

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3711 of 2017 and
W.M.P.Nos.3776 & 3777 of 2017

R.Valarmathi,
Rep. by Raja & Co.,
No.12, Singarapet,
Shevapet, Salem - 636 002. Petitioner
Vs.

1.Deputy Commercial Tax Officer (Enf),
Check Point-1, Hosur.

2.K.Selvaraj

3.Sagoserve Society, Omalur Main Road,
Jagir Ammapalayam, Salem - 636 302.
(R-3 is impleaded as per order dated
23.02.2017 in W.P.No.3711/2017 and
W.M.P.Nos.3776 and 3777/2017)

4.The Designated Officer,
Food, Safety and Drug Department,
Collectors Office Campus,
Krishnagiri District.

(R-4 is amended as per order dated
27.03.2017 in W.P.No.3771/2017) ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the impugned order passed by the first respondent bearing Form No.041 goods detention Notice No.00005175/2016-17 dated 07.01.2017, quash the same.

For Petitioner : G.Murugendran

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (For R1)

Mr.K.Nagendra Prasad for R2

Mr.U.Karunakaran for R3

Mrs.A.Srijayanthi Spl.G.P., for R4

O R D E R

Heard Mr.G.Murugendran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the first respondent, Mr.K.Nagendra Prasad, learned counsel for the second respondent, Mr.U.Karunakaran, learned counsel for the third respondent and Mrs.A.Srijayanthi, learned Special Government Pleader appearing for the fourth respondent. With the consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner challenges a goods detention notice issued by the first respondent, dated 07.01.2017. The reasons for detaining the goods are three in number:-

- i) The vehicle did not stop in Thouppur Out Check Post;
- ii) There is under valuation of the goods;
- iii) The dealer's Registration has been cancelled;

3.The petitioner submitted her objections stating that she has purchased the sagoserve from the third respondent viz., the Sagoserve Society and all documents were available and to substantiate that the vehicle stopped in the check post, he also impleaded the driver as the second respondent. Thus, it appears that the Check Post Officer was satisfied and was not inclined to proceed further, but issued a notice to the petitioner on 10.01.2017, directing the petitioner to take the vehicle along with the sago to the Deputy Commercial Tax Officer, Hosur office at 10:00 a.m. on 12.01.2017. The reason for issuing such a direction was to examine as to what is the quality of the sago transported whether there was any impurity or any unauthorized bleaching done using acidic substances. The petitioner accordingly produced the lorry along with the goods before the concerned Officer and samples were drawn and sent for testing to the Food Analysis Laboratory, Guindy, Chennai -3.

4.When the matter was brought to the notice of this Court on an earlier occasion, the Court impleaded the 3rd and 4th respondents as respondents in the Writ Petition so as to ascertain as to what is the result of the test report. Today when the matter is heard, the learned Special Government Pleader for the fourth respondent produced the test report in a sealed cover, which was opened in the Court and the report reads as follows and for better appreciation the scanned copy of the report is incorporated herein.

BY RLAD

FORM VIIIA
[Refer rule 2.4.2.(5)]
REPORT OF THE FOOD ANALYST

R.No.2239/G3/2017

dt. 05.07.2017

Report No. ACT-139/2017-2018

Certified that I, L. Baskaran, M.Sc., duly appointed as Food Analyst under the provisions of the Food Safety and Standards Act, 2006 (34 of 2006), have received from the Food Safety Officer, Hosur Municipality, Krishnagiri District a sample marked as "Sago (loose)" bearing Code No. & Sl.No. of D.O : 011-13/2017-18 of the Designated Officer of Krishnagiri District on 09.05.2017 for analysis.

The condition of seals on the container and the outer covering on receipt was as follows:-

Seals were intact and unbroken and tallied with the specimen impression of the seal sent separately by the Food Safety Officer.

I found the sample to be "Sago" falling under Regulation 2.4.14(2) of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 r/w 4(31) 2016/Tamilnadu/Enf/FSSAI, New Delhi dated: 28 March 2017. The sample was in a condition fit for analysis and has been analysed on 10.05.2017 to 29.05.2017 and the result of its analysis is given below.

Sl. No.	Quality Characteristics	Name of the method of test used	Result	Prescribed standards as per Regulation 2.4.14(2) of Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 r/w 4(31) 2016/Tamilnadu/Enf/FSSAI, New Delhi dated: 28 March 2017
1.	Moisture	FSSAI manual method	10.8%	Not more than 12.0%
2.	Total Ash [on dry basis]	FSSAI manual method	0.23%	Not more than 0.40%
3.	Ash insoluble in dilute Hydrochloric [on dry basis]	FSSAI manual method	0.04%	Not more than 0.10%
4.	Protein (on dry basis)	FSSAI manual method	0.29%	0.3%

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5.	Starch (on dry basis)	FSSAI manual method	98.4%	Not less than 98.0%
6.	Crude fibre (on dry basis)	FSSAI manual method	0.04%	Not more than 0.20%
7.	Extraneous matter	FSSAI manual method	Nil	Shall be Absent
8.	Test for Hydro Cyanic Acid	FSSAI manual method	Negative	Not more than 5ppm
9.	Test for Sulphur-di-oxide	FSSAI manual method	Negative	Not more than 100ppm
10.	pH of 10% aqueous extract	FSSAI manual method	5.9	4.5 -7.0
11.	Colour of gelatinized alkaline paste in lovibond scale	FSSAI manual method	Zero Red unit + Zero Yellow unit	0.4Red unit + 1.5 yellow unit

OPINION:

The said sample was analysed and found to conform to the standards for the tests carried out specified for "Sago" under Regulation 2.4.14(2) of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 r/w 4(31) 2016/Tamilnadu/Enf/FSSAI, New Delhi dated: 28 March 2017 of Food Safety and Standards Authority of India.

Signed this the 05th day of July 2017



FOOD ANALYST
FOOD ANALYSIS LABORATORY
GUINDY, CHENNAI-32.

To
The Designated Officer,
(TNFS & DA Department)
Room No.128, 2nd Floor, District Collectorate,
Ramapuram, Krishnagiri-635 115.

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5. In terms of the above test report, it is evident that the sago conforms to the standards for the test carried out under Regulation 2.4.14(2) of the Food Safety and Standards (Food Products Standards and Food Additives), Regulations, 2011 r/w 4 (31) 2016/Tamilnadu/Enf/FSSAI, New Delhi, dated 28.03.2017.

6. In the light of the above, the Writ Petition is allowed and the impugned proceedings are set aside and the first respondent is directed to release the goods forthwith on production of copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

abr/pbn

To

1. Deputy Commercial Tax Officer (Enf),
Check Point-1, Hosur.
2. Sagoserve Society, Omalur Main Road,
Jagir Ammapalayam, Salem - 636 302.
3. The Designated Officer,
Food, Safety and Drug Department,
Collectors Office Campus,
Krishnagiri District.

+1cc to Mr. Murugendran, Advocate in sr.no.50203
+1cc to Special Government Pleader in sr.no.49623

W.P.No.3711 of 2017

LRS (CO)
NR 20/07/2017

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