

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1995 OF 2022

1. Rishi Kumar,
Age-Adult,
Director of Patanjali Organic Research
Institute Pvt. Ltd.,
Residing at H.No.231, Sector-1B,
Mandi, Gobindgarh, Fatehgarh
Sahib- 147301, Punjab.
2. Acharya Balkrishna
Age – Adult
Former Director of Patanjali Organic
Research Institute Pvt. Ltd.
Residing at 41 KH, Dadubagh, Kankhal,
Haridwar – 249408, Uttarkhand.
3. Akhilesh Shivpuri
Age – Adult,
Director of Patanjali Organic Research
Institute Pvt. Ltd.,
Residing at Shamshan Ghat Road,
Mohalla Holy Chowk, Kankhal,
Haridwar – 249408, Uttarkhand.
4. Ganesh Ravindra Panchpatil
Aged – Adult,
Authorized Representative of Patanjali
Organic Research Institute Pvt. Ltd.,
Residing at Plot No. 34, Gut No.90/1,
Priyadarshani Housing Society,
Suryadeep Nagar, Satara Parisar,
Aurangabad – 43100, Maharashtra.

... Applicants
(Ori. Accused)

Versus

1. State of Maharashtra,
Through Senior Inspector of Police,
Police Station-Mantha, District- Jalna,
Maharashtra.

2. Agriculture Officer and Seeds Inspector,
Having Office at Panchayat Samiti,
Mantha, District – Jalna, Maharashtra ... Respondents.

...
Mr. Rakesh D. Kumar, Advocate h/f Mr. Ujwal S. Patil, Advocate for
the Applicants.

Mr. S. D. Ghayal, APP for Respondents-State.

...

**CORAM : MANGESH S. PATIL AND
ABHAY S. WAGHWASE, JJ.**

RESERVED ON : 28 APRIL 2023

PRONOUNCED ON : 09 JUNE 2023

JUDGMENT (ABHAY S. WAGHWASE, J.) :

1. In the above captioned proceedings, powers under section 482 of the Code of Criminal Procedure are sought to be exercised by the applicants, who are Directors/representatives of a private limited company, thereby praying to quash the FIR No. 195 of 2020 registered at Mantha police station along with consequential charge-sheet, for commission of offence under sections 420 read with section 34 of Indian Penal Code (IPC) read with section 3(2)(A) and section 3(2)(F) of Essential Commodities Act, 1955 (for short, “E.C. Act, 1955”) and Section 21 of the Seeds Act, 1966 and Clauses 3(1) and 8(A) of the Seeds (Control) Order, 1983.

Brief background giving rise to registration of offence

2. Respondent no.2, an authorized officer of respondent no.1, on 04.06.2020, conducted raid on the shop, namely M/s. Sadguru Samarth Krishi Seva Kendra situated at Talani, Taluka Mantha, District Jalna, dealing in sale of various seeds. Respondent no.2, who is the complainant, has alleged that during the said raid, shop owner was found to be indulging in activity of sale of Soyabean seeds, which were manufactured by applicant's company without requisite licence from the State of Maharashtra. So he set law into motion for above offences.

Precisely, said FIR and charge-sheet emanating from the same are now sought to be quashed and set aside.

RIVAL CONTENTIONS***On behalf of Applicants :-***

3. After giving brief introduction of applicant's private company, learned counsel for applicant submitted that, they are specialized in biological products for agriculture application and that company's products are renowned for its high quality and efficiency. It is pointed out that applicant has its own Storage and Sales facility

in the State of Uttarakhand and that company had obtained valid State licence(s) as required under the Seeds (Control) Order, 1983, i.e. for sale/export/import and storage of seeds from licencing authority (Chief Agricultural Officer, Haridwar, Uttarakhand) on 02.01.2019. He further strenuously submitted that applicants do not have any Storage point or Sales outlet in the State of Maharashtra. According to him, their efforts in the State of Maharashtra are primarily focused in mere marketing and distribution of seeds through various dealers and distributors who possess valid licence(s) issued by the Government of Maharashtra. That, accordingly applicants sold its seeds to one distributor namely M/s. Sadguru Samarth Krishi Seva Kendra, Mantha, Jalna who is duly authorized by the State by virtue of valid licence to conduct sale of seeds in the State of Maharashtra.

