

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.602 OF 2022

1. M/s. Green Gold Seeds Pvt. Ltd.,
A company incorporated under the
Companies Act, 1956.
Gat No.55, Narayanpur Shivar,
Waluj, Tq. Gangapur, Dist. Aurangabad.
2. Bhausahab s/o Ramrao Tupe,
age major, Occ. responsible person,
gat no.55, Narayanpur Shivar,
Waluj, Tq. Gangapur, District Aurangabad.
3. Mr. Vinayak Chaganrao Bhopale,
age 34 years, Occ. Business,
C/o. Bhopale Krushi Seva Kendra,
Main Road, Jaffrabad, District Jalna.
4. M/s Bhopale Krushi Seva Kendra,
Main Road, Jaffrabad,
District Jalna. ..Petitioners..
(orig. accused.)

VERSUS

1. The State of Maharashtra,
2. Navnath Rambhau Kokate,
age 34 years, Occ. Seed Inspector,
and Sub-Divisional Agriculture
Officer, Tqluka Falropwatika Farm,
Opp. Agri Technology School,
Deulgaon Raja, Sindkhedraja
Bypass Jalna, District. Jalna. ..Respondents..

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Advocate for Petitioners : Mr. Shinde Ganesh P.
APP for Respondent : Mr. P G Borade

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CORAM : SHRIKANT D. KULKARNI, J.
Dated : September 28, 2022
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ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of both sides.

2. The petitioner no.1 is a seed manufacturing company namely 'M/s Green Gold Seeds Pvt Limited' duly incorporated under the Companies Act, 1956. Petitioner no.2 is a responsible person of the said seeds company and petitioner no.3 is a Distributor of petitioner no.1 company, which is running his shop in the name and style as 'M/s Bhople Krushi Kendra', Main Road, Jafrabad, District Jalna/petitioner no.4.

3. Seed Inspector paid visit to the shop of petitioner no.3, collected sample and sent it to seed testing Laboratory, Parbhani. It was revealed after receiving the report that seed germination was only 40% which is against the standard of 75%. Show cause notice was issued to the petitioners and they have replied the notice. The complainant/seed inspector lodged criminal

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case against the present petitioners in the Court of Judicial Magistrate First Class, Jaffrabad. The learned JMFC was pleased to issue process against the petitioners vide order dated 13.12.2019.

4. Present petitioners have filed this quashing petition by taking aid of Article 226 and 227 of the Constitution of India on account of violation of mandatory provisions of the Seeds Act and Rules.

5. Heard Mr. Ganesh Shinde, learned counsel for the petitioners and Mr. Borade, learned APP for the State/respondents.

6. Mr. Shinde, learned counsel for the petitioners invited my attention to Section 16(2) of the Seeds Act, 1966. He submitted that in the present case, the present petitioners have been deprived of exercising their valuable right of reanalysis by sending the sample to the Central Laboratory, Varanasi. It has caused injustice. It is a major legal defect in the prosecution lodged by the Seed Inspector. He submitted that, in

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view of legal defect in lodging of prosecution against the petitioners, if prosecution is continued, it is nothing but abuse of process of law. He, therefore, urged to quash entire proceedings.

7. Mr. Borade, learned APP for the State opposed to allow this writ petition. He also invited my attention to the reply affidavit filed by seed inspector. He submitted that, seed inspector in paragraph no.5 of his affidavit has given explanation that due to administrative difficulty and appointment of next officer on the said vacant post, the prosecution could not be initiated within time; which ultimately resulted in expiry of shelf life of the seeds.

8. I have considered the submissions of both sides. Perused the reply-affidavit filed by the seed inspector.

9. Following are the important events with dates necessary to adjudicate this petition.

- i. complainant/seed inspector visited the shop of petitioner no.3 which is petitioner no.4 Bhople Krushi Seva Kendra Jafrabad on 22.5.2017.

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- ii. Seed Inspector collected sample of cotton seeds from the shop of petitioner no.4 on 22.5.2017 (lot no.15-06-2002 (87539) (page 16).
- iii. Seed Inspector sent the sample of cotton seeds to the State Seed Testing Laboratory on 22.5.2017.
- iv. The State Seed Test Laboratory submitted report dated 16.6.2017 giving opinion that there is 40% germination which is against standard of 75% and not up to the standard. As such, seed inspector issued show cause notice to the petitioner dated 19.6.2017.
- iv. Petitioners replied the notice on 24.6.2017.
- v. Seed Inspector filed complaint in the Court of JMFC, Jafrabad on 3.11.2017 bearing RCC No.10/2018. Shelf life of seed is 30.9.2017.
- vi. Criminal Prosecution came to be lodged against the present petitioners after two and half months of the expiry of shelf life of the sample.

10. Section 16(2) of the Seeds Act, 1966 is mandatory, which needs a look. Section 16 (1) and (2) reads thus :-

“16. Report of Seed Analyst :

- 16. (1) The Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of section 15, analyze the sample at the State Seed Laboratory and deliver, in such form as may be prescribed, one copy of the report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.

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(2) After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending any of the samples mentioned in clause (a) or clause (c) of sub-section (2) of section 15 to the Central Seed Laboratory for its report and on receipt of the application, the court shall first ascertain that the mark and the seal or fastening as provided in clause (b) of sub-section (1) of section 15 are intact and may then despatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis.”

11. In a case of **Mahyco Vegetable Seeds Limited and others. Vs. State of Maharashtra and ors.**

reported in **2018 ALL MR (Cri.910) (S.C.)** the Hon’ble Supreme Court after considering the provisions of section 16(2) of the Seeds Act, 1966 held that in view of section 16(2) of the Seeds Act, it is right of the accused to have re-analysis of seeds. If the complaint is filed after expiry of shelf life of seeds, the accused is deprived of his valuable right of re-analysis which goes to the root of the case and renders prosecution case futile. The Hon’ble Supreme Court was pleased to quash the proceedings.

12. The case in hand is squarely covered by the decision of the Hon’ble Supreme Court in **Mahyco**

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Vegetable Seeds Limited and others. Vs. State of Maharashtra and ors. (supra). There is no need to refer other citations relied upon by Mr. Shinde, learned counsel for the petitioners. It is a clear case of violation of section 16(2) of the Seeds Act, 1966. Right of the present petitioners to get re-analysis of the seeds and thereby a manifest legal defect in lodging of the prosecution, no purpose would be served in continuing the prosecution. Prosecution is liable to be quashed.

ORDER

- i. Criminal Writ Petition stands allowed in terms of prayer clause 'B'.
- ii. Rule is made absolute accordingly.
- iii. No order as to costs.
- iv. Petition is accordingly disposed off.

(**SHRIKANT D. KULKARNI, J.**)

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