

Nempal Singh vs State Of U.P. And Another on 2 November, 2022

Author: Vivek Chaudhary

Bench: Vivek Chaudhary

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 4

Case :- MATTERS UNDER ARTICLE 227 No. - 8129 of 2022

Petitioner :- Nempal Singh

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Anuj Kumar Gupta

Counsel for Respondent :- C.S.C.

Hon'ble Vivek Chaudhary,J.

Heard Sri Anuj Kumar Gupta, learned counsel for the petitioner and learned standing counsel for the respondents.

The complaint case was filed on the report of the Food Safety Officer, Sambhal dated 15.10.2018 on the ground that the sample of the milk product (Paneer) was drawn on 16.10.2017 at 03.50 PM at M/s. Babita Paneer Udyog Bhatawali, Sambhal. As per report of the Food analyst dated 01.11.2017, the sample of Paneer was found to be substandard. The Case No.01165 of 20178 (State Vs. Nempal Singh), under Section 3(1)(zx) 26(2)(ii),51 and 58, The Food Safety and Standards Act, 2006 was registered which has been decided by order dated 29.11.2021 by the Adjudicating Officer/Additional District Magistrate (Finance & Revenue), Sambhal, imposing penalty of Rs.3.00 lakhs under Section 51 and 58 of the Food Safety and Standards Act, 2006. Section 51 of the Act provides for maximum penalty of Rs.5 lacs. By the impugned order the adjudicating authority has imposed the penalty

without recording any cogent reasons for imposing such a high penalty. Aggrieved with the said order the petitioner filed a Regular Civil Appeal No. 128 of 2022 (Nempal Singh Vs. State of U.P. and others) before the Food Safety Appellate Tribunal/District Judge, Moradabad, in which an interim order dated 10.08.2022, has been passed by the Appellate Court which is non speaking and does not record any reason for granting interim stay only to the extent of 50% of the penalty imposed.

Learned counsel for the petitioner submits that his appeal itself may be decided within a time bound period and till then no recovery may be made from him.

Learned standing counsel supports the impugned order.

I have carefully considered the submissions of learned counsels for the parties.

I find that the order dated 29.11.2021, imposing penalty of Rs. 3.00 Lakhs is an ex-party order. It does not contain any reason whatsoever for imposing penalty to the tune of Rs.3.00 Lakhs as against the maximum penalty of Rs.5 lacs contemplated under Section 51 of the Act. The Appellate Court while passing the impugned interim order dated 10.08.2022, has not given any reason to stay penalty only to the extent of 50%. In paragraph 9, the petitioner has stated that he is innocent and has been mala fidely implicated in this case by the respondent no.2. The allegation levelled are false and frivolous and the relevant provisions have not been observed.

Considering the facts and circumstances of the case in its entirety and to meet the ends of justice particularly in view of the fact that the order imposing penalty is an ex parte order, I find it appropriate to modify the interim order dated 10.08.2022 by staying penalty and direct the concerned court below to decide Regular Civil Appeal No. 128 of 2022 (Nempal Singh Vs. State of U.P. and others), in accordance with law, expeditiously preferably within four months from the date of presentation of a certified copy of this order, after affording reasonable opportunity of hearing to the parties concerned subject to deposit of Rs.75,000/- by the petitioner with the Court below within six weeks from today. The court below shall decide the appeal without being influenced by any observations made above.

With the aforesaid directions, the petition stands disposed of.

(Vivek Chaudhary,J.) Order Date :- 2.11.2022 Arjun/-