

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.36810 of 2016

ORDER:

Heard the learned counsel for the petitioner Sri Peri Prabhakar and the learned Government Pleader, appearing for Respondents, apart from perusing the material available on record.

2. The order passed by the Joint Collector-cum-Adjudicating Officer, Ananthapuram District-1st respondent under the provisions of Food Safety and Standards Act, 2006 (for short 'the Act') in Application No.JC/10/FSSA/ATP/2014 dated 6.10.2016, imposing penalty of Rs.1,00,000/- on the petitioner is under challenge in the present writ petition.

3. When the matter is taken up, a preliminary objection as to the maintainability of the writ petition is taken by the learned Government Pleader, by contending that as against the order of the Adjudicating Officer, which is impugned in the present writ petition, a statutory appeal is provided under Section 70 of the Act. It is further submitted by the learned Government Pleader that vide G.O.Rt.No.735 Home (Courts-A) Department dated 1.7.2015, the State Government constituted Food Safety Appellate Tribunals, by designating the Principal District and Sessions Judges of the respective Districts for trial and disposal of cases filed under the said Act. The said legal position is not in dispute.

4. In view of availability of alternative remedy of appeal as provided under Section 70 of the Act as against the order impugned in the present writ petition, this Court is not inclined to entertain the writ petition. Hence, I deem it appropriate to relegate the petitioner to avail the said alternative remedy of appeal.

5. For the aforesaid reasons, the writ petition is disposed of, keeping it open to the petitioner to file appeal under the provisions of Section 70 of the Food Safety and Standards Act, 2006 before the appellate authority against the order impugned in the present writ petition, within a period of one month from the date of receipt of this order and if any such appeal is filed, the same be considered and disposed of, as per law. Till then, the interim order passed by this Court on 28.10.2016, directing the 2nd respondent not to destroy the stock shall remain operative. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 14.2.2017
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A.V.SESHA SAI, J



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