

Rishabh Khera vs State Of U.P. And 3 Others on 24 August, 2023

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:170711-DB

Court No. - 40

Case :- WRIT - C No. - 24108 of 2023

Petitioner :- Rishabh Khera

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Asar Mukhtar, Mariyam Azmi

Counsel for Respondent :- C.S.C.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Surendra Singh-I, J.

1. Heard Ms. Mariyam Azmi, learned counsel for the petitioner and Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel for the State respondents.

2. Present writ petition is preferred with a prayer to issue direction to the Designated Officer, Food Safety & Drug Administration, Collectorate Office, District Saharanpur (respondent No.4) to consider the application of petitioner dated 28.03.2023 and grant the license of 'Hukka Bar' to the petitioner's Old Door Cafe within stipulated period.

3. Ms. Uttara Bahuguna, learned Additional Chief Standing Counsel placed detailed instructions dated 20.07.2023, which is taken on record.

4. Learned counsel for the petitioner submits that the petitioner is running Old Door Cafe (ODC) situated at Opposite Sadar Thana, 2C/2965 Church Road, Saharanpur since the year 2020. In this regard, a licence has also been issued in favour of the petitioner on 31.03.2023 by the Department of Food Safety and Drug Administration under the provisions of Food Safety and Standard Act, 2006 and the same is valid upto 30.03.2024. The cafe of the petitioner is also registered under the provisions of Goods and Service Tax (GST). During Covid-19 Pandemic in the year 2020 one Shri Govind Dubey, a student of LLB filed a letter petition before this Court seeking ban on 'Hukka Bar' in the State of UP and the said letter petition was registered as Public Interest Litigation (PIL) No.716/2020 (Suo Moto vs. State of U.P. and others), wherein a direction was issued by this Court on 27.08.2022 to the Chief Secretary, Government of U.P. not to permit the Bars, Restaurant and Cafes to serve the 'Hukkas'. In compliance thereof, the Chief Secretary, government of U.P. issued a communication on 05.09.2020, whereby the ban was imposed on running of 'Hukka Bar' throughout the State. During the pendency of the aforesaid PIL, some owners of the restaurants had filed intervening applications in the PIL and the same were allowed on 01.10.2020 permitting them to join the proceedings as respondents. The petitioner did not move any application and he was not a party in the aforesaid PIL. Finally, the aforesaid PIL was disposed of by this Court vide order dated 21.02.2023 with following observations:-

"1. Heard Mr. Manish Goel, learned Additional Advocate General assisted by Mr. A.K. Goyal, learned Additional Chief Standing Counsel for the State and Mr. Ran Vijay Singh, Mr. Ashish Malhotra, Mr. Prashant Rai and Mr. Kartikeya Saran, learned counsel for the interveners.

2. Upon hearing it transpires, during the spread of Covid-19 Pandemic vide communication dated 5.9.2020 issued by Chief Secretary, Government of U.P., running of "Hukka Bars" was banned. Consequently, all the "Hukka Bars" established and being run in different districts of the State were discontinued.

3. Today, it has been urged by learned counsel appearing for the interveners that the Covid-19 Pandemic restrictions have been largely relaxed and, therefore, the interveners may be allowed to recommence their business. They have relied on the facts and circumstances of similar business being allowed to run in different States of the country.

4. On the other hand, learned Additional Advocate General would submit, the interveners have yet not applied to the statutory authority under the Food Safety and Standards Act, 2006. In case they apply, their request will be considered strictly in accordance with law as expeditiously as possible.

5. Without going into the merits of the controversy, in view of the fact that undisputedly the business of running of "Hukka Bars" is regulated under the aforesaid Act, it is left open to the individual interveners to apply to the statutory authority in accordance with law for grant/renewal of licence to run their respective "Hukka Bar". If such application/s is/are made by the present individual intervener/s

or other similarly situated persons, the same may be dealt with strictly in accordance with law as expeditiously as possible, preferably within a period of one month from the date of filing of such application.

6. With the above observations, the present petition stands disposed of."

5. In this backdrop, learned counsel for the petitioner prays that similar indulgence may also be accorded to the petitioner.

6. Learned Additional Chief Standing Counsel has not disputed the factual and legal aspect of the matter.

7. Considering the facts and circumstances, without going into the merits of the controversy, it is left open to the individual intervenors to apply to the statutory authority in accordance with law for grant/renewal of licence to run her "Hukka Bar". If such application is made by the petitioner, the same may be dealt with strictly in accordance with law as expeditiously as possible, preferably within a period of one month from the date of filing of such application.

8. With the above observations, the present petition stands disposed of.

Order Date :- 24.8.2023 A. Pandey