

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10062 of 2021

M/s.SR Marine Foods Pvt Ltd
Represented by its CEO
Sushil Kanugolu
having office at No.10/21, 1st Floor
1st Main Road, Shenoy Nagar
Chennai - 600 030 ... Petitioner

Vs.

1.M/s.Food Safety and Standards Authority of India
Southern Regional Office
Represented by its Central Licensing Authority
Having office at 2nd Floor
Central Documentation Complex
Chennai Port Trust Building
Rajaji Salai, Chennai - 600 001

2.J.Chandrasekaran ... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to consider the application made by the petitioner for grant of FSSAI Licence vide Reference No.1021021512343143 dated 23.02.2021 without insisting NOC from the 2nd respondent with respect to the rented property, subject to compliance of other statutory requirements.

For Petitioner : Mr.E.Om Prakash, Senior Counsel
For Mr.S.Vijayaganesh

For Respondents : Mr.Su.Srinivasan, ASGI for R1
Mr.S.Manuraj for R2

ORDER

This writ petition is for a direction to the 1st respondent to consider the application made by the petitioner for grant of FSSAI Licence vide Reference No.1021021512343143 dated 23.02.2021 without insisting NOC from the 2nd respondent with respect to the rented property, subject to compliance of other statutory requirements.

2. The petitioner is a company involved in the business of retail seafood processing, packaging and exports across the globe. The company had entered into a lease for both ground and first floors of the premises situated in No.4, Balakrishnan Street, Tondiarpet, Chennai-81 vide lease agreements dated 01.04.2016 and 01.10.2016 with the second respondent for a monthly rent. Originally the lease was for a period of three years with a condition that the same will be extended periodically upon mutual understanding.

3. It is stated by the petitioner that the licence was renewed in the year 2020 in respect of the seafood processing and it was not extended. The licence issued by the first respondent under the Food Safety and Standards Authority of India Act, 2006, expired on 18.01.2021. As the HR Manager of the petitioner company died due to Covid-19, the renewal of the licence could not be done prior to 18.01.2021. On 23.02.2021, the petitioner has made an application seeking fresh licence under the expanded categories including meat products in addition to sea food products using their online portal. The first respondent, upon persual of the application, had raised a few queries on 23.03.2021 in their portal in which they have stated that the second respondent/landlord, has intimated the first respondent about the eviction notice dated 26.08.2020 and about the initiation of eviction proceedings before the Court of Law.

4. On 31.03.2021, the first respondent instructed the petitioner to get a No Objection Certificate from the second respondent or to obtain necessary orders from Court of Law for such an exemption. In the above situation, the petitioner has moved this court for a mandamus directing the first respondent to consider his application for renewal of licence without insisting on the No Objection Certificate from the second respondent with respect to the rented premises.

5. The second respondent is the landlord, who has filed a counter affidavit and vehemently opposed stating that the petitioner herein had repeatedly defaulted in payment of rent to the tune of Rs.2,13,711/- as on 28.10.2020 and that the second respondent has filed an application under Section 21(2) (a) and 21(2)(b) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 before the XI Court of Small Causes, Chennai and the same is pending. However, the learned senior counsel appearing for the petitioner would submit that arrears as on date has been paid.

6. Heard both sides and perused the materials available on record.

7. The only question that arises for consideration in this writ petition is, whether the first respondent can renew the licence of the petitioner without insisting a No Objection Certificate from the landlord where the company is

functioning.

8. The learned counsel appearing for the petitioner also relied upon several decisions, which are as follows:

(i) Ellar Traders vs. MCD reported in 2010 SCC Online Del 572;

(ii) Sudhakaran v. Corporation of Trivandrum reported in (2016) 14 SCC 263;

(iii) R.Gayathri v. Greater Corporation of Chennai reported in 2019 SCC Online Mad 6784; and

(iv) Gowshinisha v. Corporation of Chennai in W.P. No.35045 of 2020 dated 18.08.2020.

9. In all the above cases, it has been held that the tenant cannot be deprived of his getting the licence renewed when he is carrying on business in the said premises and when there is landlord-tenant dispute pending between them.

