

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

CWP 3671 of 2017

Date of decision: 23.2.2017

Tushar Mehta & anr

Petitioners

vs.

Food Safety & Standard Authority & anr

Respondents

Present: Mr. SS Rana, Advocate.

M.M.S.BEDI,J.

The petitioners have invoked the inherent jurisdiction of this court under Article 226/227 of the Constitution of India praying for issuance of a writ in the nature mandamus directing respondent No.1 to consider and grant licence or to renew the old licence, as per rules for running food vending establishment and preparing food beverages etc.

Counsel for the petitioners claims that earlier licence granted to the petitioner (Annexure P-6) has expired on 17.12.2016.

I have heard counsel for the petitioner. On asking of the court regarding the application submitted by the petitioners under the provisions of Food Safety and Standards Act, 2006 (for short ' the Act') and the Food Safety and Standards (Licensing and Registration of Food Business) Regulations, 2011 (for short 'the Regulations') dealing with the grant and renewal of licences, counsel for the petitioners has submitted that vide Annexure P-7 the declaration dated 6.1.2017 has been submitted for renewal/ issuance of the licence.

I have considered the said contention of the counsel for the petitioners in the light of statutory provisions of the Act and the Regulations

framed there under. As per the relevant provisions of the Act, an application is required to be submitted under Section 31 of the Act. The said application is required to be considered objectively after giving an opportunity of hearing to the applicant taking into consideration the public health. Section 31(4) of the Act provides that if the licence is not issued within a period of two months from the date of making an application or his application is not rejected, the applicant may start his food business after the expiry of the said period. However, the Designated Officer has got an authority to issue him an improvement notice under Section 32 of the Act.

In the present case, the application of the petitioners has not been refused till date. The Designated Officer has got an authority to issue an improvement notice or cancellation/suspension/revocation of licence under the said Act.

Since no final order accepting the request for providing licence has been passed, the writ petition is pre-mature. It is not out of place to observe here that in case the licence is declined, the petitioners have got an alternative remedy u/s 31(8) of the Act read with the provisions of Regulations 2.1.12.

Dismissed as not maintainable, with liberty to the petitioners to avail the alternative remedies.

February 23 ,2017
TSM

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether Reportable

Yes/ No