

Saddam And Others vs State Of U.P. Thru. The Prin. Secy. Food ... on 11 May, 2023

Bench: Rajan Roy, Manish Kumar

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2023:AHC-LK0:32655-DB

Court No. - 2

Case :- WRIT - C No. - 2791 of 2023

Petitioner :- Saddam And Others

Respondent :- State Of U.P. Thru. The Prin. Secy. Food And Civil Supplies Civil Sectr. U

Counsel for Petitioner :- Triloki Nath Singh, Sheikh Mohammad Ali

Counsel for Respondent :- C.S.C., Rajiv Raman Srivastava

Hon'ble Rajan Roy, J.

Hon'ble Manish Kumar, J.

Four separate affidavits on behalf of all the four petitioners filed today in Court are taken on record.

Heard.

This petition has been filed seeking following reliefs:

"I- Issue a writ, order or direction in the nature of Mandamus thereby commanding the opposite parties not to interfere in the business of the petitioners during the pendency of the writ petition.

I- Issue a direction to the opposite party no. 2 to decide the representation of the petitioners dated 23/02/2023 forthwith.

III- Issue any order or direction or any other nature which this Hon'ble Court may think proper passed in interest of justice in favour of the petitioners."

On 11.04.2023, we had passed the following order:

"List/put up on 20.04.2023, as fresh to enable the counsel for Nagar Palika and the State Government to assist the Court as to who has the authority to interfere in the business of the petitioners which according to them is being carried on based on a valid license. It shall also be informed to the Court as to whether under the license the petitioners can sell meat outside the shop in open space as is being alleged; if not, then, what are the remedial measures to be taken in this regard and how it would be ensured that they carry on their business only in accordance with the license inside the shop premises and not outside if the same is otherwise permissible."

Thereafter, we, after hearing the matter passed another order dated 20.04.2023 in the following terms:

"Under the license granted to the petitioner, which is referable to Schedule 4 Clause 9.07, wholesome meat obtained from the authorized slaughter house can only be sold at the meat shops, meaning thereby, it cannot be sold in open spaces outside the meat shop in respect of which the license has been granted. Copy of license is annexed as Annexure 2 to the writ petition.

Sri Rohit Nandan Shukla, learned counsel says that he has instructions to inform the Court that opposite party no. 3, who is the Competent Authority has not taken any action under Section 32 of the Food Safety and Standards Act, 2006, meaning thereby, neither the license has been suspended nor cancelled.

Learned counsel for Nagar Palika says that impugned order was passed as law and order situation had arisen and the Police had informed the Nagar Palika about it and this had arisen on account of sale of meat outside the meat shop. He further says that no intimation of the impugned order has been sent to opposite party no. 3.

Prima facie, we are of the opinion that if any such thing had happened, the Nagar Palika should have informed the opposite party no. 3, who could have proceeded under the provisions of the Act, 2006 and the Rules made thereunder.

Let all the petitioners file their separate affidavit in these proceedings, specifically stating that they will sell meat only within the premises of the meat shop as per the license granted to them and not outside in open space. Let it be done within a period of one week.

Put up this matter on 11.05.2023, as fresh.

It is made clear that this order shall not come in the way of the opposite parties in taking any action against the petitioners, if the same is otherwise required as per law, which may include any action under criminal law. "

Today, the petitioners have filed their affidavits stating that they will not sell meat in open place.

Counsel for the petitioners says that the petitioners will confine sale of meat for which they have a license within the premises of the shop and shall also not do anything which will endanger peace in the vicinity and create a law & order problem in the area.

In view of the affidavits and the statement of counsel for the petitioners on behalf of the petitioners, we provide that if the license of the petitioners is still subsisting, then, they shall be allowed to operate the meat shop in terms of the said license keeping in mind the aforesaid, but, if, at any point of time, it is found that the terms of license are being violated or the petitioners are selling meat outside the shop, then, the concerned shall inform the competent authority under Section 32 of the Food Safety and Standards Act, 2006, who shall be at liberty to take appropriate action in the matter. If any law and order situation occurs, then, the concerned authority of District Administration may take such action as may be permissible in law, but, not otherwise.

With these observations, petition is disposed of.

[Manish Kumar, J.] [Rajan Roy, J.] Order Date :- 11.5.2023 Santosh/-