

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

CRIMINAL WRIT PETITION NO. 242 OF 2023

1. Manager,
M/s. Green Gold Seeds Pvt.
Ltd., A Company incorporated
under the Companies Act, 1956,
Gut No. 55, Narayanpur Shivar
Walunj Tq. Gangapur, Dist.
Aurangabad

2. M/s. Green Gold Seeds Pvt.
Ltd., A Company incorporated
under the Companies Act, 1956
Through its Authorized
representative
Sanjay S/o Prabhakar Gude,
Age: ____ years, Occ: Legal
Manager,
Gut No. 55, Narayanpur Shivar
Walunj Tq. Gangapur, Dist.
Aurangabad

3. Ganpati Agro Trader,
Through its Proprietor
Vishwanath S/o Sampatrao
Borade, Age : 48 years,
Occ: Business, At Main Road,
Mantha, Tq. Mantha, Dist.
Jalna.

...Petitioners

Versus

1. The State of Maharashtra

2. State Government represented
by Santosh A. Jadhav,
Age : 47, Occ: Seed Inspector
& Agriculture Officer
Panchayaat Samiti, Mantha,
Tq. Mantha, Dist. Jalna.

...Respondents

Mr. Govind Kulkarni h/f Mr. G. P. Shinde, Advocate for the Petitioners.

Mrs. G. L. Deshpande, APP for Respondents.

CORAM : R.M. JOSHI, J.

DATE : SEPTEMBER 08, 2023

ORDER

1. This Petition is filed for quashment of proceedings filed by the Respondent No. 2/Seeds Inspector vide S.T.C. No. 165/2020 pending before learned JMFC, Mantha, Tq. Mantha Dist. Jalna filed for the offences punishable under Sections 19(a)(i) read with sections 6(a) and 7(b) of the Seeds Act, 1966 and Rule 7, 10 of Seed Rule, 1968.

2. Petitioner No. 1 is a company incorporated under the Companies Act and is in the business of production and marketing of hybrid seeds. The inspector under Section 14 of the Seeds Act visited the Petitioner Company on 28.06.2020 for drawing samples as routine work at the premises of M/s. Ganpati Agro Traders, Mantha. Accordingly, sample was drawn of Soyabean/Gold -3344 Lot No. 19-13-2002 (A-57150) produced by the Petitioner No. 1 company. The said sample was sent for analyses to the Testing Laboratory,

Parbhani on 29.06.2020. The result of analysis vide report no. 3363 dated 20.07.2020 that the sample of the seed is not according to the specification required and failed in germination. It was found in the said report that the sample has failed in germination which is only 1% as against specified value of 70% of the concerned lot. The Seed Inspector, therefore, filed complaint before JMFC on 28.08.2020.

3. It is the contention of the Petitioners that the sample seed has expired on 20.08.2020 and, therefore, the Petitioners have lost valuable right under Section 16(2) of the Seeds Act and therefore, the proceedings filed before the JMFC cannot be permitted to continue and deserves to be quashed. Learned Counsel for the Petitioners submitted that the form no. 8 while taking samples records that the seed was valid upto 21.08.2010 and since the complaint is filed on 20.08.2020, the Petitioners have been denied their valuable right to send part of the sample to the Central Seed Laboratory for reanalysis. In support of his submissions, he relied on judgments of Apex Court and this Court in case of Mahyco Vegetable Seeds Ltd. &

Ors. Vs. State of Maharashtra and Ors, 2018 ALL MR (Cri) 910 (S.C.) & R. Shridhar Vs. State Department of Agriculture and Anr, 2016 ALL MR (Cri) 4409.

4. Learned APP opposed the Petition by contenting that without filing an application before the JMFC for sending the sample to the Central Seeds Laboratory, it cannot be claimed by the Petitioners that they lost their right of reanalysis.

5. There is no dispute about the fact that Seed Inspector took samples of the concerned seed on 28.06.2020 and that the same were send for analysis to the Testing Laboratory. It is further not in dispute that the result of the said testing report no. 3363 dated 20.07.2020 suggested that the sample has failed in germination which is only 1% as against specified value of 70% in the concerned lot. Form No. 8 filled by the Seed Inspector dated 28.06.2020 clearly shows that the validity of the seed is upto 20.08.2020. There is no denial of the fact that the complaint was filed before the JMFC on 28.08.2020. It is, therefore, undisputed fact that the life of seeds of which sample is taken by the Seed Inspector expired much before

filing of the complaint before JMFC.

6. Section 16(2) of Seeds Act provides that

"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".

This provision creates right in favour of accused to make an application for sending samples for reanalysis to the Central Seed Laboratory. Sub-section (3) makes such report of reanalysis to supersede report given by seed analyst under sub-section (1). The said provision enables the accused to defend himself and to prove his innocence. The said right created in favour of the accused is indispensable. Once the complaint is filed after the expiry of the validity period of the

said sample, the accused is deprived of his right to send it for reanalysis. Hon'ble Apex Court in Mayco Vegetable Seeds Ltd (supra) has held that such deprivation will go to the root of the matter and render the prosecution futile and redundant.

7. In view of the above, the proceedings cannot be allowed to be continued further against Petitioners and deserves to be quashed. Hence, the Petition is allowed in terms of prayer clauses 'B' & 'C'.

(R.M. JOSHI, J.)

Malani