

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3634 OF 2022**

Panchaganga Seeds Ltd.,
A company incorporated under the
Companies Act, 1956
having its registered address
At post Khupti, Tq. Newasa,
Dist. Ahmednagar
Through its Director,
Prabhakar S/o Uttamrao Shinde,
Age: 50 years, Occ: Business,
R/o at Khupti, Tq. Newasa,
Dist. Ahmednagar.

..Petitioner

Versus

1. The State of Maharashtra,
Through its Principal Secretary
Agriculture Department,
State of Maharashtra,
Mantralaya, Mumbai.
 2. The Hon'ble Minister,
Agriculture Department,
State of Maharashtra,
Mantralaya, Mumbai.
 3. The Director of Agriculture
/Licensing Authority,
Commissionerate of Agriculture,
State of Maharashtra, Pune.
 4. The District Agriculture Officer and
Inspector, Seed/Fertilizer/Insecticide,
Zilla Parishad, Aurangabad,
Tq. & Dist. Aurangabad.
- ..Respondents

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Mr. R. N. Dhorde, Senior Advocate i/by Mr. V. R.
Dhorde alongwith Mr. P. S. Dighe and Mr. Ganesh
Shinde, Advocate for the Petitioner.
Mr. S. K. Tambe, AGP for Respondent Nos.1 to 4.

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CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.

DATED : 17th MARCH, 2022.

ORAL JUDGMENT (Per R. D. Dhanuka, J.):—

1. Rule. Rule is made returnable forthwith.
2. The learned A.G.P. waives notice for respondents.
3. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the order dated 09.03.2022 passed by respondent no.3 thereby suspending the licence issued to the petitioner.
4. The petitioner was granted licence to carry on the business of dealer in the seeds in the year 2003 which came to be renewed till 31.12.2026. On 21.11.2021, the respondent no.4 issued show cause notice to the petitioner asking to explain the alleged irregularities mentioned in the show cause notice. The petitioner responded to the said show cause notice on 06.12.2021 and denied the allegations made therein. On 16.12.2021, respondent no.4 submitted a report to the respondent no.3.
5. On 21.01.2022, respondent no.3 issued show cause notice to the petitioner alleging violation of the provisions of the Seeds Act, 1966 and Rules, 1968. The petitioner responded to the said show cause notice vide letter dated 03.02.2022.

6. On 04.03.2022, the respondent no.3 issued notice to the petitioner to remain present for personal hearing on 15.03.2022.

7. It appears that, on 08.03.2022, the Learned Minister for Agriculture, State of Maharashtra replied to the question asked by Lakshavedhi Suchana No.210 by Shri. Anil Patil MLA, Shri. Mahendra Thorve MLA and Shri. Balaji Kalyankar MLA. It is the case of the respondents that, the Learned Minister in response to the said question, after verifying the record declared the suspension of the license of the petitioner in the Assembly.

8. On the basis of such statement made by the Learned Minister in the Assembly, respondent no.3 communicated the decision taken on 09.03.2022 whereby suspending the license granted to the petitioner.

9. Being aggrieved by the said decision, the petitioner has filed this writ petition.

10. Mr. Dhorde, learned senior advocate for the petitioner submits that, in response to the show cause notice issued by respondent no.3, the petitioner had already responded and pointed out as to why the said show cause notice was liable to be withdrawn. On 04.03.2022, respondent no.3 issued a notice to the petitioner to remain present for personal hearing on 15.03.2022.

11. It is submitted that, much prior to 15.03.2022, the Learned Minister, however, declared in the Assembly Session that license of the petitioner stands suspended. He submits that, Learned Minister has no jurisdiction to declare the license of the petitioner suspended in the Assembly Session when the hearing was already fixed by the respondent no.3 on 15.03.2022.

12. On 16.03.2022 after hearing learned senior advocate for the petitioner and the learned A.G.P. for respondents, this Court prima facie observed that the matter having been adjourned to 15.03.2022 for granting personal hearing to the petitioner and to consider the reply to the show cause notice already filed by the petitioner, the learned Minister could not have declared the licence of the petitioner in the Assembly suspended. This Court prima facie observed that, learned Minister has acted illegally by making such a statement in the Assembly which action is followed by order of suspension passed on 09.03.2022. This Court directed the learned A.G.P. to take instructions whether the impugned order dated 09.03.2022 can be withdrawn and the fresh order in accordance with the law be passed after hearing the petitioner as contemplated in the communication dated 04.03.2022. The matter was adjourned at the request of learned A.G.P. to take instructions.

13. The learned A.G.P. tenders affidavit-in-reply on behalf of respondent no.3. He invited our

attention to paragraph no.5 of the said affidavit-in-reply that, while proceedings were going on in the Assembly, Lakshavedhi Suchana No.210 was raised on 08.03.2022 by Shri. Anil Patil MLA, Shri. Mahendra Thorve MLA and Shri. Balaji Kalyankar MLA and in response to the said Lakshavedhi Suchana No.210 the learned Minister called for the record and after verifying the said record, declared the suspension of the licence of the petitioner in the Assembly. It is submitted that, the said decision taken by the learned Minister was within his power, since the Assembly Session was going on that day.

