

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5954 OF 2019

Savio Bio Organic & Fertilisers Pvt Ltd through ...Petitioner
its Authorised Signatory

Versus

The State of Maharashtra through its ...Respondents
Department of Agricultural & Ors

Mr Nitin Pradhan, Senior Advocate, with Ms Shubhada Khot, for
the Petitioner.

Mr Yatin S Khochare, AGP, for Respondents Nos. 1 to 4.

CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ

DATED: 19th June 2019

PC:-

1. Heard both sides.
2. This Petition can be disposed of by a short order. The Petitioner is aggrieved by a communication dated 20th May 2019, a copy of which is also annexed as Exhibit "G" to the Affidavit in Reply filed by the contesting Respondent, namely the Director of

Agriculture (Input and Quality Control), Commissionerate of Agriculture, Pune, cancelling the licences issued by relying Clauses 3 and 7 of the Fertilisers Control Order 1985, on the ground that the Petitioner has violated clauses 5, 6, 8, 14A, 19, 21, 21A, 28 and 35 thereof. The result of this is that the Petitioner has also not been able to procure raw materials. The application in that behalf came to be rejected only because of the Show Cause Notice and the impugned action.

3. Mr Nitin Pradhan, senior counsel, *inter alia*, contended that the impugned order erroneously assumes that the Petitioner is not interested in participating in the proceedings. Far from it, the Petitioner gave a detailed reply to both the actions proposed by the Show Cause Notices and based on which the order has been passed. The Petitioner has been following up the matter but the impugned order has been passed without hearing the Petitioner or without considering the cause shown by it.

4. On the earlier occasion and even today we enquired as to how the Competent Authority proceeds ex parte without considering the cause shown by the Petitioner.

5. Our attention has been invited also to the notices, copies of which are at pages 59 and 60 of the paper-book. The notices have been extensively replied to. The Petitioners have pointed out that they have the necessary documents to support their stand. They forwarded everything that is in their possession, including the purchase and sales bills, delivery challans, raw material register etc. In the impugned order, there is absolutely no reference to this cause shown. We do not think it can be said that the Petitioners were avoiding appearance before the authority but were interested only in delaying the process.

6. We do not approve of such an approach and action. When this was the opinion expressed by us in open Court, on instructions, it is stated that the Respondents and particularly the Commissioner of Agriculture or Director will withdraw the impugned order.

7. Once the impugned order is withdrawn, it need not be formally quashed and set aside. That order now does not survive.

8. Let the process be initiated afresh uninfluenced by any earlier finding and conclusions.

9. It is stated that the Respondents will issue a fresh notices calling upon the Petitioners to show cause as to why their manufacture and sale licences should not be cancelled. If this notice is issued, within 15 days from the date of receipt of the same, the Petitioners shall furnish their reply.

10. Thereafter, let the Competent Authority grant a personal hearing to the Petitioner and pass a reasoned order. In the event the Petitioner is avoiding appearance or is attempting to obstruct or delay the proceedings, the Competent Authority is free to record the events in relation thereto and can proceed ex parte.

11. We clarify that we have not expressed any opinion on the rival contentions. Now if the Petitioners are seeking the relief of

allocation of any raw material then, their application made on 20th May 2019 in that behalf be also considered uninfluenced by any earlier conclusion.

12. Mr Pradhan says that the Petitioner will not delay the proceedings before the Competent Authority by seeking any unnecessary adjournments. Statement accepted.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)