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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 28th November, 2023.

+ **CS(COMM) 538/2018**
TRADING CORPORATION OF PAKISTAN PVT.
LTD.

..... Plaintiff

Through: None.
versus

**GOVERNMENT OF INDIA MINISTRY OF COMMERCE &
INDUSTRY**
Defendant

.....

Through: Mr. Akshay Amritanshu, Mr. Rajendra Kumar, Mr. Jitin Geoarge & Mr. Ashutosh Jain, Ms. Anjali Kumari Advs. (M: 9931282222) with Mr. Sandeep Verma, Under Secretary, Department of Commerce and Mr. Tarun Bajaj, Director, APEDA.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh (Oral)

1. This hearing has been done through hybrid mode.
2. The present suit has been filed by the Plaintiff No. 1-Trading Corporation of Pakistan Pvt. Ltd., Plaintiff No. 2-Rice Exporters Association of Pakistan and Plaintiff No. 3- Basmati Growers Association (hereinafter, '*the Plaintiffs*') seeking an injunction against the Defendant-Government of India from *inter alia* approving Super Basmati as approved evolved Basmati for the purposes of export.
3. The Plaintiffs filed the present suit seeking the following reliefs:

“i. An order of permanent injunction directing the Defendant not to give effect to the impugned



Gazette Notification dated 24th May 2006 permitting exports of evolved Basmati rice or any rice from India under the name/variety/classification/trade name of 'SUPER BASMATI';

ii. An order of permanent injunction restraining the Defendant, their partners, servants, agents, representatives, exporters from India and all those acting in concert with them or claiming under or through them or otherwise and from taking any further legislative, regulatory or administrative action in furtherance of the impugned Notification and from using the name 'SUPER BASMATI' in relation to export of rice from India;

iii. An order of permanent injunction restraining the Defendant from permitting exports of rice under the name 'SUPER BASMATI' constituting passing off of the Plaintiffs' trans-border reputation of the 'SUPER BASMATI' name, label, quality, variety and classification of evolved Basmati rice;

iv. An order of permanent injunction restraining the Defendant and those acting in consort with the Defendant or under the impugned notification, from indulging in any activity which dilutes the distinctive character of the Plaintiffs' Super Basmati rice brand, label, classification or variety;

v. An order of permanent injunction restraining the Defendant, their agents, representatives and all those acting in concert with them or claiming under or through them or otherwise, from infringing the Plaintiffs trade name, label, classification, brand or variety of 'SUPER BASMATI' in their packaging, layout, representation or trade reference to basmati rice exported from India or grown in India;



[...]"

4. In the present suit, which was filed in 2008, the Plaintiff also challenged the Notification dated 24th May, 2006 issued by the Defendant-Department of Commerce, Government of India. Vide order 16th April, 2014, this Court framed issues in the suit.

5. Thereafter, evidence on behalf of the Plaintiff was concluded. On behalf of the Defendant, Mr. N. Ramesh, Director, Ministry of Commerce appeared as DW-1 and was cross-examined on 11th April, 2019. The cross examination was not yet concluded.

6. With effect from 3rd September, 2020, there is no appearance on behalf of the Plaintiff. Discharge was also sought on 24th November, 2022 by Id. Counsel for the Plaintiff. However, no application has been moved seeking discharge till date.

7. Vide order dated 2nd November, 2023, this Court directed as follows:

"4. The Plaintiffs stopped appearing in the present suit effectively from 3rd September, 2020. Due to the inability of the Id. Counsel for the Plaintiff to receive instructions from the Plaintiffs, discharge from the present suit on 24th November, 2022. Thereafter, there is no appearance for the Plaintiffs. Further, the Id. Joint Registrar has also observed, vide order dated 9th October 2023, that until now the application for discharge has not been moved in the suit.

5. Considering the nature of this matter, it is directed that the Defendant shall produce all the documents referred to in the evidence by way of affidavit filed on behalf of DW1-Mr. N. Ramesh. Further, a competent official from the Ministry of Commerce, Government of India shall remain present in Court on the next date of hearing."



8. Thus, the Court had, on 2nd November, 2023, directed the Defendant to produce the Notification dated 24th May, 2006 which was referred to in the evidence of DW-1.

9. Today, Mr. Sandeep Verma, Under Secretary, Department of Commerce and Mr. Tarun Bajaj, Director, Agricultural and Processed Food Products Export Development Authority (‘APEDA’) are present before the Court. It is submitted that in terms of Section 5 of the Seeds Act, 1966, the Government under the aegis of the Central Seed Committee approves Basmati varieties from time to time for the purposes of the Seeds Act, 1966. Ld. Counsels for the Defendant refer to the Notification bearing No. 2687 dated 18th September 2017, reproduced as follows:

“S.O. 3067(E). Whereas, vide its Office Memorandum No.17-12/2007-SD-IV, dated 29th May, 2008, the Central Government described the primary quality characteristics as well as the other ancillary characteristics as required to qualify as Basmati rice variety under section 5 of the Seeds Act, 1966 (54 of 1966);

And whereas, vide its Office Memorandum No. 3-35/2014-SD-IV, dated 7th February, 2014, the Central Government issued instructions so as to discourage the registration for production of seeds of Basmati rice varieties outside the area earmarked under the Geographical Indication for Basmati rice:

And whereas, in order to ensure the regulation of the quality seed production and supply of notified varieties of Basmati rice in respect of the Geographical Indication No. 145, the Geographical Indication Registry, Government of India, Chennai vide Certificate No. 238, dated 15th



February, 2016, restricted the seed production of all varieties of Basmati rice notified under section 5 of the said Seeds Act, 1966, only to the Geographical Indication registered rice growing areas of the States of Punjab, Haryana, Himachal Pradesh, Delhi, Uttarakhand, Parts of Western Uttar Pradesh and the State of Jammu and Kashmir:

*Now, therefore, in exercise of the powers conferred by section 5 of the Seeds Act, 1966 (54 of 1966), the Central Government after consultation with the Central Seed Committee, is of the opinion that it is necessary and expedient to **restrict the seed production of Basmati varieties of rice only to the aforesaid rice growing areas of the States of Punjab, Haryana, Himachal Pradesh, Delhi, Uttarakhand, Parts of Western Uttar Pradesh and the State of Jammu and Kashmir.**”*

10. It has been further submitted by Id. Counsels for the Defendant- Mr. Akshay Amritanshu and Mr. Rajender Kumar that Basmati has also been registered as a geographical indication (hereinafter, ‘GI’) under the provisions of the Geographical Indications of Goods (Registration and Protection) Act, 1999 in India, bearing application no. 145 granted on 15th February, 2016. The bibliographic details of *Basmati* GI are as follows:

<i>Application no.</i>	145
<i>Applicant name</i>	The Agricultural & Processed Food Products Export Development Authority (APEDA)
<i>Date of filing</i>	26 th November 2008
<i>Class</i>	30
<i>GI name</i>	Basmati



11. It is also stated by Id. Counsel for the Defendant that as per the Notification dated 18th September 2017 issued by the Ministry of Agriculture, the seed production of all varieties of Basmati rice notified under Section 5 of the Seeds Act, 1966, is restricted to the GI registered rice growing areas of Delhi, Punjab, Haryana, parts of UP and state of Jammu & Kashmir.

12. Since there is no appearance on behalf of the Plaintiffs, and the suit has not been prosecuted effectively since 2020, and considering the Defendant's stand recorded as above, no further orders are called for in the present suit.

13. The suit is, accordingly, dismissed for non-prosecution. All pending applications are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

NOVEMBER 28, 2023/dk/dn