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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 34669 of 2019 (O&M)
Date of Decision: 18.04.2022**

Basf India Ltd.

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Nitin Thatai, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has assailed the order dated 10.09.2019 passed by the Appellate Authority- respondent No.2, whereby appeal filed by the petitioner-company under Clause 32-A (2) of The Fertilizer (Control) Order, 1985 (for short 'The Order') has been dismissed on the premise that contents of the sample were found to be zero against the specification of 12% of Chelated Zinc as Zn-EDTA.

On the basis of aforesaid report given by the State Laboratory, the Appellate Authority has observed that any reference analysis in a different laboratory will provide scope for manipulation which is not in public interest.

Learned counsel for the petitioner submits that against the analysis done by the State laboratory, right has

been given to the petitioner-company under Clause 32-A (2) of The Fertilizer (Control) Order, 1985 to file an appeal before the Appellate Authority appointed under Sub Clause (1) of Clause 32-A (2). Reference has also been made to Clause 29-B of the said Order. The remedy is statutory remedy under The Fertilizer (Control) Order, 1985 and cannot be taken away by mere apprehension as shown by the Appellate Authority. As per Clause 32-A (2) of The Fertilizer (Control) Order, 1985, any person aggrieved by the analysis report of fertilizer testing laboratory notified by the State Government, may appeal to the Appellate Authority appointed under Sub-Clause (1) for reference analysis of such sample within 30 days from the date of receipt of analysis report.

Admittedly, the petitioner has sought re-analysis from Central Laboratory within the time prescribed by claiming that the report given by the laboratory notified by the State Government is *per se* wrong, in view of certification of analysis given by the private laboratory as well as by State Laboratory of Government of Punjab, namely, Fertilizer Quality Control Laboratory, Ludhiana dated 08.07.2019.

Per contra, learned State counsel submitted that in view of zero testing report given by the State Laboratory, the Appellate Authority has rightly pointed out that further testing in different laboratory would lead to manipulation and that

would not be in public interest.

Having heard learned counsel for the parties, I am of view that The Fertilizer (Control) Order, 1985 has provided a remedy of re-testing before the Central Laboratory in terms of Clause 32-A (2) of The Fertilizer (Control) Order, 1985 and that cannot be taken away on mere apprehension of manipulation.

It has been pointed out by learned counsel for the petitioner that the date of expiry of sample is 01.05.2022. For the reasons recorded hereinabove, it would be just and appropriate to set aside the impugned order and the sample is directed to be sent to appropriate Central Laboratory as per norms within a week. Normal consequences to follow thereafter.

This petition stands disposed of accordingly.

April 18, 2022

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Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No