



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 294 OF 2024

Shri Yogish Chandra Tulasi,
Age 45 Years, Occ. Business,
R/o. 6-4-6, Arundelpet, 4/5,
Guntur, Tah. & Dist. Guntur (A.P.) **PETITIONER**

Versus

The State of Maharashtra,
Thr. Quality Control and Seed
Inspector and Agriculture Officer,
C/o. Block Development Officer,
Panchayat Samiti, Korpana. **RESPONDENT**

Mr. B.K. Nukte, Advocate a/w Mr. V. Deshmukh & Mr. D.M.
More, Advocates for the Petitioners.
Mr. N.R. Rode, APP for the Respondents/State.

CORAM : URMILA JOSHI PHALKE, J.

RESERVED ON : 31st JULY, 2025.

PRONOUNCED ON : 14th AUGUST 2025.

ORAL JUDGMENT :-

1. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by the consent of learned Counsel appearing for the respective parties.

3. By this Writ Petition, the Petitioner is seeking quashing of the Criminal proceeding bearing S.C.C. No. 1893/2018 pending before the Judicial Magistrate First Class, Korpana. The Petitioner is the proprietor of M/s Tulasi Seeds Private Limited, Guntur (A.P.). The Respondent herein is the Seed Inspector. The complainant who is the Respondent herein is the public servant appointed as Quality Control Inspector and Seed Inspector. He was also appointed as Quality Control Inspector and Seed Inspectors by Notification issued by the Government of Maharashtra Agriculture, Animal Husbandry, Dairy Development Department for implementation of Seeds Act, 1966.

3(i). The complainant who is also authorized to institute prosecution in respect of breaches of the Seeds Act, 1966, Seeds Rules 1968 (Control) Order 1983 read with Essential Commodities Act, 1955 and Maharashtra Cotton Seeds (Regulation of Supply, Distribution, Sale & Fixation of Sale

Price) Act, 2009 and Environmental Protection Act, 1986. The accused No.1 Tulasi Seeds Pvt. Ltd., Guntur (A.P.) is the proprietary firm and the Accused No.2/ Petitioner is Managing Director and Proprietor of Tulasi Seeds Pvt. Ltd., Guntur (A.P.). The accused No.3/Ashok Khiwansara is the proprietor of M/s Mahaveer Krishi Kendra, Korpana.

3(ii). The complainant has filed the complaint against the present Petitioner on an allegation that he visited and inspected M/s. Mahaveer Krishi Kendra, Korpana District Chandrapur on 19.05.2017. During inspection under powers delegated vide Section 14 of the Seeds Act, 1966 and prescribed under Rule 23 of the Seeds Rules, 1968 for the purpose of compliance of Seeds Act, 1966 and Seeds Rules, 1968. During the course of inspection of sale/storage premises of M/s. Mahaveer Krishi Kendra, Korpana, District Chandrapur, he found the stock of seeds kept for sale of Cotton Hybrid Seed variety Tulasi 117 BG II having lot No. 54531021, truthful seed produce and marketed by Tulasi Seed Private Ltd., Guntur (A.P.). To ascertain the quality of seeds the Non BT sample having variety Tulasi 117 having lot No. 54544847 was drawn from same pocket kept

inside 120g pocket of some seed from the stock kept for sale for the purpose of BT (ELISA) Test. The procedure under Section 15(1) of the Seeds Act, 1966 with the provision of Seeds Rules 1968. The samples were obtained and the same were sealed. Accordingly, the notice was given in Form VI to the person in-charge present while sampling the sample of 120g was drawn from lot No. 54544847 which was unopened and the same was divided into three equal parts. Then each portion of sample was sealed and labelled in the presence of person present and his acknowledgment was obtained in Form No. VIII. One portion of the sample was sent to seed analyst, Seed Testing Laboratory, Nagpur and one portion was restrained with the complainant. It was alleged that the sample was Non BT seed was sent to the Seed Testing Laboratory, Nagpur on 13.06.2017 and report was received on 25.06.2017. The result is communicated to the person from whom the sample was drawn. The show cause notice was issued to the Producer, Marketer, Distributor and Dealer of seeds on 30.06.2017. The seed sample was found Cry 1Ac8% +ve, Cry2Ab9 +ve and declared as fail. As the said seed was produced and marketed by Tulasi Seed Private Ltd., and offer for sale and license to their products was issued under

Seed Control Order 1983. As the company and its Director has contravened the provisions, the complaint was filed against the Petitioner and other co-accused.

