

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10420 OF 2024

**VASANT
ANANDRAO
IDHOL**

Digitally signed by
VASANT
ANANDRAO IDHOL
Date: 2024.08.02
19:13:31 +0530

M/s Hotel Express Inn Nee Shelar
Properties Pvt Ltd Through. Its
Manager Mukesh S Sonawane ...Petitioner
Versus
State Of Maharashtra Throu. The Dept.
Of Food And Drugs Administration And Ors. ...Respondents

....

Mr.A.M. Kulkarni i/b Mr.Manoj A. Patil for the Petitioner.

Mr.Y.D. Patil A.G.P for the Respondent Nos.1 to 3 – State.

....

**CORAM : AVINASH G. GHAROTE, J.
DATE : 2nd AUGUST, 2024**

P.C.:

1. Heard. On 26.07.2024, the following order was
passed :-

“1. The establishment of the petitioner was inspected on 03.05.2024, on which date as many as 29 violations have been found by the Food Safety Inspector, as a result of which an improvement notice was issued on 13.05.2024 under FSS Act (page 32). A reply to this was filed by the petitioner claiming improvement being done which is dated 31.05.2024 (page 40). The establishment was again inspected on 26.06.2024,

where 7 violations were found to be in existence (page 42). By an order dated 26.06.2024 passed by the respondent No.3 (page 43), the license of the petitioner to serve, was suspended for the period of 25 days from 05.08.2024 to 29.08.2024 (page 45). This itself is surprising for if the authorities find that the storage of the food product is not in consonance with the requirement, the suspension ought to have been immediate. An enquiry needs to be directed against the respondent No.3 as to why the suspension was directed after merely a period one month 8 days, when the storage of the food was found to be unhygienic. The respondent No.3 is therefore, called upon to answer to this.

2. In an appeal filed by the petitioner against the order dated 26.06.2024, an *ex-parte* stay was obtained by the petitioner on 10.07.2024 (page 51) which subsequently has been vacated on 16.07.2024 (page 54) which is the order impugned here.

3. Issue notice for final disposal, returnable on 31.07.2024. The learned AGP waives notice for all the respondents.”

2. Today on enquiry, the learned AGP for respondent Nos.1 to 3 upon instructions of respondent No.3, who is present in Court, makes a statement that in all cases of suspension of license under the Food Safety and Standards (Licensing & Registration of Food Business) Regulation, 2011, Regulation 2.1.8, it is the practice, of the authorities, to direct suspending in case violations are found to be effective after the appeal period is over. This

would indicate that the violations are continued to go on under the guise of the appeal period to be provided. Upon an enquiry, from the learned AGP, he concedes to the position, that there is no provision either in the Act or Regulation, which mandate the suspension to be postponed after the period of appeal is over and rightfully cannot be for this would entail the violation to continue, thereby permitting the establishment to continue to carry on with the violation, in spite of they having been found to exist and entailing suspension of the license. It also does not explain as to in a case, where it is found that some of the violations continued to exist, in spite of opportunity granted to rectify the same, why the provisions of Regulation 2.1.8 (4) of 2011 Regulation, cannot be invoked. What is also material to note is that the provisions contained in the Food Safety Act and Regulation are to ensure that the quality of food supplied by the establishment, to which license has been granted under the Act, meets the standards prescribed therefor. The above process indicated by the learned AGP, in fact results in obviating the entire process of ensuring hygienic supply of food and also subverting the purpose and intent of the Act. The respondent Nos.1 to 3, therefore, to show

cause as to why such a procedure is being adopted, as indicated above.

3. List the matter on 06.08.2024, by which time detailed affidavit shall be filed explaining the reasons why such a procedure is being adopted and at whose instructions.

(AVINASH G. GHAROTE, J.)