



W.P.(MD)No.4977 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.11.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.4977 of 2018
and
W.M.P.(MD)No.4967 of 2018

S.Jeyaraj

... Petitioner

/Vs./

1.The Adjudicating Officer,
The District Revenue Officer,
Virudhunagar District.

2.The Designated Officer,
Food Safety and Drug,
Administration Department (Food Wing),
Room.No.203/2015, 2nd Floor,
Collectorate Building,
Virudhunagar-626 002.

3.The Food Safety Officer,
Rajapalayam Municipality,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent dated 20.01.2018 passed in case no. 11 of 2017-2018 and to quash the same.



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For Petitioner : Mr.K.Sudalaiyandi
For Respondents : Mr.D.Gandhiraj (R1)
Special Government Pleader
Ms.M.Aasha (R2 & R3)
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 20.01.2018, thereby imposed a fine of Rs.50,000/- for selling misbranded food.

2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. The petitioner is running the business in the name and style of 'ARS Store' by selling the groundnut sweet, along with other food products. While being so, on 21.02.2017, the third respondent inspected his shop and had taken samples of groundnut sweet. The sample was sent for analysis and it was found that the groundnut sweet was misbranded.



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Therefore, the third respondent filed a complaint before the first respondent for the offence punishable under Section 3(1)(zf) of the Food Safety and Standards Act, 2006 and Rule 2.2.2(7)(8)(9)(10) of the Food Safety and Standards Rules, 2011, (hereinafter referred to as 'the said Act and Rules' for brevity) as against the petitioner and another. The petitioner being the retail vendor has been arrayed as the first accused and the manufacturer of the said product has been arrayed as the second accused. The first respondent, after adjudication, imposed a fine of Rs.50,000/- against the petitioner / 1st accused and Rs.75,000/- against the second accused.

4. The learned counsel appearing for the petitioner would submit that the third respondent failed to follow any of the procedures as contemplated under the said Act and Rules. Especially, the third respondent failed to invoke the provisions under Section 49 of the aforesaid Act, with regard to imposing penalty. He did not even follow the procedures contemplated under the said Act, while taking sample of the product.



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5. The learned Government Advocate appearing for the second and third respondents submitted that the petitioner himself categorically admitted that he had sold the misbranded item and therefore, the first respondent rightly imposed the fine and further, after taking the samples, the petitioner was served with relevant Form as contemplated under the said Act and Rules and even thereafter, the petitioner could not be able to give proper reply.

6. Though the petitioner was served with the impugned order, the petitioner was not served with Form V-A. That apart, the order passed by the first respondent is merely on the confession of the petitioner that he had sold the groundnut sweet in the name 'Sri Shanmuga Vilas Special Groundnut Sweet' and it would not amount to admission of guilty. He admitted that the said branded groundnut sweet was sold in his shop. But it does not mean that he admitted his guilty that he had sold the misbranded item. Therefore, when the third respondent failed to follow the procedure as contemplated under the said Act and Rules, the entire proceedings cannot be sustained and hence, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the impugned



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order dated 20.01.2018 passed by the first respondent is hereby quashed.

This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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(1/2)

Index : Yes / No
NCC : Yes / No
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G.K.ILANTHIRAIYAN, J.

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