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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5731 OF 2013 WITH
CIVIL APPLICATION NO.2255 OF 2015 IN
WRIT PETITION NO.5731 OF 2013**

M/s. Aqua pass Healthcare and Anr. ... Petitioners

Vs.

The State of Maharashtra and Ors. ... Respondents

Mr. P.A. Pol i/by Pol Legal Juris, for the Petitioners.

Mr. A.I. Patel, AGP, for the Respondent Nos.1 to 3.

**CORAM : A.S. OKA &
K.R.SHRIRAM, JJ.**

DATE : 27th AUGUST, 2015

PC.

. The challenge in this Writ Petition is to the order dated 4th May, 2013 passed by the Designated Officer under the provisions of Section 36(3)(b) of the Food Safety and Standards Act, 2006 (for short “the said Act of 2006”). The impugned order records that without obtaining permission/ licence under the said Act of 2006, the Petitioners were found manufacturing the packaged drinking water. Apart from this deficiency which goes to the root of the matter, certain other breaches were also alleged in the order dated 4th May, 2013. The averments made in Civil Application No.2255 of 2015 show that now

the Petitioners have accepted that they were under an obligation to obtain a licence under the said Act of 2006 for carrying out manufacturing activity of the package drinking water. In fact, in the Civil Application, it is contended that on 4th July, 2013, the Petitioners have applied for grant of licence. Though it is tried to be contended in the Civil Application that the Petitioners are entitled to commence business in view of the deeming provision, the learned counsel appearing for the Petitioners, on instructions, states that the Petitioners will give up the said plea. He states that the Petitioners are seeking a direction to the Competent Authority to decide the pending application within the time specified by this Court.

2. As the Petitioners have accepted the fact that they were under an obligation to obtain a licence under the said Act of 2006 before starting manufacturing activity, it is obvious that they have accepted the correctness of the order dated 4th May, 2013 which is impugned in this Petition.

3. The prayer made in the Civil Application is for vacating the order passed by the Respondents of sealing of the machines of the Petitioners. Unless the Petitioners are granted a licence under the said Act of 2006, the said prayer cannot be considered.

4. As the Petitioners have applied for grant of licence, now the challenge to the impugned order dated 4th May, 2013 will not survive. Only after a licence is granted to the Petitioners, they will be entitled to apply to the concerned authorities for de-sealing of the machines.

5. Accordingly, we dispose of the Writ Petition by passing the following order :-

ORDER

- (i) In view of the fact that the Petitioners have made an application for grant of a licence under the said Act of 2006, the challenge to the impugned order does not survive;
- (ii) If the application made by the Petitioners for grant of licence under the said Act of 2006 on 4th July, 2015 is still pending, the Competent Authority shall decide the said application in accordance with law as expeditiously as possible and preferably within a period of one month from the date on which an authenticated copy of the order is produced before it ;
- (iii) We make it clear that we have made no adjudication on the issue of entitlement of the Petitioners to the grant of licence;

- (iv) If a licence is granted to the Petitioners, it will be open for them to apply to the Competent Authority for de-sealing of the machines. If such application is made, the same shall be decided within a period of two weeks from the date of filing of the application;
- (v) Civil Application No.2255 of 2015 does not survive and the same is disposed of.

(K.R.SHRIRAM, J)

(A.S. OKA, J)

Certified to be true and correct copy of the original signed
Judgment/order.