

**Court on its own motion versus State of H.P.
and others**

CWPIL No. 83 of 2024

08.04.2025 Present: Mr. Vinay Mehta, Advocate, as Legal Aid Counsel, for the petitioner.

Ms. Priyanka Chauhan, Deputy Advocate General for respondents No.1 to 3-State.

Mr. Adarsh Vashista and Mr. Shivom Vashista, Advocates, for respondent No.4.

A communication has been received by Registrar General from Aakriti Sharma, Riya Kutahria, Ishita Bhardwaj, Kanchan Sharma, Shreya Jaswal and Kritika Thakur claiming themselves to be President, General Secretary, Vice President, Joint Secretary and Treasurer of the Student Nursing Association, whereby, it has been informed that they want to withdraw the Court case regarding high mess charges in reference in present CWPIL No.83 of 2024 on voluntary basis.

2. Perusal of the communication received earlier indicates that it was signed by Angel Negi, Ankita Shandil, Shivani Vashist, Vijay Laxmi and Shagun Chaudhary being President, Vice-

President, General Secretary, Cashier and Member Secretary of the Association.

3. None of the signatories of the fresh communication are signatory in the earlier communication.

4. Reply on behalf of respondents No. 1 to 3 stands filed. Respondent No.4 intends to file reply. Be filed, as prayed, within two weeks.

5. At this stage, it would be also in public interest to ensure that Mess and Canteen in Institutions and Hospitals run and/or controlled Health Department of HP are being run by complying provisions of Food Safety and Standards Act, 2006 or not.

6. Section 26(2) and (3) and Section 31 of the Food Safety and Standards Act, 2006 alongwith other provisions may be relevant which read as under:

- 26(2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food–
 - (i) which is unsafe; or
 - (ii) which is misbranded or sub-standard or contains extraneous matter; or
 - (iii) for which a licence is required, except in accordance with the conditions of the licence; or
 - (iv) which is for the time being prohibited by the Food Authority or the Central Government

- or the State Government in the interest of public health; or
- (v) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

26(3) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

31. Licensing and registration of food business.–

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

(2) Nothing contained in sub-section (1) shall apply to a petty manufacturer who himself manufactures or sells any article of food or 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 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.

(3) Any person desirous to commence or carry on any food business shall make an application for grant of a licence to the Designated Officer in such manner containing such particulars and fees as may be specified by regulations.

(4) The Designated Officer on receipt of an application under sub-section (3), may either grant the licence or after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant a licence to any applicant, if he is satisfied that it is necessary so to do in the interest of public health and shall make available to the applicant a copy of the order:

Provided that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

- (5) Every licence shall be in such form and subject to such conditions as may be specified by regulations.
- (6) A single licence may be issued by the Designated Officer for one or more articles of food and also for different establishments or premises in the same area.
- (7) If the articles of food are manufactured, stored, sold or exhibited for sale at different premises situated in more than one area, separate applications shall be made and separate licence shall be issued in respect of such premises not falling within the same area.
- (8) An appeal against the order of rejection for the grant of licence shall lie to the Commissioner of Food Safety.
- (9) A licence unless suspended or cancelled earlier shall be in force for such period as may be specified by regulations: Provided that if an application for a renewal of licence is made before the expiry of the period of validity of the licence, the licence shall continue to be in force until orders are passed on the application.
- (10) The licence shall subsist for the benefit of the deceased's personal representative or any other member of his family, until the expiry of—
 - (a) the period of three months beginning with his death; or
 - (b) such longer period as the Designated Officer may allow.

7. In the reply filed by the State, nothing has been mentioned, as to whether respondent No.4 is having a licence to carry on food business or not and whether there is compliance of Section 26(2) and (3) of the Food Safety and Standards Act, 2006 by respondents or not.

8. Respondents-State is directed to file affidavit in this regard. Respondent No.4 is also directed to place on record material entitling him to carry on food business in consonance with the provisions of Food Safety and Standards Act, 2006.

9. Keeping in view the provisions of Food Safety and Standards Act, 2006 and silence of Respondents-State with respect to compliance in its reply, we feel it appropriate to direct Respondents-State to file affidavit with respect to educational institutions/hospital being run or under the control of Health Department of Government of HP, placing on record the information as to whether the mess/ canteen in the institutions/hospitals are being run in consonance with the provisions of Food Safety and Standards Act, 2006 or not.

10. Needful be done on or before 31.05.2025.

List for consideration on **20th June,**
2025 before the appropriate Bench.

(Vivek Singh Thakur)
Judge

8th April, 2025
[himani]

(Ranjan Sharma)
Judge