

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.06.2017

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The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.1676 of 2017
and W.M.P.Nos.1644 and 1645 of 2017

M/s.Annamalayar Aqua Farms
No.55.16 Pillayar Koil Street
Padi Kuppam
Chennai, Tiruvallure 600 107.

[Petitioner]

Vs

- 1 The Designated Officer
Food Safety and Drug Administration Department
DDHS Campus Tiruvallure 602 001
- 2 The Food Analyst
Food Analysis Laboratory
King Institute Campus
Guindy Chennai 600 032
- 3 The Food Safty Officer
Ambathur-II Chennai 54

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the First respondent relating to the impugned proceedings of the 1st respondent in his closure Notice in R.No.701/E1/Green/ 2016 dated 17-11-2016 quash the same and consequently direct the first respondent to remove the seal of Manufacturing of Water unit and permit the petitioner compliance of re testing for products before the accredited or certified laboratories of the central government.

For Petitioner
For Respondents

: Mr.P.Manikannan
: Mr.A.N.Thambidurai, SGP

ORDER

Heard the learned counsel for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents.

2. The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records of the 1st respondent relating to the impugned proceedings of the 1st respondent in his Closure Notice dated 17-11-2016 and to quash the same and consequently direct the 1st respondent to remove the seal of Manufacturing of Water Unit and permit them to comply with re-testing for products before the accredited or certified laboratories of the Central Government.

3. Mr.P.Manikannan, learned counsel appearing for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents submitted that this Court, in similar writ petitions, by order dated 01.12.2016 in W.P.Nos.40092, 40272 of 2016 etc. batch of cases had disposed of the writ petitions with the following directions:-

"(i) The orders, which are impugned in these writ petitions, in so far as it relates to sealing of the manufacturing facility of the respective petitioners alone, are set aside as it violates principles of natural justice.

(ii) The respondents are directed to forthwith remove the seal put up by them in the manufacturing facility of the petitioners to enable the petitioners to have their routine maintenance work and to manufacture water only for the purpose of testing or taking samples thereof. It is made clear that the petitioners shall not resort to manufacture water for commercial sale or to sell the existing stock for commercial purpose.

(iii) The affidavits of undertaking filed by the petitioners in these writ petitions are recorded. As per the affidavits of undertaking, the petitioners shall subject their products for testing with the accredited or certified laboratories of the Central Government and to produce the report thereof to the respondents.

(iv) The respondents are directed to cause inspection of the manufacturing facility of the petitioners. While doing so, the respondents are directed to cause inspection of the manufacturing facility of the petitioners which were sealed on the ground that the products manufactured by them is "mis branded" or "sub-standard" first. Such exercise shall be done within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondents shall cause inspection of the manufacturing facility of the

petitioners which were sealed on the ground that the products manufactured by them is "unsafe" for human consumption.

(v) During such inspection, the respondents shall ensure compliance of the various requisite parameters, including compliance of the defects pointed out by them during the course of their earlier inspection and the fulfilment of the conditions laid down under the Act. Thus, by issuing direction to the respondents to remove the seal, it will not preclude the respondents from proceeding further in accordance with Law, Rules and Regulations and the directives issued by the Green Tribunal in similar matters or for violation of any other Rules.

(vi) It is made clear that this order has been passed only on the ground that the sealing of the premises was done in violation of the principles of natural justice. This order, therefore, will not confer any right on the petitioners either manufacture or sell their products for commercial purpose without obtaining orders or clearance from the respondents".

4. Further, the learned counsel on either side submitted that this writ petition may also be disposed of by imposing conditions as mentioned in the said batch of writ petitions.

5. In view of the submissions made by the learned counsel on either side, without expressing any opinion on merits as to whether the products manufactured by the petitioner are sub-standard or the petitioner possess adequate facility to manufacture their product and taking note of the fact that the petitioner is willing to have their manufacturing facility inspected by the respondents to subjectively satisfy themselves about the compliances of the various defects pointed out by the respondents during the course of their inspection, I dispose of the above writ petition with the following directions:-

"(i) The order, which is impugned in this writ petition, insofar as it relates to sealing of the manufacturing facility of the petitioner alone, is set aside, as it violates principles of natural justice.

(ii) The respondents are directed to forthwith remove the seal put up by them in the manufacturing facility of the petitioner to

enable the petitioner to have their routine maintenance work and to manufacture water only for the purpose of testing or taking samples thereof. It is made clear that the petitioner shall not resort to manufacture water for commercial sale or to sell the existing stock for commercial purpose.

(iii) The affidavit of undertaking filed by the petitioner in this writ petition is recorded. As per the affidavit of undertaking, the petitioner shall subject their products for testing with the accredited or certified laboratories of the Central Government and to produce the report thereof to the respondents.

(iv) The respondents are directed to cause inspection of the manufacturing facility of the petitioner, which was sealed on the ground that the products manufactured by them is "sub-standard". Such exercise shall be done within a period of two weeks from the date of receipt of a copy of this order.

(v) During such inspection, the respondents shall ensure compliance of the various requisite parameters, including compliance of the defects pointed out by them during the course of their earlier inspection and the fulfilment of the conditions laid down under the Act. Thus, by issuing direction to the respondents to remove the seal, it will not preclude the respondents from proceeding further in accordance with Law, Rules and Regulations and the directives issued by the Green Tribunal in similar matters or for violation of any other Rules.

(vi) It is made clear that this order has been passed only on the ground that the sealing of the premises was done in violation of the principles of natural justice. This order, therefore, will not confer any right on the petitioner either manufacture or sell their products for commercial purpose without obtaining orders or clearance from the respondents".

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Designated Officer
Food Safety and Drug Administration Department
DDHS Campus Tiruvallure 602 001
- 2 The Food Analyst
Food Analysis Laboratory
King Institute Campus
Guindy Chennai 600 032
- 3 The Food Safty Officer
Ambathur-II Chennai 54

+1 cc to M/s.P.Manikannan Advocate sr 41912

W.P.No.1676 of 2017

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