

DEVAN RAMACHANDRAN, J.

WP(C)No.19941 of 2023

Dated this the 14th day of November, 2023

ORDER

The petitioner has lost her child of a mere 16 years, all because she chose to relish a dish which she enjoyed - 'Shawarma'.

2. There are allegations made by the petitioner, which this Court takes very seriously, including that the food manufacturer in question was operating without licence; and that there were no inspections conducted on them, for at least two years by the competent Authorities.

3. This Court is aware that the petitioner has sought compensation under the constitutional Tort Principles, which, obviously, the State will have to answer through appropriate counter pleadings, adverting to the materials on record,

particularly Ext.P6 and the Medical Records of the child.

4. However, as matters now stand, the endeavour of this Court is to ensure that such incidents never happen in future. There is a particular reason why I am saying this because, though this Court is aware that there was an Order of Ban issued by the Food Safety Commissioner on 12.01.2023, disallowing the use of raw eggs in the production and storage of mayonnaise, it is brought to my notice through the Press and by the counsel appearing, that there was an incident of death by suspected consumption of 'Shawarma' in the recent past.

5. Smt.Afsana Parveen, IAS - Food Safety Commissioner, was present in person online today as per the earlier orders of this Court. She gave a very detailed explication of the steps taken by her Department, though she confessed

that she had joined the post only in the last two weeks. She mentioned that there are 'Shawarma Guidelines' issued on 25.09.2022, as also the aforementioned 'Order of Ban' dated 12.01.2023; and added that there are enforcement drives and inspections being conducted on regular basis, in which several eateries have been issued notices.

6. Smt.Afsana Parveen, however, pointed out that, in the case of 'Shawarma', one major cause of accident was that it was being consumed by customers much after the time frame it was safe for consumption. She submitted that, therefore, there are also now orders relating to the labelling of parcels, requiring the eateries to mention the specific date and time of manufacture; and that awareness is now required to be given to the customers to consume it strictly within the said timelines.

7. Smt.Afsana Parveen, thereafter, submitted that, in the particular case at hand, not only the daughter of the petitioner, but various other students were also found to have been infected, though unfortunately none of them had very serious complications thereafter. She added that, therefore, full details about this will also be made available in the affidavit to be filed by the State in this matter.

8. The actions taken by the Food Safety Commissioner certainly are in the right direction and are a welcome beginning. However, the battle is far from being won, because, unless the eateries and consumers are made aware of the pitfalls of consuming 'Shawarma', except in the manner as governed by the applicable Regulations, Rules and Circulars, such accidents may continue to happen, as we have seen in the recent past.

9. This Court, therefore, certainly proposes to maintain this writ petition on file for some more time, to ensure that all the orders and Regulations are implemented; in public interest, and to make sure that another mother will not have to approach this Court in the same manner as the petitioner is being constrained to.

In the afore circumstances,

(a) The Official respondents are directed to file a counter affidavit, detailing their response to the allegations of the petitioner; with specific reference to relief No.1 in this writ petition. This shall be done within a period of three weeks from today.

(b) The afore affidavit will also contain all the details relating to the steps taken and enumerated by Smt.Afsan Parveen recorded above,

along with all orders, Guidelines and other relevant and germane documents.

(c) The competent Authorities of the Food Safety Commissionerate shall ensure that the 'Shawarma Guidelines' of the year 2022 and the 'Order of Ban' dated 12.01.2023, mentioned afore by Smt.Afsana Parveen, are incorporated into the Statutory Licences of all the eateries, so that they cannot henceforth take the stand that they were not aware of it.

(d) Necessary instructions shall also be given to all the eateries to exhibit the date and time of the preparation of the food article on its packaging - whether it be issued across the counter or through parcels; and necessary steps will also be taken to create awareness in the minds of the citizens as to the absolute imperative of confining to such timelines, while consuming it. This shall be overseen by the Food

Safety Commissioner, through the Authorities under her command, on a regular basis.

(e) Any violation of directions (c) and (d) above should visit the eatery/manufacturer with all necessary consequences under the applicable Statues, and details of the same shall be made available to this Court in due course.

(f) Coming back to the case at hand, the details of the prosecution and steps taken against the eatery in question shall also be made available, either along with the affidavit as ordered in direction (a) above, or as a separate one, so as to allow this Court to decide if the actions taken are in proper perspective.

List on 05.12.2023 at 1.45 p.m.

H/o
akv

Sd/-
DEVAN RAMACHANDRAN
JUDGE