

M. Rahumatulla vs The Commissioner on 12 August, 2022

Author: Abdul Quddhose

Bench: Abdul Quddhose

W.P. No.207

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.20721 of 2022

and

WMP Nos.19808 and 19809 of 2022

M. Rahumatulla

...Petitioner

vs.

1. The Commissioner,
Tamil Nadu Food Safety and Drug Administration,
Chennai – 600 006.

2. The Designated officer,
Food Safety and Drug Administration,
Salem District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution India, to issue a Writ of Certiorari, calling for the records of the respondent in connection with the impugned Order in R. No.2470-01/2022/S9/FDS dt. 01.06.2022 passed by the 1st respondent and quash the same.

For petitioner : Mr.Ali Hassan Khan
For respondents : Mr.J. Ravindran,
Additional Advocate General
Assisted by
Mr.T. Seenivasan
Spl. Govt. Pleader

<https://www.mhc.tn.gov.in/judis>

1/6

W.P. No

ORDER

This writ petition has been filed challenging the prohibition order dated 01.06.2022 passed under Section 34 of the Food Safety and Standard Act, hereinafter referred to as FSS Act, 2006.

2. Heard Mr.Ali Hassan Khan, learned counsel for the petitioner and Mr.J.Ravindran, learned Additional advocate General assisted by Mr.T.Seenivasan, learned Special Government Pleader for the respondents.

3. The petitioner has challenged the impugned order on the following grounds :-

a) the impugned order has been passed without hearing the petitioner and is in violation of the principles of natural justice.

b) the order has been passed under Section 34 of the Food Safety and Standard act, 2006 invoking the emergency powers, however, no reason for invoking the said provision has been cited in the impugned order.

c) the respondents have failed to show as to why they <https://www.mhc.tn.gov.in/judis> have not proceeded under Section 33 of the Act taking away the right of appeal from the petitioner.

d) The respondents failed to consider that an order under Section 34 of the Act shall be passed if there exists any health risk condition.

4. According to the petitioner, since he has rectified the defects as seen from his application dated 21.07.2022, the respondents ought to have lifted the impugned prohibition order.

5. The learned counsel for the petitioner drew the attention of this Court to Sections 33 and 34 of the FSS Act, 2006. However, as seen from the said provisions, there is no necessity for the respondents to give an opportunity of hearing to the petitioner before passing the prohibition order. The only requirement is that one day prior to passing of the prohibition order, the prohibition notice will have to be issued. Admittedly, the prohibition notice as well as the prohibition order has been received by the petitioner. Thereafter, the petitioner claims that he has submitted a representation on 21.07.2022 to the respondents requesting for lifting of the prohibition order on the ground that he has <https://www.mhc.tn.gov.in/judis> rectified the defects, which is the basis for the prohibition order. Though the receipt of the same has not been admitted by the learned Additional Advocate General appearing for the respondents. No prejudice would be caused to any of the parties, if the petitioner is allowed to submit a fresh representation as per the provisions of 34(5) of the Act seeking for lifting of the impugned prohibition order on the ground that the petitioner has rectified the defects mentioned in the prohibition order. However, it is made clear that the petitioner will have to satisfy the respondents with all supporting documentary evidence for getting the impugned prohibition order lifted.

6. For the foregoing reasons, this writ petition is disposed of by permitting the petitioner to submit a fresh representation to the respondents seeking for lifting of the prohibition order as according to

the petitioner, the defects have been rectified, within a period of one week from the date of receipt of a copy of this order and on receipt of the said representation the 2nd respondent shall pass final orders on the merits and in accordance with law, within a period of one week, thereafter.

7. With the aforesaid directions, this writ petition stands disposed <https://www.mhc.tn.gov.in/judis> of. No costs. Consequently, connected miscellaneous petitions are closed.

12.08.2022 Index: Yes/No Internet: Yes/No Speaking Order/Non-Speaking Order vs12 To

1. The Commissioner, Tamil Nadu Food Safety and Drug Administration, Chennai – 600 006.

2. The Designated Officer, Food Safety and Drug Administration, Salem District.

<https://www.mhc.tn.gov.in/judis> ABDUL QUDDHOSE, J.

vs12 12.08.2022 <https://www.mhc.tn.gov.in/judis>