

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 661/2013

Pandit S/o Jagannathrao Nagpure,
Aged 62 years, Occ. Business,
R/o. Subhash Road, Nagpur

.... **APPLICANT**

// VERSUS //

- 1] The State of Maharashtra,
Through P.S.O., Police Station
Chandur Bazar, Dist. Amravati
- 2] Dr. Rajendra Haribhau Deshmukh,
Live Stock Development Officer,
Panchayat Samiti, Chandur Bazar,
Dist. Amravati

.... **NON-APPLICANT(S)**

Shri P.D. Meghe, Advocate for the applicant
Shri S.S. Doifode, APP for the non-applicant no. 1
Shri S.D. Chopde, Advocate for the non-applicant no. 2

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : 12/10/2020

ORAL JUDGMENT : (PER:- AMIT B. BORKAR, J.)

- 1] The applicant has filed the present application challenging the first information report dated 14/08/2013 bearing no. 3082/2013 registered

with the non-applicant no. 1 – Police Station for the offences punishable under Sections 3 and 7 of the Essential Commodities Act.

2] It is the case of the applicant that in January 2013, the applicant supplied maize seeds to Panchayat Samiti, Chandur Bazar in which the non-applicant no. 2 was working as Live Stock Officer. A complaint was made by one of the farmer regarding quality of maize seeds supplied to Panchayat Samiti, Chandur Bazar. The seeds were sent to laboratory for testing. In the report, it revealed that the seeds supplied by the applicant were infected by insects. On the basis of the complaint, first information report came to be registered against the applicant on 14/08/2013. The applicant has therefore filed the present application on 26/11/2013 challenging the first information report dated 14/08/2013.

3] Shri P.D. Meghe, learned advocate for the applicant has submitted that as per the case report of the laboratory which is received by the prosecution, purity of the seeds supplied by the applicant was to the extent of 97.85% and the germination rate at normal growth was 82%. Learned advocate for the applicant has relied upon the circular issued by the Director of Agriculture dated 03/04/1993 and has submitted that if the germination of the seeds supplied is below 75% and if purity is below 90%, then only complaint may be filed in the Court, and if the germination rate is

more than 75% and purity is above 90%, then the concerned person should be warned.

4] The non-applicant no. 1 has contested the application by filing reply and it is submitted that the seeds supplied by the applicant were below the standards prescribed by the notification issued by the Government of India which is at page 21 of the petition. It is pertinent to note that the non-applicant no. 1 has not stated in the reply that the policy dated 03/04/1993 at page 24 of the petition framed by the Director of Agriculture was not in force at the relevant time or was superseded by new policy. Therefore, we are proceeding on the basis that the policy dated 03/04/1993 was still in force at the relevant time.

5] We have gone through the copy of the first information report filed against the applicant, test report dated 31/03/1993, notification of Government of India and the policy dated 03/04/1993. Having gone through the copy of test report, it appears that the purity of the seeds supplied by the applicant was to the extent of 97.85% and the germination rate of the seeds supplied by the applicant was to the extent of 82%. Once there is no dispute about the test report and it is not the case of the non-applicant no. 1 that the policy dated 03/04/1993 was superseded or was no longer in force at the relevant time, filing of the prosecution against the applicant cannot be

justified as the Live Stock Officer is bound by the policy dated 03/04/1993. As per the policy, it was the duty of the Live Stock Officer to warn the applicant regarding defective seeds supplied by him but the Live Stock Officer should not have initiated prosecution contrary to the policy dated 03/04/1993. Having considered the overall facts and circumstances of the case and in particular the policy dated 03/04/1993, we are satisfied that the first information report against the applicant deserves to be quashed and set aside.

6] Hence, the following order:-

F.I.R dated 14/08/2013 bearing no. 3082/2013 registered with the non-applicant no. 1 – Police Station Officer for the offences punishable under Sections 3 and 7 of the Essential Commodities Act is quashed and set aside.

The criminal application stands **allowed** in the above terms.

JUDGE

JUDGE