10. Admittedly, the petitioner is a statutory tenant and he can be evicted only in the manner known to law. Till such time, the possession of the tenant is deemed to be lawful and the landlord is not entitled to withhold his consent for the conduct of petitioner's business in the premises of the second respondent. When the landlord has already initiated action against the tenant, one cannot expect him to give consent to the tenant to carry on business.

11. The petitioner has stated in his affidavit that there is an eviction petition filed by the second respondent against the petitioner and the same is pending before the Rent Control authorities. It is also not in dispute that the licence of the petitioner was valid till 18.01.2021 and he has applied for renewal of the same on 23.02.2021. The strange relationship between the landlord and the tenant and the landlord's refusal to give consent for renewal of licence owing to the dispute among them, cannot cripple the business of the petitioner.

12. As stated in the affidavit filed by the petitioner, if there is no consent given by the landlord, it would be suffice, if the petitioner can produce the order of the court for not insisting a No Objection Certificate from the landlord. As the application made by the petitioner on 23.03.2021 is still pending with the first respondent, the first respondent is directed to process the same, without insisting on a No Objection Certificate from the second respondent, if otherwise all the other requirements are in order. The first respondent is directed to consider the application of the petitioner within a period of four weeks. Any finding made in this order will not influence the rent control proceedings between the second respondent and the petitioner.

13. With the above direction, the writ petition is disposed of. However, there is no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

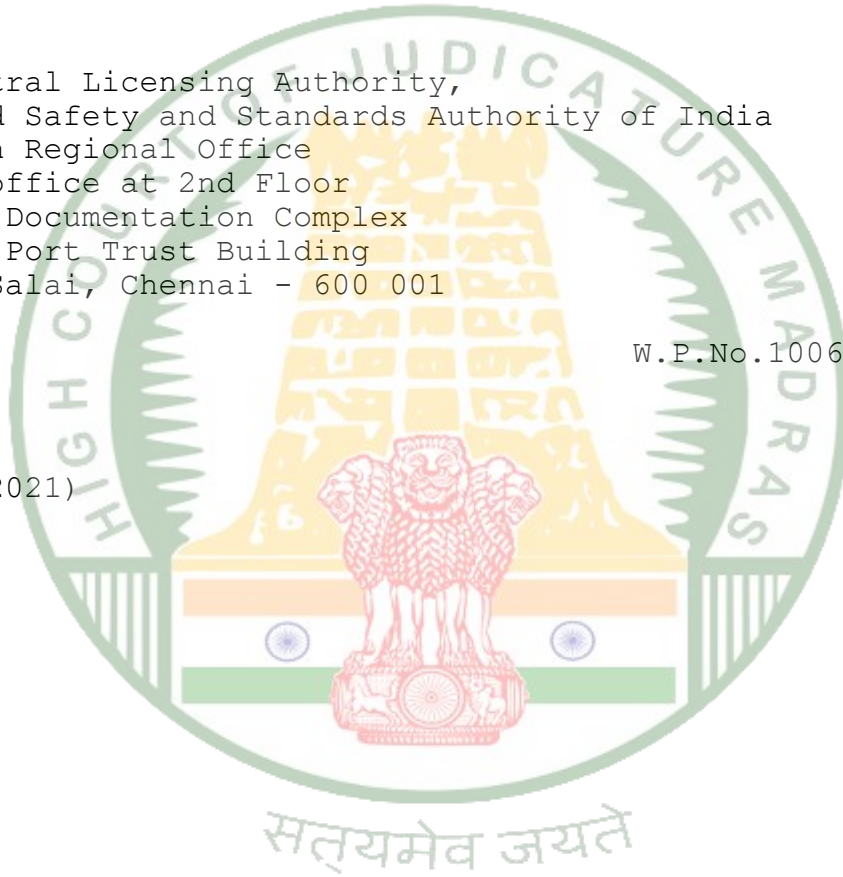
Asr

To

1.The Central Licensing Authority,
M/s.Food Safety and Standards Authority of India
Southern Regional Office
Having office at 2nd Floor
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Rajaji Salai, Chennai - 600 001

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PP(CO)
GN(07/07/2021)



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