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W.P.No.40642 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.40642 of 2016
and
W.M.P.No.34657 of 2016

M/s.Rain Dropps R.O. Water Private Ltd
A Private Limited Company incorporated
under the Companies Act, 1956
having its Registered Office at
No.7/1-B, Keeranatham Road
Saravanampatti, Coimbatore – 641 035
Represented by its Managing Director
Mr.S.Sowragire

.. Petitioner

Versus

1.The Commissioner
Tamil Nadu Food Safety & Drug
Administration Department
Chennai – 06

2.The Designated Officer
Food Safety Wing
No.219, Race Course Road
Coimbatore – 641 018

3. Food Safety Officer
Coimbatore Corporation
Coimbatore.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the second respondent relating to the impugned proceedings dated 11.11.2016 issued under R.No.498/2016/A1 and quash the same.

For Petitioner : Mr.S.R.Bharath Kumar

For Respondents : Mr.D.Gopal for R1 - R3
Government Advocate

ORDER

This petition has been filed challenging the order of the second respondent dated 11.11.2016 issued under R.No.498/2016/A1 directing the petitioner company to close and stop all the activities forthwith including manufacture or process, packing, store, distribution, sale or whatsoever by any means in the name of the petitioner company until further orders.

2. This writ petition has been filed challenging the impugned order mainly on the grounds that it violates principle of natural justice and the compliance report of the petitioner has not been considered and completely ignored. The impugned order violates Section 32 of Food Safety and Standards Act, 2006 and affects the rights of the petitioner.



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3. It is the case of the petitioner that the third respondent viz., the Food Safety Officer inspected the petitioner company unit on 16.07.2016 and drawn the samples of water for the purpose of testing i.e., so as to test whether the water collected satisfy the norms of the FSSAI standards. Further, the Food Analyst gave a report stating that the samples are found to be unsafe for human consumption and thereafter, the prosecution also launched a case against the petitioner company. It is the grievance of the petitioner that the prosecution has been launched only on the basis of the report given by the Food Analyst. Hence, seeks to allow this writ petition.

4. The learned counsel for the petitioner submits that the present impugned order has been passed without following due procedure as contemplated in the eye of law, whereas, the learned Government Advocate submitted that the water samples collected from the petitioner company from the year 2017 to till date and the report issued by the Food Analyst would indicate that the samples are unsafe for human consumption. He has also filed an additional typed-set of papers containing copy of the report of the food analyst dated 10.11.2022, which would indicate that the water is unsafe for the human consumption. He further submitted that petitioner has to close the business, if at



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all the petitioner company wants to continue the operation of the business, they should set right all the mistakes within a period of three months. After the period of three months, the petitioner ought to allow the respondents officials to draw the samples of the petitioner company and if the samples come within the parameters of the Food Safety and Standards Act, 2006, the petitioner may start operation.

5. Consenting, the learned counsel for the petitioner submits that the petitioner will close the business and they will set right all the defects pointed out by the respondent officials and start their projects after three months i.e., only after examination by the Food Analyst and if found that the water is safe for human consumption.

6. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials placed on record. Mr.R.Govindarajan, Food Safety Officer, Coimbatore Corporation Area, Coimbatore, the third respondent herein is also present before this Court.

7. In view of the consent expressed by both the learned counsel, though



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the impugned order is sought to be quashed, taking note of the fact that from the year 2017 to till date, the samples have been collected from the petitioner's packaging unit and all the analyst reports indicate that the water is unsafe for human consumption and violates the parameters set out in the Food Safety and Standards Act, 2006. Such view of the matter, this Court is of the view that if the petitioner company is allowed to continue operation of business and sell the products, it will have deteriorating effect on the human life unless the products come within the parameters of the Food Safety and Standards Act, 2006. Permission to continue the business will, in fact, lead to serious consequences on human life.

8. Such view of the matter, as the petitioner has closed the business and has stated that they will set right all the defects pointed out by the respondent officials, improve the quality of the water and inform the same to the respondent officials after three months. The respondent official shall collect the samples of the water from the petitioner packaging unit and consider allowing the petitioner to run their business thereafter. It is to be noted that closure of the business to sale is until the Food Analyst report comes in favour of the petitioner company, however, petitioner is permitted to maintain the machineries.



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9. With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet: Yes/No
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