



WP(MD)No.20421 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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and
WMP(MD)No.16856 of 2023

Sree Kaderi Ambal Mills (P) Ltd.,
R.O. - Super B-3, Industrial Estate,
K.Pudur, Madurai – 625 007.
Rep by its Managing Director,
S.V.Petha Perumal

: Petitioner

Vs.

- 1.The Secretary to Government of India,
Ministry of Chemicals and Fertilizers
(Department of Chemicals & Petro Chemicals),
New Delhi.
- 2.The Director General,
Bureau of Indian Standards,
Manak Bhavan,
9, Bahadur Shah Zafar Marg,
New Delhi – 110 002.
- 3.The Secretary,
Ministry of Textiles,
Government of India,
Udyog Bhavan,
New Delhi.



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4.The Secretary,
Ministry of Commerce & Industry,
Udyog Bhavan,
New Delhi – 110 011.

5.The Secretary,
Ministry of Consumer Affairs,
Udyog Bhavan,
New Delhi.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to expedite the certification process to issue the Mandatory Certification to the petitioner's overseas suppliers for supplying the petitioner's raw material, ie., Polyester Synthetic fibre and consequently, forbear them from insisting on the Quality Control Orders (QCOs) ie., the mandatory certification from BIS, for importing the petitioner's raw materials, viz., Polyester Synthetic fibre, till BIS disposes off all the applications filed by the petitioner's overseas suppliers.

For Petitioner : Mr.K.Rajasekaran

For Respondents : Mr.AR.L.Sundaresan,
Additional Solicitor General of India

Assisted by
Mr.K.Govindarajan,
Deputy Solicitor General of India



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ORDER

The petitioner, a manufacturer of synthetic yarns / threads, has filed this writ petition for a mandamus directing the respondents to expedite the certification process to issue the mandatory certification to the petitioner's overseas suppliers for supplying the polyester synthetic fibre. The petitioner also sought for an interim relief restraining the respondents from insisting upon the mandatory certificate of Bureau of Indian Standards for importing the polyester synthetic fibre, till the applications are processed.

2.Sum and substance of the submissions made by the learned Counsel for the petitioner are as follows:-

2.1.The petitioner mill is in existence for more than 40 years. The petitioner is procuring the synthetic polyester stable fibres from foreign countries, processing it and exporting it and exporting the manufactured synthetic yarn / thread and sewing threads to various countries.

2.2.The Ministry of Chemicals and Fertilizers, by its notification dated 15.04.2021, has stated that the for the following textile products, certification



under Bureau of Indian Standards (BIS) is mandatory:-

- a) Polyester continuous filament fully drawn yarn (FDY);
- b) Polyester partially oriented yarn (POY);
- c) Polyester staple fibres;
- d) Polyester industrial yarn;
- e) 100% Polyester spun grey and white yarn.

In order to obtain the certification, time was granted for a period of 180 days from the date of notification and that was also extended by another 180 days on 08.10.2021. It was also extended for a further period upto 03.04.2023 and thereafter, the time was not extended.

2.3.The production capacity of polyester staple fibres is inadequate in our country and the quality is also not to their expectations. Therefore, the petitioner mill is solely depending on the raw materials imported from foreign suppliers. The petitioner mill is depending upon four foreign suppliers, of which, two have made their applications in the year 2021 itself for the required BIS Certification, however, the same has not been issued.



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2.4.The suppliers are meeting out the required conditions and they have cleared two stages of the certification process and now stuck in the third stage, which is the auditing of the suppliers by Bureau of Indian Standard authorities. The applications of the petitioner's suppliers have neither been returned nor rejected, till date, however, the same are pending for the past two years.

2.5.For want of this certification, the supply of raw materials were abruptly stopped from 04.04.2023 and therefore, the entire business activities of this petitioner has come to a standstill. More than 1000 workers are employed in the petitioner mill and the petitioner mill itself is contributing more than Rs.30 Crore as tax to the Government exchequer. In view of this situation, not only the petitioner, but also the workers who are working the mill are also affected.

