

M/S.A.R.G.&C vs Food Safety Officer on 20 July, 2022

Author: R.Subramanian

Bench: R.Subramanian

W.P.No.34404 of 20

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.34404 of 2016

and

W.M.P.No.29638 of 2016

M/s.A.R.G.&C.,

Represented by its Partner R.Mathivanan,

No.71D, Sandaipettai Main Road,

Sevvaipettai, Salem – 636 002.

.. Petitioner

Vs.

1.Food Safety Officer,

Suramngalam Zone I,

Salem Town – 636 001.

2.Food Analysts

Food Analysis Laboratory,

Salem.

3.Designated Officer,

Food Safety Department,

Salem.

[R3 amended as per order

dated 01.11.2016 in WMP.No.32015/16]

4.Director,

FSSAI Referral Laboratory,

IICPT, Thanjavur – 613 005.

.. Respondents

1/6

<https://www.mhc.tn.gov.in/judis>

W.P.

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, to call for the entire proceedings

relating to the impugned order of the 3rd respondent dated 14.09.2016, quash the same.

For Petitioner : Mr.Ramesh Venkatachalapathy
For Respondents : Mr.P.Anandakumar, Government Advocate
ORDER

The challenge in this writ petition is to the letter dated 14.09.2016, under the cover of which the report of Referral Lab regarding the quality of sago that was seized from the petitioner's premises by the Food Safety Officer.

2. The Food Safety Officer inspected the business premises of the petitioner on 09.06.2016, seized a certain quantity of sago and sent it for analysis by the Food Analyst, Salem. The Food Analyst gave a report stating that the sample conforms to the Standards with reference to the Food Safety and Standards Regulations, 2011. Not satisfied with the report of the Food Analyst, the Food Safety Officer forwarded the sample to the Referral Lab viz., the FSSAI Referral Lab, Thanjavur. This decision was taken by the Food Safety Officer in terms of Rule 2.4.3 of the Regulations. The <https://www.mhc.tn.gov.in/judis> Referral Lab gave its report on 31.08.2016 concluding that there may be adulteration in the product and it does not conform to the Standards prescribed under the Regulations. This report of the Referral Lab was forwarded to the petitioner with a note that proceedings under the Food Safety and Standards Act, 2006 would be taken based on the report of the Referral Lab. It is this communication which is challenged in this writ petition.

3. Though Mr.Ramesh Venkatachalapathy, learned counsel appearing for the petitioner would raise several contentions, I do not think I need to go into those contentions, inasmuch as I find the writ petition is pre- mature. All that the Food Safety Officer has done under the impugned communication is to forward the copy of the report of the Referral Lab to the petitioner with added information that action will be taken under relevant provisions of Food Safety and Standards Act, 2006. This by itself would not offer a cause of action for the petitioner to seek a writ of Certiorari.

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4. Even assuming this communication is quashed, the report of the Referral Lab will be there and the statutory obligations that are imposed on the Food Safety Officer under the enactment will have to be carried out by him or her. Hence, I do not think that this is a fit case for this Court to exercise power under Article 226 of the Constitution of India.

5. The Writ Petition therefore fails and it is accordingly dismissed. It is however made clear that the petitioner will have recourse to all rights and privileges available to it under the Act, as well as Regulations to defend itself, if action is taken pursuant to the report of the Referral Lab. No costs. Consequently, the connected writ miscellaneous petition is closed.

20.07.2022 dsa Index:Yes/ No Internet:Yes/ No Speaking order/ Non-speaking order
<https://www.mhc.tn.gov.in/judis> To:-

1.Food Safety Officer, Suramngalam Zone I, Salem Town – 636 001.

2.Food Analysts Food Analysis Laboratory, Salem.

3.Designated Officer, Food Safety Department, Salem.

4.Director, FSSAI Referral Laboratory, IICPT, Thanjavur – 613 005.

<https://www.mhc.tn.gov.in/judis> R.SUBRAMANIAN, J.

dsa and 20.07.2022 <https://www.mhc.tn.gov.in/judis>