

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.18491 of 2015

and

M.P.No.1 of 2015

M/s.S.N.Rathanasamy Nadar & Sons
rep. by its Partner R.Saravana Kumar .. Petitioner

vs.

The Authorised Officer,
Food Safety and Standards Authority of
India, Ministry of Health and
Family Welfare, II Floor,
Central Documentation Complex
(South Wing),
Chennai Port Trust Building,
Rajaji Salai, Chennai - 1. ... Respondent

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondent to draw samples from the consignment of the respondent under Bill of Entry No.8724491 dated 26.03.2015 and send the same for lab testing in terms of the Notification No.1-17/FSSAI/T/2010 dated 20.01.2012 of the respondent and issue appropriate certificate of fitness.

For Petitioner .. Mr.P.Sidharthan

For Respondent .. Mr.K.Surendranath

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner claims that it is a leading importer of pulses from various destinations and is in the line of this business for the past 25 years and claims to have an unblemished record as an importer for the last 2 1/2 decades. The petitioner would further state that in the month of March, 2015, it had imported Black Mapte (Urad),

measuring 71856 tons from M/s.Myint Group PTE Ltd., Singapore. The ship carrying the said commodity reached the Port of Madras on 25.03.2015 and it was brought to M/s.SANCO Container Freight Station for necessary clearance from the various authorities and as per the procedure, after filing of documents vide bill of entry dated 26.03.2015 by the appointed Customs House agents, No Objection Certificate has to be obtained from Plant, Quarantine and Fumigation Services (PQFS) and it was also duly obtained.

3.It is also stated by the petitioner that the imported consignment being an edible commodity, has to be certified by the Food Safety and Standard Authority of India (FSSAI) and accordingly, two samples from the said consignment, were drawn by the respondent on 30.03.2015 and one sample was sent for test to M/s.NAWAL Analytical Laboratories, Hosur, which is a recognised laboratory of the respondent. The respondent vide order dated 01.05.2015 has rejected the same and subsequently, the petitioner made an online request for testing of the second sample at the Referral Laboratory, Mysore. The respondent has rejected the request by enclosing the report of the Referral Laboratory at Mysore. The petitioner once again made a request dated 15.05.2015 in terms of the Notification dated 20.01.2012 praying for permission to clean/sort the consignment to enable the petitioner to make the consignment standard in conformity with the standards prescribed by the respondent. The petitioner also sought permission of the respondent vide letter dated 18.05.2015 to use machinery and labour inside the bonded area/CFS for cleaning the consignment and cleaning process was completed and due endorsement dated 28.05.2015 was made by the Bond Incharge. The grievance expressed by the petitioner is that after the imported commodity was cleaned, the respondent has not come again for the purpose of drawing samples, in the light of the Notification dated 20.01.2012 and hence came forward to file this writ petition.

4.Heard the submissions of Mr.P.Sidharthan, learned counsel appearing for the petitioner and Mr.K.Surendranath, learned counsel, who accepts notice on behalf of the respondent.

5.Learned counsel appearing for the petitioner would submit that in the light of the Notification in No.1-17/FSSAI/T/2010 dated 20.01.2012, the respondent has to draw the sample from the imported commodity, which has been cleaned and prays for appropriate orders by directing the respondent to draw necessary samples for the purpose of testing.

6.Per contra, Mr.K.Surendranath, learned counsel appearing for the respondent would submit that steps are being taken by the respondent to draw the sample from the imported commodity which was cleaned.

7.This Court, taking into consideration the limited scope of the prayer sought for by the petitioner and in the light of the facts and

circumstances, directs the respondent to draw samples in terms of the Notification No.1-17/FSSAI/T/2010 dated 20.01.2012 from the imported commodity which was cleaned and endorse to that effect by the Bond Incharge Officer, within a period of one week from the date of receipt of a copy of this order and test the same within a period of four weeks thereafter in accordance with law and communicate the decision taken to the petitioner, forthwith. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Authorised Officer,
Food Safety and Standards Authority of
India, Ministry of Health and
Family Welfare, II Floor,
Central Documentation Complex
(South Wing),
Chennai Port Trust Building,
Rajaji Salai, Chennai - 1.

+1cc to Mr.P.Sidharthan, Advocate sr.no.38563

+1cc to Mr. K. Surendranath, Advocate sr.no.38428

W.P.No.18491 of 2015

jsv[col]
srg 31.07.2015

सत्यमेव जयते

WEB COPY