Counsels and after perusing the material available on record, this Court is of the view that the 3rd respondent has not followed the principles of natural justice, therefore, on this ground alone, the impugned closure order dated 18.07.2023 issued by the 3rd respondent is set-aside and the 3rd respondent is directed to open the seized shop of the petitioner. However, if any sanitation irregularities are taken place in the bakery premises, the respondents are at liberty to follow due process of law by giving an opportunity to the petitioner and pass reasoned order.

6. Accordingly, the Writ Petition is disposed of at the admission stage. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

_____ Dr. K. MANMADHA RAO, J Date: 21.07.2023 Note: Issue CC by 24.07.2023.

(B.O) HS THE HON'BLE DR.JUSTICE K. MANMADHA RAO Date: 21.07.2023 HS