

K.S.Alexander @ Kattanam Shaji vs State Of Kerala on 8 September, 2021

Author: S. Manikumar

Bench: S.Manikumar, Shaji P.Chaly

- 1 -

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY
WEDNESDAY, THE 8TH DAY OF SEPTEMBER 2021 / 17TH BHADRA, 1943
WP(C) NO. 42140 OF 2018
PETITIONER/S:

K.S.ALEXANDER @ KATTANAM SHAJI
AGED 48 YEARS
S/O. SAMUEL, KOPPARA HOUSE, KATTACHIRA, PALLIKKAL
P.O., BHARANIKAVU VILLAGE, MAVELIKARA TALUK,
ALAPPUZHA DISTRICT, PIN- 690 503, CHAIRMAN,
ONATTUKARA COCONUT PRODUCER COMPANY LTD., VETTICODE,
VETTICODE P.O., ALAPPUZHA DISTRICT, PIN - 690 537
BY ADVS.
M.G.SREEJITH
SRI.G.PADMAKUMAR

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SEVCRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
- 2 THE ADDITIONAL CHIEF SECRETARY,
DEPARTMENT HEALTH AND FAMILY WELFARE, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM , PIN - 695 001.
- 3 THE COMMISSIONER,
FOOD AND SAFETY, OFFICE OF THE COMMISSIONER OF FOOD
AND SAFETY, THIRUVANANTHAPURAM, PIN - 695 001.

OTHER PRESENT:

SRI.K.P.HARISH, SR GP FOR RESPONDENTS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
W.P.(C) No. 42140 of 2018 -2-

JUDGMENT

S. Manikumar, C. J.

Instant public interest writ petition has been filed for the following reliefs:-

- "1. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to take appropriate legal proceedings against the producers and manufactures who are violating the provisions conducting adulteration in Coconut oil and to publish a black list and to include their names and brand names of them.
2. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to take necessary precautions in the issuance of licence to conduct the coconut oil manufacture, storage, sales and distribution and to monitor the packing proper labelling and sales.
3. Issue a writ of Mandamus or any other appropriate writ order or direction directing the respondents to initiate necessary speedy steps for the adjudication proceedings before the adjudicating officer.
4. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to frame necessary rules to prevent the transportation and importing of Palm Kernel oil to the State.
5. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to frame necessary rules to enable to initiate criminal proceedings against the persons who are violating the provisions of The Food and Safety Standards Act 2006.
6. Issue a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to produce the entire record pertaining to Exhibit-P5 proceedings and reports related to it."

2. Short facts leading to the filing of the writ petition are as hereunder:-

According to the petitioner, the Commissioner, Food and safety, the 3rd respondent, has passed Exts. P1, P2 and P4 order, prohibiting manufacture, storage, sales and distribution of coconut oil of certain brands, periodically on the ground that coconut oil is adulterated in the said brands. But no efficacious remedies are taken by them and there is no effective mechanism for monitoring the illegal activities. The persons and brands who are prohibited are again entering into the business with another brand

name and continuing the same act of adulteration. It affects the health of the general public and causes serious diseases like cancer.

In support of the prayers sought for, petitioner has sent Ext. P3 representation dated 05.05.2018 to the Commissioner of Food Safety, Thiruvananthapuram. As there is no response, petitioner is constrained to prefer the instant writ petition for the reliefs stated supra.

3. On the above averments, Mr. M. G. Sreejith, learned counsel for the petitioner, made submissions. Inviting attention of this Court to Section 18, which deals with general principles to be followed in administration of the Food Safety and Standard Act, 2006, submission has been made that no periodical inspection is being done. Learned counsel for the petitioner has also submitted that manufacturers directed to be closed, surface once again with new names, and no action is taken against them.

4. Per Contra, Mr. K. P. Harish, learned Senior Government Pleader, submitted that in exercise of the powers conferred under the Food Safety and Standard Act, 2006, action is being taken, as against the perpetrators of law and periodical inspection is being conducted. At this length of time, no adverse material has been produced, as against the manufacturers covered under Ext. P5.

