

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

1 WRIT PETITION NO.11903 OF 2022

**DHANUKA AGRITECH LIMITED, THROUGH ITS DEPUTY
GENERAL MANAGER DEEPAK SONOPANT NARWADKAR**

VERSUS

**THE STATE OF MAHARASHTRA, THROUGH ITS
SECRETARY CONTROLLER AND OTHERS**

....

Mr N. N. Desale, Advocate for Petitioner;

Mr S. B. Yawalkar, A.G.P. for Respondents/State

CORAM : RAVINDRA V. GHUGE

AND

Y. G. KHOBRAGADE, JJ.

DATE : 5th June, 2023

PER COURT:

1. The Petitioner/Company has put forth prayer clauses

(B), (C), (D) and (E), as under :-

“B) By way of writ of certiorari and/or any other appropriate writ, order or direction in the like nature, the Hon'ble High Court may kindly quash and set aside the impugned order / Communication No. ILM/ Naigaon/ Prosecution/ 2022/244 dated 08/09/2022 passed by Respondent No. 3.

C) By way of appropriate writ, order or direction in the like nature, the Respondents be directed to release the goods seized by the Respondents vide Seizure Receipt No. 48 & 49 dated 22.06.2022.

D) Pending hearing and final disposal of the Writ Petition, the Hon'ble High Court may kindly stay and

(2)

suspend the effect, implementation and operation of the impugned order / Communication No. ILM/ Naigaon/ Prosecution/ 2022/244 dated 08/09/2022 passed by Respondent No. 3.

E) Pending hearing and final disposal of the Writ Petition, the Respondents be directed to release the goods seized by the Respondents vide Seizure Receipt No. 48 & 49 dated 22.06.2022.”

2. This Petition has been instituted on 11/11/2022. Orders are yet to be passed in this matter.

3. We have considered the strenuous submissions of the learned Advocate Shri. Desale on behalf of the Petitioner. We have taken into account the rejoinder affidavit dated 24/03/2023 tendered across the bar. We have also considered the submissions of the learned A.G.P. representing the Respondents.

4. The basic contention of the Petitioner is, that the impugned notice dated 08/09/2022, issued by the Inspector of Legal Metrology, Naigaon Division, District Nanded, directs the Petitioner to compound the case at the departmental level as it would not amount to conviction in a criminal case. It is further set out in the impugned order that, if no reply is received from the Petitioner within 15 days i.e. from 08/09/2022, it would be

(3)

presumed that the Petitioner does not desire to compound the offence at the departmental level and, therefore, the complaint against the Petitioner would be lodged before the appropriate Court of law. The learned Advocate for the Petitioner submits that the Petitioner has an apprehension that, if the notice is accepted and the request set out is complied with, it may amount to conviction. Hence, the Petitioner does not desire to compound the offence.

5. The learned A.G.P. submits that the impugned notice is purely a request. It gives an opportunity to the Petitioner to compound the offence. There is no compulsion that the Petitioner has to compound the offence.

6. In view of the above, we find that this petition is rendered infructuous, as there is no compulsion on the Petitioner to compound the offence. Moreover, 15 days have already lapsed. As the Petitioner does not desire to compound the offence, the Department has already adopted the appropriate procedure, as is laid down in law.

7. In view of the above, this petition is disposed off.

(4)

8. We make it clear that, this order is restricted only to the extent of the apprehension of the Petitioner.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk