

M/S Aman Foods Thru. Proprietor Saiyed ... vs State Of U.P. Thru. Prin. Secy. Food ... on 22 October, 2024

Author: Rajan Roy

Bench: Rajan Roy

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:70987-DB

Court No. - 2

Case :- WRIT - C No. - 7355 of 2024

Petitioner :- M/S Aman Foods Thru. Proprietor Saiyed Moziz Imam Zaidi And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Food Safety And Drug Administration Lko. A

Counsel for Petitioner :- Ravindra Kumar Singh,Manushresth Misra

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the petitioners and learned Standing Counsel for the respondents.
2. Petitioners have a valid license under the Food Safety and Standards Act, 2006. The only stand of the opposite party nos.1 to 3 in the counter affidavit filed on their behalf is that they have not issued the license, it is the Central Authority under the Central Act who has issued the license. However, their counter affidavit is absolutely silent with regard to the Circular of the Commissioner, Food Safety and Drug Administration U.P., Sector C, Aliganj, Lucknow who is an Officer of the State Government dated 01.01.2021. In any case, once there is a valid license operating, then the police authorities have no business to create any hindrance to the functioning of the shop based on such license unless there is any provision under which they could validly interfere for which they will

have to give reasons in writing or at least in the counter affidavit, they should have filed some documents.

3. In the counter affidavit, the opposite parties nos. 4 and 5, the police authorities all that have been said is that there is a Circular of the Commissioner, Food Safety and Drugs Administration U.P. dated 01.01.2021 which requires that the 'No Objection Certificate' should be taken by the concerned applicant not directly from the local police station but the process should be initiated through the Superintendent of Police of the District.

4. This Circular is of the Commissioner, Food Safety and Drug Administration, U.P. who has filed counter affidavit but has said nothing about its application or implementation. In any case, if the Superintendent of Police, Balrampur, or for that matter, the local police is of the opinion that the license has not been validly granted, then it should send its report to the concerned Licensing Authority through proper channel for initiating process for suspension for cancellation of license if it is so permissible and thereafter, if the license is suspended or cancelled, then the petitioner can be stopped from functioning but unless this procedure prescribed in law is followed, we fail to understand as to how the police authorities can interfere with the running with the business of the petitioner. Counter affidavit does not mention any reason as regard the location of the shop or any other illegality being committed by the petitioner which may persuade us not to interfere in the matter.

5. We accordingly, allow this petition with a direction/observation that opposite party nos. 4 and 5 shall not interfere with the functioning/operation of the petitioner's business in pursuance to the license No.12724998000071 which is said to be valid up to 28.05.2025, if it is still in operation, i.e. it has not been suspended or cancelled by the Licensing Authority subject however, to the liberty granted to the opposite party nos. 4 and 5 as mentioned hereinabove.

Order Date :- 22.10.2024/Pks [Brij Raj Singh,J.] [Rajan Roy, J.]