4. Being aggrieved and dissatisfied with the order of issuance of process and taking cognizance of the said complaint the present Writ Petition is filed for quashing of the criminal prosecution being it is abuse of process under Section 482 of the Code of Criminal Procedure on the ground that Tulasi Seeds Pvt. Ltd., sent declaration of in-charge and responsible person of the Company in the State of Maharashtra. On 09.05.2017, the Chief Quality Control Officer, Commissionerate of Agriculture Maharashtra State, Pune issued renewal cotton Seed License in favour of M/s Tulasi Seeds Pvt. Ltd. Guntur and the present Petitioner is not the person in-charge or the responsible person on behalf of said Tulasi Seeds, and therefore, the prosecution deserves to be quashed against him. The another ground raised is that the opportunity of reanalysis of samples was not given to the Petitioner. The Complainant had collected only two samples of Hybrid Cotton BT (ELISA) which is in gross violation of the mandatory provisions of law, therefore, the Company is not able

to reanalyze said seed sample which cause prejudice to the accused persons. The complaint is not filed by the controller who is the authorized person to file a complaint.

5. It is further contended that, as per Section 14(1) of the Seeds Act, 1966 where an offence under this Act has been committed by Company, every person who at the time of offence was committed was in-charge of or was responsible to the Company for the conduct of the business of the Company as well as Company, shall be deemed to be guilty of the offence and the said responsible persons were not arraigned as an accused. On that ground also, the complaint deserves to be quashed. Complainant is not the authorized person to file the complaint. As per Section 15 of the Maharashtra Cotton Seeds Act, 2009, no Court shall take cognizance of an offence punishable under the said Act except upon a complaint, in writing, made by the controller or any other officer authorized by him for this purpose. In the present case, the complainant is not a controller or authorized by him to file complaint. Alongwith complaint, complainant did not produce any authority letter issued to him by controller to file complaint in

respect of present Act. So, complainant has no right to file complaint. Therefore, said complaint is liable to be quashed and set aside.

6. Learned APP strongly opposed the said contention on the ground that according to Section 30(2), the Complainant is the public servant within the meaning of Section 21 of the Indian Penal Code and has been assigned duties for the purpose of Seeds Act, 1966. According to the Seeds Act, 1966 the Complainant/Inspector assigned with a delegated powers to launch prosecution and to comply quality of seeds under the said Act. It is further submitted that the Complainant/Inspector Mr. Chandrakishor Manohar Thakre on 19.05.2017 has inspected under the power delegated to him under Section 14 of the Seeds Act and the duties prescribed under Section 23 of the Seeds Rules, 1968 for the purpose of compliance of Seeds Act, 1966 and Rules made thereunder. During inspection on the premises of M/s. Mahaveer Krishi Kendra, Korpana seized the stock of seeds of Cotton Hybrid Seeds Tulasi 117 BG II which was found to be of a sub standard quality, and therefore, the complaint was lodged. The seeds of the sample was produced

and marketed by Tulasi Private Seeds Limited Guntur of which the present Petitioner is one of the proprietor. The Petitioner has committed the contravention of the provisions and thereby committed an offence under Section 6(a), 7(b) of the Seeds Act, 1966.

7. Heard learned Counsel for the Petitioner, who reiterated the said contentions and submitted that to implement the provisions of the Maharashtra Cotton Seeds Act, 2009 (for short the “Act of 2009”), under Section 3 of the Act of 2009, a Controller is appointed and the powers are vested with the Controller for regulating, maintaining and increasing the supply or distribution or sales of cotton seeds. Under the provisions of the Act of 2009 only Controller can by an order in writing regulate any person engage in the supply, distribution and sale of cotton seeds to comply with the directions as may be specified in Notification. The Controller can only direct to sale the cotton seeds as such price as may be fixed by the State Government. The Court can take cognizance of an offence punishable under the Act of 2009 only on a complaint in writing made by the Controller and any other person authorized by the

Controller. The Respondent/Seed Inspector has no authority to file a complaint in respect of the offences under the provisions of the Act of 2009.

8. Another point raised by the Petitioner is that the samples were sent for analysis on 13.06.2017 and the analysis report was received on 25.06.2017. Only two samples are obtained, and therefore, the opportunity was not with the Petitioner to get it reanalyzed.

