
(2011) 01 DEL CK 0296

In the Delhi High Court

Case No : Writ Petition (C) No. 8147 of 2010

Munna

APPELLANT

Vs

The Commissioner (MCD) and Another

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 01 DEL CK 0296

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Sanobar Ali Qureshi and Avrojoyti Chatterjee, for the Appellant;
Madhu Tewatia and Aeshna Singh for MCD, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sahai Endlaw, J.—The shop No. 855, Gali No. 30/4, Indra Chowk, Zafrabad, Delhi - 110 053 of the Petitioner was sealed upon being found to being used for carrying on business therein of sale of meat / meat products without obtaining requisite license from the Respondent MCD. Prosecution of the Petitioner for cow slaughter is also underway. The case of the Petitioner is that though he has given an undertaking and is willing to give further undertaking that he will not carry on the business related to meat or meat products in the shop but the shop has not been de-sealed.

2. Notice of the petition was issued and the Respondent MCD directed to take instructions whether the shop is required to be kept sealed for the reason of the prosecution of the Petitioner being underway.

3. The counsel for the Respondent MCD has filed a short affidavit wherein it is stated that the prosecution of the Petitioner for selling cow meat from another premises at B-6/121, Gali No. 5, Kabir Nagar, Delhi is also underway; that the Petitioner is a chronic violator of law and has been found to be consistently indulging in illegal sale of banned cow meat. Apprehension is expressed that if the shop at Zafrabad, Delhi is desealed, the Petitioner will again start carrying on

the prohibited business of sale of cow meat therefrom.

4. The counsel for the Respondent MCD is however unable to state that the shop is required to be sealed for the reason of prosecution.

5. The Petitioner today again through counsel undertakes to this Court that upon the shop at Zafrabad, Delhi being desealed, the Petitioner shall not carry on or allow to be carried on therefrom any business connected to meat / meat products.

6. Howsoever grave the conduct of the Petitioner may be, the law does not permit deprivation of the Petitioner of his property for the reason thereof. The counsel for the Respondent MCD has been unable to show any law whereunder the property even if used / allowed to be used for the prohibited sale of cow meat can be sealed permanently. Even under the Delhi Agricultural Cattle Preservation Act, 1994, such punishment of sealing / deprivation of the property is not provided for. Needless to state, the Petitioner without sanction of law cannot be deprived of his property. This Court is therefore of the considered opinion that the sealing of the shop of the Petitioner at Zafrabad, Delhi cannot be sustained.

7. However, before directing the Respondent MCD to de-seal the said shop, it is deemed expedient to give an opportunity to the Respondent MCD to if so desirous, apply to the Court where the Petitioner is being prosecuted for an order for continuing sealing of the shop, if found necessary for the said prosecution.

8. In the circumstances, the writ petition is allowed with the following directions:

(i) The Respondent MCD is accorded liberty to obtain the order for continuing with the sealing of the shop at Zafrabad, Delhi from the Court where the Petitioner is being prosecuted.

(ii) However, if there is no such order on or before 27th January, 2011, the Respondent MCD shall de-seal the said shop on 28th January, 2011.

(iii) The undertaking aforesaid of the Petitioner is accepted and the Petitioner is ordered to be bound with the same. Thus upon de-sealing of the shop, the Petitioner shall not carry on or allow to be carried on business connected to meat / meat products from the said shop and if the shop is found to be so used, the Petitioner, besides liability under other laws, shall also be liable for breach of undertaking given to this Court.

No order as to costs.