5. Representation has been made in the year 2018, praying for strict and proper inspection and quality tests to be conducted by the Department. Inviting attention of this Court to the reliefs sought for, Mr. K. P. Harish, learned Senior Government Pleader submitted that all the reliefs sought for are general in nature.

6. Learned Senior Government Pleader further submitted that if the petitioner makes any fresh representation, pointing out specific instances of adulteration with substantial materials, the same would be considered, in accordance with law. For the abovesaid reasons, he prayed for dismissal of the writ petition.

7. Heard learned counsel for the parties and perused the material on record.

8. In Ext. P3 representation dated 05.05.2018, addressed to the Commissioner of Food Safety, Thiruvananthapuram, the 3rd respondent, petitioner has only sought for strict and proper implementation, and quality tests to be conducted by the Department. For brevity, Ext. P3 dated 05.05.2018 is extracted:-

"No. 20/0CPCL/2017-18

Dated 5.5.2018

M.G.Rajamanickam IAS
Commissioner of Food Safety,

Office of the Commissioner of Food Safety Thycaud.P.O, Thiruvananthapuram-695014
email:foodsafetykerala@gmail.com Sub:- Adulteration in Coconut oil Ref: Order No.

B1-4581/18/CFS dated 31.5.2018 Respected Sir, This has reference to your office order referred above on the subject cited. At the outset, we, as a manufacturer of quality coconut oil under the brand name "Onattukara Coconut oil"

appreciate the efforts of your department in listing out the adulterated coconut oil in the market and thereby protecting the interest of the consumers of coconut oil. But it is an open fact that still there are many unidentified brands sold out in various markets at cheaper rates. This state of affair poses threat to the sale of quality coconut oil with higher cost of production at genuine pricing.

Though it is a welcome development that a good segment of our consumers have started realizing the injurious effects of using spurious and adulterated edible oil and prefer quality products irrespective of prices, the surveillance across the Kerala markets may be intensified and continued so that only quality oils are available for sale.

Those who are violating the Food Safety Rules and Regulations may be brought under stringent punishment by amending the Legislation, if needed. Similarly lifting of ban of the black listed brands may be done only after strict and proper inspection and quality tests. Otherwise, this malady in the consumer sector will be continued bringing the health condition of the common man at great risk.

This is for your kind consideration and necessary action.

Thanking you, Yours faithfully, Sd/-

K.S. Alexander (Kattanam Shaji) Chairman"

9. As rightly contended by the learned Senior Government Pleader, all the reliefs sought for in the writ petition are general in nature, for proper and effective implementation of the provisions of the Food Safety and Standard Act, 2006, and the rules framed thereunder. We are not inclined to issue any general directions.

In the light of the above discussion, it is always open to the petitioner to make any fresh representation, pointing out specific instances of adulteration by the manufacturers of coconut oil, and if any such representation is made, the Commissioner of Food and Safety, Thiruvananthapuram, is directed to consider the same, in accordance with law.

Sd/-

S. MANIKUMAR CHIEF JUSTICE Sd/-

SHAJI P. CHALY JUDGE Eb ///TRUE COPY/// P. A. TO JUDGE APPENDIX OF WP(C) 42140/2018 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF PROCEEDINGS OF THE 3RD

RESPONDENT DATED 31/05/2018 AS WIDE ORDER NO. B14581/18/CFS.

EXHIBIT P2 TRUE COPY ORDER DATED 30-06-2018 WIDE ORDER NO. B14581/15/CFS
ISSUED BY THE 3RD RESPONDENT EXHIBIT P3 TRUE COPY OF THE REPRESENTATION
SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 5-5-2018.

EXHIBIT P4	TRUE COPY OF ORDER NO. B1- 4581/18/CFS(2) DATED 18-12-2018.
EXHIBIT P5	THE PRESS RELEASE DATED 18-12-2018.
EXHIBIT P5	ENGLISH TRANSLATION OF EXHIBIT P5.
EXHIBIT P6	TRUE COPY OF NEWS PUBLISHED ON 19.12.2018 IN DECCAN CHRONICLE NEWS PAPER.
EXHIBIT P7	TRUE COPY OF NEWS PUBLISHED ON 19.12.2018 IN HINDU NEWS.