2.6.The petitioner has submitted a representation on 24.04.2023 to the respondents narrating the entire difficulties faced by them and also taken up this issue to various other authorities. The South Indian Mills Association (SIMA), Coimbatore, through its Chairman, has also submitted a detailed representation on 07.04.2023 to the Ministry of Textiles, requesting them to grant some extension of time on the mandatory requirement of BIS certification.



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2.7.The certification was made mandatory for five products. Excepting the petitioner's raw material, ie., polyester staple fibres, the mandatory requirement of certification for the other four raw materials was relaxed and time was extended till October, 2023, by the notification of the Department of Chemicals and Petro Chemicals dated 17.07.2023.

2.8.The Hon'ble Chief Minister of Tamil Nadu, by letter dated 27.04.2023, has requested the Hon'ble Minister of Commerce & Industry, Consumer Affairs & Food & Public Distribution and Textiles, Government of India, to intervene in the matter and to issue necessary directions to the officials of the Ministry of Textiles and the Ministry of Commerce and Fertilizers to

i) insist on the QCOs for importing viscose and polyester fibre only after the BIS disposes of all pending applications filed by the importers seeking BIS certification to comply with QCOs.

ii) grant exemption for filament yarn and artificial fibres, including bamboo fibres not manufactured in India from QCO, imposed by the Government.

Therefore, the learned Counsel prayed for appropriate orders.



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3.Learned Additional Solicitor General of India appearing for the respondents submitted that the Government of India, considering various features like safety, quality and health hazardous to the consumers, has issued certain conditions prescribing compliance of the Bureau of Indian Standards and made the certification from Bureau of Indian Standard as mandatory. These directions has been issued in consultation with the Bureau of Indian Standards under the provisions of Bureau of Indian Standard Act, 2015. The certification of BIS is a lengthy process and therefore, it requires some time to process the application. In any event, they would process the applications within a reasonable time. He further submitted that this is a policy decision taken by the Government and therefore, this Court should refrain from interfering with the same.

4.This Court considered the rival submissions made on either side and perused the available materials.

5.The petitioner mill appears to be in existence for the past 40 years. They are importing polyester stable fibres from foreign countries and are exporting the same to various countries as manufactured synthetic yarns / threads and sewing



threads. The petitioner claims that more than 1000 workers are working in their mill.

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6.The Government of India, has introduced the requirement of BIS certification on certain products as mandatory in the month of April, 2021. Exemption was provided initially for a period of 180 days and it was periodically extended upto 03.04.2023. Thereafter, the exemptions for the polyester stable fibre alone has not been extended, however, the requirement of mandatory certification for the other four polyester yarns, such as, polyester continuous filament fully drawn yarn, polyester partially oriented yarn, polyester industrial yarn, and 100% polyester spun grey and white yarn, have been extended upto October, 2023. It is not known as to why this extension has not been provided to polyester stable fibres alone, one of the synthetic material which has been notified on 15.04.2021 along with the other polyester materials.

7.The petitioner claims that he is depending on four foreign suppliers and among them, two suppliers have applied for the certification, immediately after the notification in the year 2021. Their applications have also crossed two stages and they are in the third stage. The third stage is an audit by the authorities of Bureau



of Indian Standard on the suppliers at their country. In this process, it appears, there is some delay. It is also reported that the BIS certification is of six stages.

8.The learned Additional Solicitor General of India claims that it is a policy decision of the Government and therefore, this Court should refrain from interfering. But the fact remains that four other products which are mentioned in the same notification dated 15.04.2021 has been exempted from the mandatory requirement of certification till October, 2023, whereas, the mandatory requirement for polyester synthetic fibre alone has not been exempted. The reason for such a different stand is not known and the applications of the petitioner's suppliers were also not processed for more than two years.

9.For the foregoing reasonings and discussions and considering the facts and circumstances of the case, this writ petition is disposed of with the following directions:-

- i) The second respondent / Bureau of Indian Standards shall dispose of the applications of the petitioner's suppliers, as expeditiously as possible, preferably within a period of three months.
- ii) The first respondent shall consider the plight of the workers



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who are depending on the petitioner mill and shall also exempt the mandatory requirement of BIS certification on polyester staple fibre for a further period of three months, enabling them to open their units.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
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