

Jaiprakash Badlani vs The State Of Madhya Pradesh on 27 November, 2024

Author: Milind Ramesh Phadke

Bench: Milind Ramesh Phadke

1

IN THE HIGH COURT OF MADHYA PRADESH
AT G W A L I O R

BEFORE
HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE
ON THE 27th OF NOVEMBER, 2024
WRIT PETITION No. 6050 of 2013
(JAIPRAKASH
Vs
STATE OF MADHYA PRADESH & ORS.)

Appearance:

(BY SHRI SANJAY BAHIRANI - ADOVDATE FOR PETITIONER)

(BY SHRI B.M. PATEL - GOVERNMENT ADVOCATE

RESPONDENT/STATE.

ORDER

The instant writ petition under Article 226 of the Constitution of India has been filed by the petitioners challenging the legality and validity of the order dated 03.06.2013 (Annexure P/1) whereby penalty of fine amount of Rs.2 lakh has been imposed upon the petitioner under Section 58 of the Food Safety and Standards Act, 2006.

2. The said penalty had been imposed upon on the ground that at the time of inspection the petitioner was running the bakery without having any registration.

3. From perusal of record, it appears that the petitioner had applied for registration on 31.03.2012 and proviso of Section 31(4) of the Food Safety and Standards Act provides that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

4. Admittedly, the inspection was conducted at the backrey of petitioner on 23.08.2012 and the petitioner had applied for registration on 31.03.2012. The period of two months had expired on 31.05.2012 and till then the application filed by the petitioner was not rejected. Hence, the imposition of impugned penalty on the ground of non-registration of bakery is bad in law.

5. So far as report of food analyst is concerned, this Court in connected W.P. No.2665/2013, has quashed the report of Food Analyst on account of the sample of food was not analysed by the accredited laboratory under Section 43 of the Food Safety and Standards Act, 2006.

6. Consequently, in the present case also, the report dated 06.09.2012 and the impugned order dated 03.06.2013 (Annexure P/1) are hereby quashed.

7. Accordingly, the petition stands allowed and disposed of.

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(MILIND RAMESH PHADKAR)
JUDGE