

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

969 CRIMINAL WRIT PETITION NO. 253 OF 2023

- 1] M/s. Green Gold Seeds Pvt. Ltd.,
A Company incorporated under the Companies Act, 1956,
through its Authorized Representative
Vijay s/o Rambhau Pawar,
Age : 44 years, Occu. District Manager,
Gut No. 55, Narayanpur Shivar,
Walunj, Tq. Gangapur, Dist. Aurangabad.
- 2] Shetkari Krushi Seva Kendra,
Through its Proprietor,
Kiran s/o Prabhakar Dahale,
Age : 47 years, Occu. Business,
At opposite S. T. Stand Newasa,
Tq. Newasa, Dist. Ahmednagar.
- 3] National Agro Seeds & Fertilizers,
Through its Proprietor,
Subhash s/o Chunnilal Chorbele,
Age : 67 years, Occu. Business,
At 5, 6 Govardhan Apartment,
Maliwada, Ahmednagar.

.. Petitioners
(Original Accused Nos. 1 to 4)

- 1] The State of Maharashtra
- 2] State Government represented by
Shital Macchindra Maid,
Age : 38 years, Occu. Seed Inspector &
Agriculture Officer, Panchayat Samiti,
Newasa, Dist. Ahmednagar.

.. Respondents

...
Advocate for Petitioners : Mr. Ganesh P. Shinde
Advocate for Respondent : Mr. S. P. Sonpawale
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CORAM : R. M. JOSHI, J.
DATE : AUGUST 1, 2023

PER COURT :

1. This Petition is filed for quashment of proceedings filed by the Seeds Inspector vide R.C.C. No. 254/2020 pending before the learned Judicial Magistrate First Class, Newasa, Tal. Newasa, Dist. Ahmednagar.

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 23.06.2020 for drawing samples as routine work at the premises of M/s. Shetkari Krushi Seva Kendra, Newasa, Dist. Ahmednagar. Accordingly, sample was drawn of Soybean seed variety "JS-9305" Lot No. 19-13-2828 (A64417) produced by the Petitioner No. 1 company. The said sample was sent for analysis to the Testing Laboratory, Pune. The result of analysis vide report no. 3672 dated 22.07.2020 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

37% as against specified value of 70% of the concerned lot. The Seed Inspector, therefore, filed complaint before JMFC on 22.04.2022.

3. It is the contention of the Petitioners that the sample seed has expired on 23.09.2020 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 23.09.2020. Thus, according to him, since the complaint is filed on 12.10.2020, the Petitioners have lost their valuable right of sending part of the sample to the Central Seed Laboratory for reanalysis. In support of his submissions, he relied on judgment of Apex Court in case of **Mahyco Vegetable Seeds Ltd. & Ors. Vs. State of Maharashtra and Ors**, 2018 ALL MR (Cri) 910 (S.C.).

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 23.06.2020 and that the same were sent for analysis to the Testing Laboratory. It is further not in dispute that the result of the said testing report no. 3672 dated 22.07.2020 suggested that the sample has failed in germination which is only 37% as against specified value of 70% in the concerned lot. Form No. 8 filled by the Seed Inspector dated 23.06.2020 clearly shows that the validity of the seed is upto 23.09.2020. There is no denial of the fact that the complaint was filed before the JMFC on 22.04.2022. It is, therefore, undisputed fact that the shelf life of the sample taken by the Seed Inspector expired much before filing of the complaint before JMFC.

6. Section 16(2) of Seeds Act provides for the right of the accused to make an application for sending samples for reanalysis to the Central Seed Laboratory. The said provision enables the accused to defend himself and to prove his innocence. The said provision creates indispensable right in favour of the accused. Once the complaint is filed after the expiry of the validity period of the said

sample, the accused is deprived of sending 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 proceeded further against Petitioners and deserves to be quashed. Hence, the Petition is allowed in terms of prayer clause 'B'.

[R. M. JOSHI]
JUDGE

GGP