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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. Nos. 8408 & 8409 of 2015

W.P. No. 8408 of 2015

M/s. Tamil Nadu HDPE Knitted Fabrics
Manufacturers Association,
19 & 20, Athur SIDCO Industrial
Estate, Vennimalai Post,
rep. by its President C. Suresh Kumar

...Petitioner

Versus

1. The Director of Agriculture,
Director of Agriculture,
Chepauk, Chennai-5.
2. The Additional Director of
Agriculture (Seeds),
Appellate Authority,
Directorate of Agriculture,
Chepauk, Chennai-5.
3. Deputy Director of Agriculture
(Plant Protection),
State Licensing Authority,
Directorate of Agriculture,
Chepauk, Chennai-5.
4. M/s.V.K.A. Polymers Private Limited,
3-A, Coimbatore Road,
Karur - 06.

...Respondents

W.P. No. 8409 of 2015

M/s. Tamil Nadu HDPE Knitted Fabrics
Manufacturers Association,
19 & 20, Athur SIDCO Industrial
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3. Deputy Director of Agriculture
(Plant Protection),
State Licensing Authority,
Directorate of Agriculture,
Chepauk, Chennai-5.
4. M/s.Shobikaa Impex Private Limited,
Plot No.32-37, Athur SIDCO Estate,
Vennimalai Post,
Karur - 06.

... Respondents

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent culminating in Order in Proc. No.PPS 4/128988/2014 dated 10.03.2015, quash the same and direct the 2nd and 3rd respondents to forthwith enforce the order of the 2nd respondent dated 11.02.2015.

For Petitioner
in both W.P.s : Mr.R.Srinivas for
Mrs.Mythili Srinivas

For Respondents in
both W.P.s : Mr.S.Ravikumar,
Special Govt. Pleader for R1 to R3

Mr.AR.L. Sundaresan,
Senior Advocate for
Mrs.A.L. Ganthimathi for R4



C O M M O N O R D E R

These Writ Petitions have been filed challenging the order passed by the 1st respondent Director of Agriculture setting aside the order of revocation passed by the 3rd respondent.

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2. Brief facts leading to the filing of these Writ Petitions are that, the 4th respondent is a licensee, engaged in manufacturing of Impregnated Long Lasting Insecticide net. Even though the original license granted in respect of two units, without registering additional units, the 4th respondent producing materials in more than 23 places, and thereby, after giving show cause notice, the 3rd respondent revoked the manufacturing license granted to the petitioner. Challenging the same, the 4th respondent filed an appeal before the 2nd respondent Additional Director of Agriculture and the 2nd respondent also confirmed the order passed by the 3rd respondent. However, while upholding the order of original authority, the 2nd respondent had given a liberty to the 4th respondent to file an appeal before the 1st respondent. On an appeal filed by the 4th respondent before the 1st respondent, the 1st respondent, after considering materials, reversed the order passed by the 2nd and 3rd respondents and set aside the order passed by the original authority revoking the manufacturing license. Now, challenging the same, the petitioner Tamil Nadu HDPE Knitted Fabrics Manufacturers Association filed a Writ Petition.

3. Mr. R. Srinivas, learned counsel appearing for petitioner would content that, the 1st respondent is not an appellate authority under the Insecticides Act and he has no jurisdiction to consider the appeal and reverse the order passed by the original authority, which was confirmed by the appellate authority.

4. Mr. AR.L.Sundaresan, learned senior counsel appearing for 4th respondent would content that, even though on the date of passing order, the 1st respondent is not notified as appellate authority, recently by an order dated 15.03.2022, the 1st respondent has been notified as an appellate authority. In those circumstances, the order passed by the 1st respondent is valid.

5. Mr. S.Ravikumar, learned Special Government Pleader appearing for respondents 1 and 2 would also content that, on the date of passing the order, appellate authority has not been notified and only recently, the 1st respondent has been notified as appellate authority.

6. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.



7. The submissions made by learned counsel appearing for both sides and on perusal of records, it is clear that, on the date of passing the impugned order, appellate authority has not been notified. Hence, on the date of disposing appeal, the 1st respondent does not have any power to consider the appeal and the order passed by the 1st respondent is non-est in the eye of law. However, considering the fact that, now that manufacturing license has been revoked by the 1st respondent, who has no power or authority and also considering the fact that now, the 1st respondent has been notified as appellate authority, this Court is inclined to set aside the order passed by the 1st and 2nd respondents and also inclined to remand the matter back to the 1st respondent for fresh consideration of the issue. In the result, the order passed by the 1st and 2nd respondents is set aside and the matter is remanded back to the 1st respondent and the 1st respondent is directed to consider the appeal filed by the 4th respondent afresh after giving adequate opportunity to the petitioner as well as 4th respondent and also considering the additional materials filed by them and pass suitable orders on merits and in accordance with law. The above exercise should be completed within a period of two months from the date of receipt of copy of this order.

8. Considering the fact that, by virtue of interim order passed by this court, staying impugned order passed by the 1st respondent, the petitioner is continue to run the business till date, the impugned order passed by revoking licence shall not be given effect to till the order passed by the 1st respondent and liberty is granted to the 4th respondent to raise all his contentions before the 1st respondent.

9. In the result, both the Writ Petitions are allowed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

rpp



To

1. The Director of Agriculture,
Director of Agriculture,
Chepauk, Chennai-5.

2. The Additional Director of
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Appellate Authority,
Directorate of Agriculture,
Chepauk, Chennai-5.

3. Deputy Director of Agriculture
(Plant Protection),
State Licensing Authority,
Directorate of Agriculture,
Chepauk, Chennai-5.

+2ccs to M/s.A.L.Ganthimathi, Advocate SR. Nos. 27771, 27770
+2ccs to M/s.Mythili Srinivas, Advocate SR. Nos. 27411, 27410
+1cc to Government Pleader SR. Nos. 27562, 28169

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RSV (CO)
PR (23/05/2022)