

Omprakash vs The State Of Madhya Pradesh on 9 November, 2023

Author: Subodh Abhyankar

Bench: Subodh Abhyankar

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR
ON THE 9th OF NOVEMBER, 2023
WRIT PETITION No. 26132 of 2023

BETWEEN: -
OMPRAKASH S/O MADANLAL JAIN, AGED ABOUT 59
YEARS, OCCUPATION: BUSINESS JAIN TRADING, BADA
BAZAR, UNHEL, NAGDA TEHSIL NAGDA DISTRICT
UJJAIN (MADHYA PRADESH)

(BY SHRI VIVEK SINGH - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH PRINCIPAL
SECRETARY FOOD SAFETY AND DRUG
ADMINISTRATION DEPARTMENT (MADHYA
PRADESH)
2. COLLECTOR UJJAIN (MADHYA PRADESH)
3. DESIGNATED OFFICER FOOD AND DRUG
ADMINISTRATION DEPARTMENT UJJAIN
(MADHYA PRADESH)
4. FOOD SAFETY OFFICERS MAHENDRA KUMAR
VARMA AND SHUBHASH KHEDAKAR FOOD AND
DRUG ADMINISTRATION DEPARTMENT UJJAIN
(MADHYA PRADESH)

(BY SHRI KOUSTUBH PATHAK - G.A. FOR STATE ALONG WITH SHRI
BASANT DATTA SHARMA - FOOD SAFETY OFFICER, UJJAIN)

This petition coming on for admission this day, the court
following:

ORDER

This petition has been filed by the petitioner under Article 226/227 of the Constitution of India against the order dated 27.07.2023, whereby the petitioner's goods which include Mawa, Ghee, Skimmed Milk Powder and Cream were seized on three occasions and the materials so seized were sent to Referral Food Laboratory, Mysore and as per the certificate issued by said Laboratory, out of various samples, it has been found that five samples of Mawa (loose) have been found to be as per the standards, but other samples were found to be sub-standard.

2. Shri Vivek Singh, learned counsel for the petitioner, at the outset, has submitted that the aforesaid Mawa relating to five samples may be returned to the petitioner so that it can be used while there is a festival so that he can minimize his losses. So far as the other material is concerned, which is found to be not up to the standard, he submits that the petitioner may be given liberty to raise the dispute before the Competent Authority.

3. Counsel for the respondents/State, on the other hand, has opposed the prayer and it is also submitted that although five samples have been found to be as per the norms, however, the petitioner has still not explained as to how he has procured the aforesaid material.

4. In rebuttal, counsel for the petitioner has submitted that the petitioner would be answering all the queries raised by the department before the Competent Officer/Authority and that issue can be decided, in accordance with law. Thus, it is submitted that the material, which is found to be as per the standard quality, may be allowed to be used.

5. On due consideration of submissions and on perusal of the documents filed on record, this Court finds force in the submissions as advanced by the counsel for the petitioner and is of the opinion that the Mawa so seized, which relates to five samples, which has been found to be as per the standard may be returned back to the petitioner for his use on an undertaking furnished by the petitioner that he shall abide by all such conditions as may be imposed by the respondents, while releasing such Mawa to him.

6. So far as the other objections raised by the respondents are concerned, that may be taken care of by the Competent Authority during the proceedings under the Food Safety and Standards Act, 2006.

7. With the aforesaid directions, the petition stands disposed of.

C.c. as per rules.

(SUBODH ABHYANKAR) JUDGE Pankaj