

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10063 OF 2024

Bimal P. Shah

....Petitioner

V/s.

Union of India and Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.11332 OF 2024
IN
WRIT PETITION NO.10063 OF 2024**

Mr. Brijesh Pathak for petitioner in WP/10063/2024 and for respondent in IA/11332/2024.

Mr. Jitendra B. Mishra i/b. Ms. Sangeeta Yadav for respondent in WP/10063/2024 and applicant in in IA/11332/2024.

**CORAM : K.R. SHRIRAM &
JITENDRA JAIN, JJ.**

DATED : 6th AUGUST 2024

PC. :

1 Respondents have filed an interim application which is listed today. Copy of the application has been served on petitioner's advocate. In paragraph 13 of the application, it is mentioned that the office of Customs Intelligence Unit, Jawaharlal Nehru Custom House had sent six emails requesting importer, i.e., petitioner, to participate in the investigation and sampling process and in reply, importer refused to participate in the sampling process and sent baseless, threatening and provocative emails.

2 Today Mr. Pathak admits that these emails were sent but Mr. Pathak states that since these emails were sent after the petition was filed, there is no reference to these emails in the petition.

3 The whole basis of the grievance raised was that respondents were not drawing samples and hence, the order dated 23rd July 2024 came to be passed. Since these emails referred to in paragraph 13 of the application were pertaining to investigation and sampling process, petitioner was duty bound to bring this fact to the notice of the Court either by way of an application to amend the petition or by way of an additional affidavit. This not being done amounts to, in our view, suppression of facts.

4 Therefore, the order dated 23rd July 2024 stands recalled. We, however, clarify that there is no impediment for the Customs to continue with its investigation and follow due process.

5 Petitioner may file affidavit in reply to the interim application and serve a copy thereof within four weeks from today. Rejoinder, if any, to be filed and copy served within four weeks thereafter.

6 Interim application be listed for admission in due course.

(JITENDRA JAIN, J.)

(K.R. SHRIRAM, J.)