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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15668 of 2016

and

W.M.P.Nos.13617 & 13618 of 2016

N.Natarajan

... Petitioner

Vs

The Commissioner Food Safety and Drug
Administration Department,
5th Floor of DMS Office Building,
359, Anna Salai,
DMS Campus,
Teynampet,
Chennai - 600 009.

... Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the respondent in D.O.Letter No.6729/2013/S6/FSSA Dated 11.01.2016 and quash the same.

For Petitioner :Mr.G.Murugendran

For Respondent : Mr.K.M.D.Muhilan
Government Advocate

ORDER

The impugned order dated 11.01.2016, states that there is a ban order, for the sale of wet starch for the manufacture of sago only is prohibited. Thus, companies transportation of their internal processes from their own one factory to another factory may be permitted and it is to be ensured that chemicals are not being used, resulting in unsafe sago.

2. The grievances of the writ petitioner is that the wet sago is being sold in the market by adding harmful chemicals, which causes health issues to the consumers. Thus, selling of wet sago, as banned even by the Division Bench of this Court, must be strictly followed by the authorities. The learned counsel for the petitioner referred the order passed by the Hon'ble Division Bench of this Court [in WP No.20124 of 2015 dt. 17.09.2015] stating as follows:



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"2. It emerges that when tapioca is to be processed, the skin has to be removed, but in some of the cases, the small manufacturers may not have the process to do so and without removing the skin, they process it and give it to the largest manufacturers. Apart from that, the allegation is that, to whiten the sago, various harmful chemicals are used. The sago is scrutinised by the 7th respondent through a 9-tests process and where the tests failed, the sago is returned to the manufacturers.

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5. It is also pointed out that wet starch is sold in the market, which also creates a problem, as that is purchased by the manufacturers at discounted value, chemicals added and then, sold. It is, thus, agreed that sale of wet starch should be banned."

3. Relying on the said judgment, the learned counsel for the petitioner reiterated that authorities are not effectively monitoring, inspite of the ban imposed. Still such chemical mixed wet sago are sold in the open market. Thus, the petitioner is constrained to move the present writ petition.

4. Taking note of the complaint raised by the petitioner, this Court collected three samples of sago and handed over to the authorities for laboratory tests. The Commissioner, Tamil Nadu Food Safety and Drug Administration Department, Chennai, conducted lab analysis and communicated the report to the learned Government Advocate in letter dated 06.10.2021.

5. As per the said report, out of three samples sent by the Court for analysis, two samples are in conformity with the standards fixed in the statute and in respect of one sample, there is a slight variation and the variation would not cause much harm to the consumers. It is contended that out of nine tests the variation is found in only one test that too negligible.

6. Perusal of the report would reveal that laboratory tests were conducted thoroughly in respect of all the samples and the competent authority offered opinion in respect of the product. This Court do not find any infirmity in respect of the actions taken by the authorities.

7. The learned counsel for the petitioner made a submission that the wet sago are being sold in many market areas by adding chemicals. If at all the petitioner identifies any such illegal sale, then a specific complaint is to be lodged with the



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competent authorities for the purpose of initiating action. Contrarily, High Court cannot conduct a roving enquiry in this aspect and it is the duty of the authorities to conduct periodical inspections and on information, they are bound to conduct further investigation, if necessary in respect of any such illegality of selling chemical based food products.

8. The learned Government Counsel appearing on behalf of the respondent states that any such food product if not in conformity with the regulations, more specifically, wet starch, actions will be taken. Apart from this, the Commissioner of Food Safety and Drug Administration, issued several circulars, even recently on 29.07.2021, to monitor and conduct inspections in respect of the food products, more specifically, sago. Therefore, even the wet sago is not directly sold to the consumers. Thus, the food products available in the market in this regard are in conformity and if any specific complaint is lodged by any person, then authority would be in a position to initiate further action.

9. It is further stated in the report that the Food Safety Department received several complaints from the year 2011 to 2021 and they have analyzed number of samples. Even suo motu actions were initiated and analysis were conducted and in respect of adulterated food products, penalty was also imposed. Thus, the Department is taking action then and there based on the complaint and by conducting suo motu actions in respect of certain food products.

10. Initially there was a ban and it is brought to the notice of this Court that subsequently, the ban order was modified. However, the standards prescribed is to be followed in respect of sale of these products.

11. This being the clarification now offered by the respondent, this Court is of the opinion that the grievances and the complaint of the petitioner may be a fact and in some markets there may be a sale of such impure products. However, only in the event of submitting a specific complaint, the authorities will be in a position to initiate further action, in the manner known to law. Thus, the petitioner is at liberty to submit any specific complaint with required facts and materials, enabling the authorities to initiate action in this regard.

12. With these observations, the writ petition stands disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar



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To
The Commissioner Food Safety and Drug
Administration Department,
5th Floor of DMS Office Building,
359, Anna Salai,
DMS Campus,
Teynampet,
Chennai - 600 009.

+1 cc to Government Pleader Sr.NO. 53234

+1 cc to Mr.G.Murugendran, Advocate Sr.NO. 52949

W.P.No.15668 of 2016

sra (CO)

A.SK(27.10.2021)