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W.P.No.12351 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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and

W.M.P.Nos.12188 & 12189 of 2023

M/s.Jeyyam Global Foods Pvt.Ltd.
Rep.by its Authorized Signatory, S.Satish,
Having their Registered Office at
#37, Padmavathiyar Street,
Gopalapuram, Chennai-600 086.

... Petitioner

Vs.

1. The Commissioner Food Safety,
Office of the Commissioner of Food Safety,
5th Floor of DMS office Building,
259, Anna Salai, DMS Campus,
Theynampet, Chennai-600 006.
2. The Additional District Magistrate/Revenue Divisional Officer
Collectorate Office Dindigul,
Dindigul District.
3. The Food Safety Officer,
Office of the Food Safety and Drug Administration Department,
Natham Circle, Dindigul District.
4. The Food Analyst
Food Analysis Laboratory,
Palayamkottai.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No 463334 - 2022 - K4 dated 04.02.2023 and quash the same and to forbear the Respondents from taking any coercive steps.

For Petitioner : Mr.Velayutham Pichaiya

For Respondents : Mr.U.Baranidharan, AGP

ORDER

This writ petition has been filed seeking for issuance of a writ of certiorarified mandamus to quash the order of the second respondent in Na.Ka.No 463334 - 2022 - K4 dated 04.02.2023 and to forbear the Respondents from taking any coercive steps.

2. It is the case of the petitioner that the petitioner is a Private Limited Company registered under the Companies Act, 1956 and was incorporated in the year 2008. The petitioner is engaged in the business of manufacture, process, produce, mix, pack, preserve, freeze etc., The petitioner has their units at Deevattipatti Village and Omalur Village, Salem District. Subsequently, an enquiry notice was received by the petitioner on 29.01.2023 to appear before the second respondent for enquiry on 31.01.2023. After



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conducting inspection on 12.09.2022, the sample of the petitioner's food product was taken by the third respondent. However, without issuing any notice on the petitioner, the sample was sent to the fourth respondent for analysis. Pursuant to which, the fourth respondent on analysing the sample had submitted a report dated 12.10.2022 concluding the product of the petitioner to be sub-standard. Based on the report submitted by the fourth respondent, the third respondent submitted a circular dated 06.12.2022 to the second respondent recommending to initiate action against the petitioner under Section 51 of the Food Safety and Standards Act, 2006 (in short 'the Act'). Pursuant to the said circular issued by the third respondent, the second respondent passed the impugned order dated 04.02.2023 imposed fine on the petitioner. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that the second respondent has passed the impugned order and imposed fine on the petitioner without issuing any notice and without serving copies of the report submitted by the fourth respondent, which is unsustainable. Hence, the impugned order is liable to be quashed.



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4. The learned Additional Government Pleader appearing for the respondents submits that as against the order passed by the second respondent, there is an effective appeal remedy available before the Food Safety Appellate Tribunal under Section 70 of Food Safety and Standards Act, 2006. However, without availing such remedy filing the present writ petition seeking the aforesaid relief is unsustainable. Hence, he prayed to dismiss this writ petition.

5. Heard learned counsel appearing on either side and perused the materials placed on record.

6. In the light of the submission made by the learned Additional Government Pleader this writ petition is disposed of directing the petitioner to file an appeal before the concerned authority of the Food Safety Appellate Tribunal. Upon receipt of the said appeal, the appellate authority is directed to consider and pass orders on the said appeal within a period of twelve (12) weeks thereafter. The period pending before this Court is excluded for the purpose of limitation enabling the petitioner to file an appeal before the appellate authority. No costs. Consequently connected



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miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Nonspeaking order

Netrual Citation Case : Yes / No

(rap)

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M.DHANDAPANI, J.

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