

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.714 OF 2019

Rajasthan Antibiotics Limited ... Petitioner

Vs

The Union of India through the Secretary
Ministry of Finance and Ors. ... Respondents

Mr.Prakash Shah a/w Mr.Jas Sanghvi i/b PDS Legal for the
Petitioner.

Mr.Swapnil Bangur a/w Mr.Ram Ochani for the Respondents.

**CORAM : S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.**

FRIDAY, 25th JANUARY, 2019

P.C. :

1 The petitioners before us have received a demand-cum-notice to show cause dated 9th June, 2016. A copy of this is at page 65, Exhibit 'F' to the writ petition.

2 The petitioners complain that an order in original has been passed on this on 22nd February, 2017, but that order has been passed without hearing them.

3 In the meanwhile, relying on the finding in this order, the petitioners are termed as alleged defaulters and their name is

put in a list known as “Alert List”. On account of this, the petitioners are unable to dispatch their consignment abroad. In other words, the petitioners being the exporter are unable to carry on the export business.

4 On such a writ petition and after hearing both sides, we find that the interest of justice will be served if the petitioners are granted an opportunity to defend this show cause notice once again.

5 Without going into the issue as to whether the petitioners are indeed served with the notices of hearing and that the petitioner did not avail the benefit of it, we are of the firm view that if the petitioners deposit a sum of Rs.9,78,000/- within a period of ten days as stated before us and produce a proof of such deposit, then, the order in original dated 22nd February, 2017 to stand quashed and set aside.

6 The show cause notice shall then be adjudicated afresh on merits and in accordance with law as expeditiously as possible and within a period of three months from the date when the amount is deposited.

7 All contentions of the petitioner on the subject show cause notice are kept open. The fresh order shall be passed uninfluenced by the earlier findings and conclusions.

8 In the event the petitioners default in deposit/ payment of Rs.9,78,000/- as stated above, then, the respondents can take such steps as are permissible in law to recover the same, including by coercive means.

9 The writ petitions is disposed of by clarifying that we have not expressed any opinion on the rival contentions.

10 In the event, the petitioners succeed before the adjudicating authority, then, they will be in a position to avail of all the benefits which flow from such success, including seeking refund of amount deposited by them.

[M.S.KARNIK, J.]

[S.C.DHARMADHIKARI, J.]