



W.P.No.146 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.146 of 2020
and
W.M.P.No.177 of 2020

M/s.Sri Sai Krishna Kalyana Mandapam,
Represented by its Proprietor,
V.N.Lakshmanan,
No.26/1, G.S.North Street,
Mannargudi,
Tiruvarur District.

... Petitioner

Vs.

- 1.The Commissioner of Food Safety,
5th Floor, DMS Office Building,
No.359, Anna Salai,
DMS Campus, Teynampet,
Chennai – 600 006.
- 2.The District Collector,
Tiruvarur District,
Tiruvarur.
- 3.The District Designated Officer,
Food Safety Department,
Old Government Hospital Building,
Madapuram, Tiruvarur.



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4.The Food Safety Officer,
Mannargudi Municipality Office,
Mannargudi,
Tiruvarur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the third respondent in Na.Ka.No.753/A3/2019 dated 10.12.2019 and quash the same as ex-facie illegal, without authority of law, without jurisdiction and against the provisions of the Act.

For Petitioner : Mr.K.Soundaraja Rajan

For Respondents : Mr.P.Sathish
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records of the third respondent in Na.Ka.No.753/A3/2019 dated 10.12.2019 and quash the same as ex-facie illegal, without authority of law, without jurisdiction and against the provisions of the Act.

2. The case of the petitioner is that, the petitioner is running a Marriage Hall and letting it out for marriages and other functions, for which, the petitioner receives rent. While so, the respondents 3 and 4 have issued notices to the petitioner under Section 31(1) of the Food Safety and



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Standards Act, 2006 (in short 'the Act') directing the petitioner to register and get license for running the Marriage Hall. Finally, the third respondent issued impugned proceedings on 10.12.2019 directing the petitioner to register and get license under Section 31(1) of the Act. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner submits that, the petitioner being the owner of the Marriage Hall, he is renting the same to the persons, who are intending to conduct marriage function and other functions. He also submits that the petitioner is not preparing any food in the kitchen. Since the kitchen is rented along with the Marriage Hall, the customers of the petitioner engage the service of cook and prepare food to serve freely to their guests to honour their presence in their functions. Hence, he submits that the impugned proceedings of the third respondent dated 10.12.2019 is not sustainable. Accordingly, he prays for allowing the writ petition.

4. Further, the petitioner has filed sworn affidavit dated 16.06.2023 before this Court, in paragraph Nos.2 and 3, it has been stated as follows :



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“2. I submit that I owned the Kalyana Mandapam and let out the marriage hall for various functions and I received the rents from the customers. I submit that I have not prepared any food items in my marriage hall in order to supply the same to the guest who are attending the functions. I submit that I never engaged any caterers for preparing the food items. I submit that my customers who are conducting the functions, engaged their own cooks or caterers and prepared the food items and distributed to their Guests. I submits that I have also never purchased any raw materials for preparation of food items and I have also not stored any of the raw materials in my Marriage Hall and no food items were stored by me for the purpose of selling the same to the public. I submit that I will also not manufacture any food items in my Kalyana Mandapam and engage any caterer for the supply of food items, in order to attract the provisions of the Food Safety and Standards Act, 2006.

3. I submit that this affidavit is being filed as an undertaking affidavit in order to substantiate by claim that no food preparation was done by me and therefore the provisions would not be applicable to my Marriage Hall.”



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5. The Additional Government Pleader appearing for the respondents would submit that, the fourth respondent issued a notice on 04.01.2018 directing the petitioner to get licence for marriage hall since the petitioner's Marriage Hall is having a kitchen. He also submits that, though the respondents 3 and 4 sent notice on several dates intimating the petitioner to apply for licence under the act, however, the petitioner remained evasive for all the notices and took defence that the petitioner is running only a marriage hall, which is let out for hire and petitioner had not manufactured or sold any food product in the premises. He further submits that the above defence taken by the petitioner is not acceptable under law and it is a complete ignorance of law and the petitioner had misconstrued the provisions of the Act. Further, he submits that with reference to Sections 3(n), 3(ZC) and (Zi) of the Act, the banquet hall/marriage hall of the petitioner with kitchen and dining in the premises which is used for preparing/manufacturing and distribution of food for the public squarely falls under the provision of the Act. Therefore, the petitioner has to obtain the license.



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6. Further, he submits that, when it comes to consuming food at an event like marriage function at a banquet hall, there are plenty of challenges related to food safety including the safety of raw materials, lack of food hygiene and safety knowledge, location of the place that could be close to garbage dumps or stagnant water and such other issues, for which, the food safety and standards (licensing and registration of food business) regulations 2011 framed certain qualification and requirements under Schedule IV Part II insisting the owner of the premises like the petitioner to have proper drainage facility, control measures to prevent insects, proper water supply, water disposal system, proper toilet facilities, air quality and proper ventilation and lighting etc., It is pertinent to point out that the cleanliness of kitchen and necessary requirements in marriage hall is a top priority, since it concern general public who consumes food in a gathering. Hence, it becomes mandatory for every banquet hall/marriage hall having a kitchen in their premises and being engaged in preparation of food and handling other activities related to food to apply for licence by providing necessary documents to concerned authority and get licence under Section 31 of the Act after proper inspection of the premises. Accordingly, he prays for dismissal of the writ petition.



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7. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

8. The facts in the present case are not in dispute. Admittedly, the petitioner is running a Marriage Hall and the respondents 3 and 4 issued notices under Section 31(1) of the Act, whereas, the respondents claims that irrespective of preparing the food, if the food is supplied in the Marriage Hall, for which, the petitioner has to obtain necessary licence from the Food Safety Officer. In order to resolve the issue, relevant provision of the Act is as follows :

Section 31: Licensing and registration of food business:

(1) No person shall commence or carry on any food business except under a license.

(2) Nothing contained in sub-section(1) shall apply to a petty manufacturer who himself manufactures or sells any article of food on a petty retailer, hawker, itinerant vendor or a temporary stall holder or small scale or cottage or such other industries relating to food business or tiny food business operator; but they shall register themselves with



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such authority and in such manner as may be specified by regulations, without prejudice to the availability of safe and wholesome food for human consumption or affecting the interests of the consumers.

9. A perusal of the above provisions makes it clear that, if a person manufactures food, sells on his own or supply it to any person, they have to necessarily obtain license under Section 31 of the Act. Section 3(n) of the Act states that, food business means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution of food, import and includes food services, catering services, sale of food or food ingredients.

10. In the present case, the petitioner being the owner of the Marriage Hall, he claims that he rented the entire premises along with kitchen to his customers and he has filed an undertaking affidavit stating that he was not involved in the process of manufacture or supply or distribution of food to the visitors of the function. The entire activities are carried out by the event managers and caterers and it is clear that the petitioner has nothing to do



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with the above said process. Hence, the notice issued by the third respondent is not sustainable.

11. With the above observations, the writ petition is allowed and the notice issued by the third respondent in Na.Ka.No.753/A3/2019, dated 10.12.2019 is set aside. However, this order will not stand in the way of the respondents, if they arrive at a conclusion that the petitioner is preparing food in his Marriage Hall and supplying the same in terms of Section 3(n) of the Food Safety and Standards Act, 2006, the respondents shall take appropriate action against the petitioner in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

20.06.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

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