4. It is further emphasized that for carrying out seeds business in any State, a seeds dealer is merely required to obtain the licence from State Licencing Authority under the Seeds (Control) Order, 1983 in terms of clause (3). Learned counsel stressed that **no separate licence is required**, if person carrying on business of seeds does not have any Storage point or Sales outlet in a particular State.

5. He would urge that, when it was realized by the Central Government that, some States are insisting on Seed manufacturing companies to obtain seed dealer's licence, sale permission, State registration for selling, storing, exporting and importing of seeds in their States, irrespective of whether they are selling the seeds directly through their sales outlets or selling the seeds through their dealer, distributors and though they had valid seed dealer's licence issued by the concerned State Authorities, the Ministry of Agriculture and Farmer of Welfare, Government of India stepped in to put a quietus to the unnecessary controversy and issued Office Memorandum dated 29.04.2016 clarifying that, no separate State licence is required for carrying out seeds business in a particular state, if the company concerned does not have its Storage point or Sales outlet in the State and is selling the seeds through the dealer or the distributor having a valid licence issued by that State.

6. Learned counsel would point out that, in the backdrop of above Office Memorandum at the instance of Central Government, even several State Governments have acted in pursuance to it and have further issued necessary instructions to the District Agriculture Officers, to not to insist for separate State licence in cases where the

company concerned does not have Storage and Sale facility. Learned counsel named the State of Telangana to be complying with the Office Memorandum issued by the Central Government. He invited our attention to both, Office Memorandum dated 29.04.2016 and guidelines issued by Government of Telangana.

7. In the last leg of his contention, learned counsel would submit that in view of above existing position, insistence of licence by respondent no.2 with M/s. Sadguru Samarth Krishi Seva Kendra is unwarranted as it is based on erroneous belief, assertion and misinterpretation of the provisions of law. Therefore according to the learned counsel, action initiated by respondent no.2 being unlawful, is required to be interfered with by this court by invoking powers under section 482 of Cr.P.C. for quashing both the FIR as well as the charge-sheet. He sought reliance on the orders passed by High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in Writ Petition No. 18385 of 2016, Miscellaneous Criminal Case No.28166 of 2020 passed by High Court of Madhya Pradesh (Indore Bench), Misc. Criminal Case No.6742 of 2016 passed by High Court of Madhya Pradesh (Jabalpur Bench) and order passed by Andhra Pradesh High Court in Writ Petition No. 18237 of 2017.

On behalf of State :-

8. Strongly opposing the relief sought, learned APP invited our attention to the FIR dated 04.06.2020 and pointed out that authorized officer of the State – respondent no.2 conducted raid at the shop namely, M/s. Sadguru Samarth Krishi Seva Kendra. During surprise check, said shop owner was found to be selling seeds marketed by present applicant's private limited company. That, it was realized that said company being based in Uttarakhand State and carrying out sales activities in the State of Maharashtra, was required to possess requisite licence from State of Maharashtra. On inquiry, it was revealed that said shop owner did not possess said licence for Storage and Sales of the Soyabean seeds. Said sale activity was in contravention of the provisions of the Seeds Act, 1966 and the Seeds (Control) Order, 1983. Appropriate action was therefore initiated and complaint was lodged. According to learned APP, thorough investigation revealed violation of Indian Penal Code coupled with provisions of Seeds Act, Essential Commodities Act and Seeds (Control) Order, 1983 and therefore, action was rightly initiated against defaulters including present applicants. That, the charge-sheet has already been filed and it is his submission that there is strong and incriminating material regarding involvement of several entities including applicants in the commission of the above offence

and violation of Seeds (Control) Order, 1983. While concluding it is submitted that, as there is sufficient material for trial, he prays for dismissal of the application.

