



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1743 OF 2022

M/S. GREEN GOLD SEEDS PVT. LIMITED, WALUNJ,
DIST. AURANGABAD AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioners : Mr. Ganesh P. Shinde
APP for Respondents : Ms. A. S. Deshmukh
...

CORAM : KISHORE C. SANT, J.

DATE : 07-07-2025

PER COURT:-

1. Heard the learned counsel for the petitioners and the learned A.P.P. for the State.
2. The petition is taken up for final disposal at the stage of admission with the consent of the parties.
3. The petitioners/original accused in Summary Criminal Case No.2178 of 2018 registered with Judicial Magistrate First Class, Jalna, have filed this petition. Order under challenge is passed by the learned Judicial Magistrate taking the cognizance of the complaint filed by respondent No.2 under the Seeds Act, 1966 (in short, "Act") for violation of Section 19(a)(i) of the Seeds Act read with provisions under Section 6(a) and 7(b) of the Seeds Act and Rules 7 and 10 of the Seeds Rules, 1968 (for short, "Rules").

4. It is case of the complainant that petitioner No.1/company is in the business of production and marketing of soyabean hybrid seed. A complaint came to be filed against the petitioners for violation of the provisions of the Act and the Rules. It is alleged in the complaint that on the packet of seeds, germination rate shown was 70%, however, on actual testing it was found to be 55%. A show-cause notice was therefore, issued on 10.08.2018 to petitioner No.1 which is the manufacturing company of the seeds. Petitioner No.2 is the responsible person of petitioner No.1. Petitioner No.3 is dealer who supplied seeds to the retail shop of petitioner No.4. The notice was replied on 30.08.2018 by authorized signatories of petitioner No.1. A specific request was made to give seed sample for analysis from the Central Seed Testing Laboratory, Varanasi, in view of Section 16(2) of the Seeds Act. However, no such opportunity was given and complaint came to be lodged on 19.11.2018. The learned Magistrate thereafter passed order dated 22.11.2018 issuing process against the petitioners.

5. It is the case of the petitioners that the sample was taken on 07.06.2018 of soyabean (research) Gold 3344 having Lot No.17-13-2002 A-36318. It is stated that expiry date of the said lot was till 02.11.2018. It was, thus, necessary in compliance of Section 16(2) of the Seeds Act to get the reanalysis done prior to said date. Since it was not sent for reanalysis, the petitioners lost their

statutory and valuable right. It is submitted that no cognizance of the complaint could have been taken by the learned Magistrate. The petitioners therefore, are before this Court.

6. Heard both the sides.

7. Learned counsel for the petitioners vehemently argued that compliance of Section 16(2) of the Seeds Act is mandatory when a request is made for reanalysis. The wording clearly shows that it is the report after reanalysis by the Central Seed Laboratory that prevails upon the report of the State Laboratory. The right to get the sample for reanalysis is, thus, a valuable right. In spite of specific reply by petitioner No.1, no sample was given for reanalysis. The summons itself is issued by order dated 22.11.2019 by that time the expiry date was already over. The petitioners are, thus, rendered remediless and defenseless. No prosecution under such circumstances can be continued. Continuing the proceedings would now be an abuse of process of law. He further submits that there is no application of mind. The order is only "issue summons to accused". He, thus, submits that on merits also the impugned order deserves to be quashed and set aside. He relied on reported judgment, viz. (i) *Mahyco Vegetable Seeds Ltd. & Ors. Vs. State of Maharashtra*, 2018 All MR (Cri) 910 (SC), and (ii) *R. Shridhar Vs. State Department of Agriculture & Anr.*, 2016 All MR (Cri) 4409.

8. Learned A.P.P. submits, from affidavit-in-reply of respondent No.2 that the seed testing was done from the Seed Testing Laboratory, Parbhani. The said laboratory report is always taken into consideration from *National Accreditation Board for Testing and Calibration Laboratories* (NABL). The testing is done by the said laboratory. Therefore, the report cannot be doubted and needs to be accepted when the sample was tested by Seed Testing Laboratory, Parbhani. It was before expiry of lot and expiry of shelf life of the seeds. She submits that the prosecution was rightly lodged and opportunity needs to be given to prove it's case. She, therefore, prays for dismissal of the petition.

9. Having considered the arguments, it is seen that about the dates there is no dispute. Further, it is seen that though the petitioners asked the authorities to send the sample for reanalysis, the same was not done. Looking to the order passed by the learned Magistrate also, this Court finds that the order does not show any application of mind. The order ought to have been a speaking order, reflecting as to what way and how the Magistrate was satisfied that the case was made out to issue summons.

10. In *Mahyco Vegetable Seeds Ltd. (supra)* the Honourable Apex Court has observed in paragraph Nos. 5 and 6 thus;

“5. In the present case, by the time the complaint came to be filed on 31.01.2003, the sample has lost its shelf life. If that be so, the accused-appellant must be understood to have been deprived of his valuable right of reanalysis.

6. Such deprivation will go to the root of the matter and render the prosecution futile and redundant. If that is so, we are inclined to hold that there is no reason why the proceedings should not be quashed....”

Thus, it is clear that the learned Magistrate failed to apply his mind. It is seen that right to get sample reanalysis is valuable right of the accused.

11. In *R. Shridhar (supra)*, this Court considered various judgments of the Honourable Apex Court. By considering those judgments, this Court observed that in the said case also the complaint was instituted after shelf life of the seed was expired. In such circumstances it is observed that the sample becomes unfit for analysis by the Central Seed Laboratory. Observing that, this Court was pleased to allow criminal application and quash and set aside the proceedings before the trial Court.

12. Considering all above, this Court has no hesitation in recording that continuation of said proceeding before the trial court would certainly be an abuse of process of law. The order passed by the learned Magistrate also does not show application of mind. In any case, when the complaint itself was instituted after expiry of product, no purpose would be served by keeping the prosecution alive. There is clear violation of Section 16(2) of the Seeds Act.

13. In view of the above discussion, this Court finds that a case is made out to allow the petition.

14. The criminal writ petition is allowed in terms of prayer clause "B" and "C".

[KISHORE C. SANT]
JUDGE

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