

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.5013/2018

Wahid Khan s/o Jakir Khan

Vs.

The Food Safety and Standards Authority of India, through Chairperson and others.

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

Shri S.A.Mohta, Advocate for petitioner.

Shri R.H.A.Sikandar, Advocate with Shri R.V.Malviya, Advocate for respondent no.1.

Shri M.A.Kadu, Assistant Government Pleader for respondent nos. 2 and 3.

CORAM : A.S.CHANDURKAR and VINAY JOSHI, JJ.

DATE : March 04, 2020.

The petitioner who holds a license under the provisions of Maharashtra Shops and Establishment Act, 1948 seeks to challenge the order dated 19.07.2019 issued by the Commissioner of Food Safety thereby prohibiting manufacture, storage, distribution, transportation and sale of tobacco and betel nut particularly if it goes by the name of *Pan Masala*.

On hearing the learned counsel for the parties, we find that it is the case of the petitioner that he carries on "food business" as defined by Section 3(n) of the said Act. As of today, the petitioner does not have a license as contemplated by Section 31(1) of the Food Safety and Standards Act, 2006 (for short, 'the said Act'). As per Section 3 (za) a license as defined means a license granted under Section 31 of the said Act. Admittedly, the petitioner has not applied for any license under Section 31(1) of the said Act. It is his apprehension that as he intends to sell *Pan Masala* which sale is prohibited under the impugned order, he would not be issued such license.

Presently, we find the challenge as raised by the petitioner to be premature. The petitioner has not yet been refused any license under Section 31(1) of the said Act to give him any cause of action to enable him to challenge the impugned order. Hence we are not inclined to examine the challenge on merits. It is open for the petitioner to raise a challenge if a legal cause for the same arises. By keeping all the points raised in the petition open, the writ petition is disposed of. No costs.

JUDGE

JUDGE

Andurkar..