9. Heard both sides at length.

It is emerging that respondent no.2 who undisputedly is an authorized officer of agriculture department conducted raid on a shop, namely M/s. Sadguru Samarth Krishi Seva Kendra, during which, it was revealed that seeds manufactured by Salasar Agro, Madhya Pradesh were marketed by M/s. Patanjali Bio-research Institute based at Haridwar, Uttarakhand i.e. company of present applicants. During inquiry, respondent no.2 claims to have realized that shop owner selling the Soyabean seeds was not possessing licence issued by State of Maharashtra, and therefore, he lodged FIR alleging commission of above offences and breach of provisions of E.C. Act, Seeds Act and Seeds (Control) Order.

10. What can be culled out from the submissions and arguments advanced before us by learned counsel for applicants is that they do not have a Storage point or Sales outlet in the State of Maharashtra and as such there is no further need or requirement to obtain separate licence as insisted by respondent no.2.

To buttress such contention of no necessity of separate licence, he invited our attention to the Office Memorandum issued by the Ministry of Agriculture and Farmer Welfare dated 29.04.2016 and he also seeks reliance on judgments passed by Andhra Pradesh High Court and Madhya Pradesh High Court.

11. Before dwelling on the above controversy and to appreciate the arguments put-forth by each of the side, it would be desirable to deal with relevant provisions of the Seeds Act and Seeds (Control) Order. The preamble of the Seeds Act explicitly provides that it is an act to provide for Regulating the quality of certain seeds for sale and matters connected therewith regarding its sale.

The Seeds (Control) Order, 1983 issued by the Central Government, **of which there is no dispute**, is an exercise of powers under section 3 of E.C. Act, 1955. **Clause (3)** of said Order is as under :-

Clause -3 Dealer to obtain licence

*“(1) No person shall carry on the business of selling, exporting or importing Seeds at any place **except** under and in accordance with the terms and conditions of licence granted to him under this order.*

(2) Notwithstanding anything contained in Sub Clause (1), the State Government may, by notification in Official Gazette, exempt from the provisions of that Sub Clause such class of dealers in such areas and subject to such conditions as may be specified in the notification.”

12. In our considered opinion, clause 1 explicitly mandates every dealer to obtain licence for sale in a particular State. This condition is relaxed by virtue of clause (2) only at the will and wish of State Government and that too upon issuance of specific notification. Though an Office Memorandum issued by the Central Government is caught hold of by the applicants in support of their contention of no necessity of separate licence, it is pertinent to note that Government of Maharashtra does not seem to have acknowledged the said Office Memorandum and has not thereby issued separate guidelines or directions as is shown to be done by the Government of Telangana. Even there is no notification issued by authorities in the State of Maharashtra thereby exempting applicant's company from condition of seeking licence. Therefore, assertions of applicants regarding no requirement of separate licence as they do not have any Storage points or Sales outlet, is without strong foundation. On the contrary from clause (3) discussed and reproduced above, it is explicit that, no person can carry on business of selling, exporting or importing seeds

at any place **except under and in accordance with the terms and conditions of the licence** granted to him in the Form 'B' under clause (5) of the said Order.

13. Consequently, activity of sale of Soyabeen seeds by applicant's company being in absence of authorization and valid licence, is *prima facie* in violation of above provisions. Resultantly, the action at the end of respondent no.2 cannot be said to be bad in law. Investigation has been carried out revealing breach and violation of Seeds Act and Order along with commission of offence under IPC and as such prosecution has been launched.

14. FIR and consequently charge-sheet is sought to be quashed. However, we are mindful of the settled legal proposition that powers under section 482 of Cr.P.C. are to be exercised *rarely* and *sparingly*. In catena of judgments the Hon'ble Apex Court has time and again reiterated that inherent powers under section 482 of Cr.P.C. can be exercised by the High Court; *firstly*, to give effect to an order under Cr.P.C., *secondly*, to prevent abuse of process of court and *thirdly*, to secure ends of justice.

As none of the above contingencies are existing in the

case in hand, we refrain from exercising the powers under section 482 of Cr.P.C. and so proceed to pass following order :

ORDER

The criminal application is dismissed.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)