

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.5367 of 2016
and
W.M.P.No.4678 of 2016

S.Dinakar

... Petitioner

Vs.

The Authorized Officer,
Chennai Sea Port and Air Port,
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Southern Regional Office,
Chennai Port Trust Building,
Rejaji Salai, Chennai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondent to draw Joint samples from the consignment of the petitioner under Bill of entry No.3312666 dated 19.11.2015 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 within a time frame.

For Petitioner : Mr.S.Lakshmanasamy
For respondent : Mr.H.Yasmeen Ali

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, to direct the respondent to draw joint samples from the consignment of the petitioner under Bill of Entry No.3312666 dated 19.11.2015 and send the same for lab testing in terms of the Notification No.1-17/FSSAI/T/2010, dated 20.01.2012, issued by the respondent within a time frame.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner that the petitioner is a Partner of the firm M/s.T.M.Karupiah Nadar Sons and they imported TOOR WHOLE from MALAWI and the same has reached the Customs Office. The respondent took sample and sent it to lab for testing. To his shock and surprise, the petitioner was intimated that the goods which were imported from MALAWI is not

in accordance with the Standard specified under the Food Safety and Standards Act and the Rules, on the reason that the goods have Uric Acid content exceeding the maximum permissible limit and from the referral lab has also the same result; but according to the petitioner, those two samples were drawn before cleaning and sorting. Hence, the petitioner approached the customs office with a request for permission to clean the goods in the presence of the customs officer in view of the circular dated 20th January 2012, No.1-17/FSSAI/T/2010 and accordingly, now the goods were cleaned based on the said notification. The petitioner gave a requisition letter to the respondent, but no steps were taken by the respondent to draw the sample for lab testing and the Goods were kept in Warehouse. The petitioner has imported the TOOR WHOLE by paying huge money and if the goods are returned to exporter without given opportunity to the petitioner, they will incur heavy loss. Further, the petitioner undertakes that they will not claim the goods if the result is negative after fresh testing. Hence, the petitioner has come forward with the present writ petition before this Court for the relief as stated supra.

3. When the matter came up on 12.02.2016, this Court has passed the following interim order_

"The respondent is directed to draw joint samples from the consignment under Bill of Entry No.3312666 dated 19.11.2015 and send the same for Lab Testing, keep the results intact, without letting the petitioner know about it.

This order is passed, as an interim measure, to avoid wastage of time, in the event of the petitioner succeeding in the writ petition. It is made clear that this order will not create any equity in favour of the petitioner, as it is passed only in order to avoid loss of time."

4. Today, when the matter is taken up for consideration, the learned counsel for the respondent submitted that pursuant to the order dated 12.02.2016 passed by this Court, the respondent took samples from the subject consignment of the petitioner and conducted test. Now, the respondent has filed a report stating that the sample of the subject consignment of the petitioner conforms to the standards laid down under 2.4.6.15 of Food Safety and Standards (Food Products Standards and Food Additives) Regulations 2011.

5. In view of the above report filed by the respondent, the writ petition is allowed, with a direction to the respondent to issue appropriate certificate to the petitioner in respect of the subject consignment.

Consequently, connected Miscellaneous Petition is closed.

No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssv

To

The Authorized Officer,
Chennai Sea Port and Air Port,
Food Safety and Standards Authority of India,
Ministry of Health and Family Welfare,
Southern Regional Office,
Chennai Port Trust Building,
Rejaji Salai, Chennai.

+ 1 cc to Mr.S.Lakshmanasamy, Advocate Sr 12489 (15/3/16)

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