9. Though the learned APP submitted that the samples which was obtained was Cotton Hybrid Seeds variety Tulasi 117 BG II and it has no shelf-life. It is also submitted that three samples were obtained but in fact the record shows that only two samples were obtained one portion was sent to analysis and one portion was retained with the complainant. Section 2 of the Act of 2009 has come into force on 9th May 2009. Section 2 of the Act of 2009 deals with definition and Section 2(ii) defines “Controller” means the Cotton Seed Controller appointed by the Government under Section 3. Section 3 pertains to ‘Appointment of Controller’ - The State Government may, by notification in the Official Gazette, appoint an officer, possessing such

qualifications as may be prescribed, to be the Controller. From the plain reading of the said Section it could be gathered that it would require notification in the Official Gazette to appoint an Officer having requisite qualification to be the Controller. The powers of the Controller are enumerated in Section 4 of the Act of 2009. Section 15 of the Act of 2009 shows that no Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Controller or any other officer authorized by him for this purpose. In the present cases the complaint is lodged by the Seed Inspector. Thus, it is crystal clear that the complaint is neither filed by the Controller nor any other officer authorized by the Controller for this purpose. Admittedly, the complaint is filed by Mr. Chandrakishor Manohar Thakre, who is serving as a Seed Inspector.

10. The Notification and the pleadings which is filed on record nowhere reveals that the Complainant is authorized by the Controller to file and initiate the proceedings as filed before the Magistrate. Thus, admittedly the Complainant is not a competent person who can file the said complaint. This Court has already dealt with this issue in the case of *Maharashtra*

***Hybrid Seeds Company Limited Vs. State of Maharashtra,
MANU/MH/1252/2015 : 2015 ALL MR (Criminal) 2213.***

11. The second ground raised by the Petitioner is that no opportunity was granted to the Petitioner to reanalyze the samples. Though it is contended by the Complainant that three samples are obtained but the recitals of the complaint refers only two samples in para No.6 of the complaint. In view of the procedure given under Section 15 which deals with the procedure to be followed by the Seed Inspector. In view of Section 15 Sub Section 1(b) of the Seeds Act, 1966 which deals with the manner in which the samples are to be taken which reads as under.

“15(1)(b). except in special cases provided by rules made under this Act, take three representative samples in the prescribed manner and mark and seal or fasten up each sample in such manner as its nature permits.”

“15(2) When samples of any seed of any notified kind or variety are taken under sub-section (1), the Seed Inspector shall-

(a) deliver one sample to the person from whom it has been taken;

(b) send in the prescribed manner another sample for analysis to the Seed Analyst for the area within which such sample has been taken; and

(c) retain the remaining sample in the prescribed manner

for production in case any legal proceedings are taken or for analysis by the Central Seed Laboratory under sub-section (2) of section 16, as the case may be.”

“16. Report of Seed Analyst.- (1) *The Seed Analyst shall, as soon as may be after the receipt of the sample under sub-section (2) of section 15, analyse the sample at the State Seed Laboratory and deliver, in such form as may be prescribed, one copy of the (2) report of the result of the analysis to the Seed Inspector and another copy thereof to the person from whom the sample has been taken.*

(2) After the institution of a prosecution under this Act, the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending any of the samples mentioned in clause (a) or clause (c) of sub-section (2) of section 15 to the Central Seed Laboratory for its report and on receipt of the application, the court shall first ascertain that the mark and the seal or fastening as provided in clause (b) of sub-section (1) of section 15 are intact and may then despatch the sample under its own seal to the Central Seed Laboratory which shall thereupon send its report to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of the analysis.”

12. Thus, in view of Section 15(1)(b) of the Seeds Act, 1966 it was obligatory on the part of the Seed Inspector to obtain three representative samples. In the present case only two samples are obtained. The ground raised by the Petitioner in the present Petition is that as only two samples are obtained by the Seed Inspector, and therefore, after filing of the complaint it reveals that one portion of the sample was sent to the seed analyst, Seed testing laboratory Nagpur and one portion was retained with the Complainant, and therefore, there

was no opportunity for the Petitioner to file an Application for reanalyzes of the said samples as the third sample was not available.

13. Learned Counsel for the Petitioner has rightly submitted that the Petitioner has been deprived of the opportunity to get the sample tested in terms of Sub Section 1(b) of Section 15 of the Seeds Act, 1966 and thus the Petitioner was deprived from getting the sample tested and thus there is contravention of Section 15 Sub Sections (1)(2). Thus, fair opportunity was not granted to the present Petitioner for sending the sample as only two samples were obtained by the Seed Inspector and no sample was available for the Petitioner to send it for reanalyzes.

14. Thus, the Petitioner has made out the case that there is a contravention of the provisions of the Seeds Act, 1966 as the complaints are not filed by the authorized officer and no sample was available for reanalysis after filing of the complaint by the Complainant. In view of that, the Petitioner has made out the case. The continuation of the complaint against the provisions of law will be an abuse of process of law, and

therefore, the Petition deserves to be allowed.

15. The Writ Petition is **allowed**.

16. In view of that the case bearing S.C.C. No.1893/2018 pending before the learned Judicial Magistrate First Class, Korpana, is hereby quashed and set aside.

17. Rule is made absolute in the above terms. No costs.

18. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)

S.D.Bhimte