14. It is submitted by learned A.G.P. that, proceedings are pending before respondent no.3, however, decision was taken by learned Minister in Assembly Session on 08.03.2022. The said decision was communicated through the respondent no.3 being Licensing Authority to the petitioner. The proceedings which are pending before respondent no.3 will be decided on its own merits. It is submitted by learned A.G.P. that, final order would be passed by the respondent no.3.

15. Mr. Dhorde, learned senior advocate invited our attention to the order dated 16.03.2022 annexed at page no.125 of the affidavit-in-reply and would submit that, the authority has already confirmed the order dated 09.03.2022 passed by respondent no.3 based on the statement made by the learned Minister in the Assembly on 08.03.2022 and nothing remain to be decided by the Authority on

the issue of suspension of licence pursuant to the show cause notice issued by respondent no.3.

16. It is not in dispute that, the respondent no.3 had issued a show cause notice to the petitioner alleging violation of the provisions of law on 21.01.2022. The said show cause notice was responded by the petitioner on 03.02.2022. On 04.03.2022, the respondent no.3 had informed the petitioner that, personal hearing would be rendered to the petitioner on 15.03.2022.

17. However, before such hearing could be rendered to the petitioner on 15.03.2022, the learned Minister had already ordered the licence of the petitioner suspended in the Assembly and based on such announcement made by the learned Minister, respondent no.3 suspended the licence of the petitioner.

18. A perusal of the affidavit-in-reply filed by respondent no.3 dated 17.03.2022 and more particularly paragraph no.5 indicates that, it is the case of the respondents that, there was Lakshavedhi Suchana No.210 raised on 08.03.2022 by three of the Members of Assembly. In response to it, the learned Minister declared the suspension of licence of the petitioner in the Assembly. Though we repeatedly called upon the learned A.G.P. to point out to this Court any provision of law under which the learned Minister could have passed such order when the proceedings were already pending before respondent no.3 for consideration and the

hearing was proposed to be given on 15.03.2022, the learned A.G.P. could not point out any provision for perusal and consideration of this Court in that regard.

19. In our view, the learned Minister did not have any such power and that also in the Assembly when the petitioner was offered personal hearing by respondent no.3 which was proposed to be scheduled on 15.03.2022. Licence of the petitioner could not be suspended in view of the Lakshavedhi Suchana No.210 raised by three of the Members of Assembly regarding the license of the petitioner in the Assembly by announcing the decision in the Assembly. The said issue was already adjudicated before respondent no.3.

20. In so far as submission of learned A.G.P. that the order would be passed after hearing the petitioner is concerned, in our view this submission of the learned A.G.P. is totally without merit. Mr. Dhorde, learned senior advocate for the petitioner rightly pointed out the order dated 16.03.2022 passed by Shri. Dilip Zende, Licensing Officer confirming the order dated 09.03.2022 passed by respondent no.3 and fixing the date of hearing on 05.04.2022. In our view, since the order is already passed illegally by the learned Minister followed by the order of respondent no.3, no purpose would be served by granting any personal hearing at this stage to the petitioner proposed to

be held on 05.04.2022 without setting aside the impugned order.

21. It is not the case of the respondents that, during the course of hearing on 05.04.2022, the authority would have power to supersede the order passed by the learned Minister or by respondent no.3. In our view, the entire action on the part of respondents including the learned Minister is totally without jurisdiction and is thus required to be quashed and set aside.

22. We accordingly pass the following order:

ORDER

a. The impugned order dated 09.03.2022 and order dated 16.03.2022 annexed at Exhibit-R2 to the affidavit-in-reply passed by respondent no.3 are quashed and set aside. The decision taken by the learned Minister is also quashed and set aside.

b. The show cause notice issued to the petitioner is restored to file. The respondent no.3 is directed to grant personal hearing to the petitioner and shall pass fresh order in accordance with law without being influenced by the observations made and the conclusion drawn by the learned Minister in the Assembly on 08.03.2022 followed by order dated 09.03.2022 passed by the respondent no.3 and order dated 16.03.2022 annexed at page no.125 of the

affidavit-in-reply. The order shall be passed after granting personal hearing to the petitioner and after considering the reply to the show cause notice filed by the petitioner. The order that would be passed shall be communicated to the petitioner within one week from the date of passing such order. If the order is in favour of the petitioner, the show cause notice issued to the petitioner shall be withdrawn. If the order is adverse to the interest of the petitioner, the same shall not be implemented by the respondents for the period of four weeks from the date of communication.

c. The petitioner is directed to appear before respondent no.3 on 05.04.2022.

23. Writ Petition is allowed in the aforesaid terms. Rule is made absolute accordingly. No Order as to costs. Parties to act on the authenticated copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE