

Chandan Mal Mangilal Jain vs Union Of India (2024:Rj-Jd:30434-Db) on 25 July, 2024

Author: Kuldeep Mathur

Bench: Kuldeep Mathur

[2024:RJ-JD:30434-DB]

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

D.B. Civil Writ Petition No. 6182/2024

Chandanmal Mangilal Jain, Resgistered Office At 19, Khetanadi,
Mandore Road, Jodhpur, Rajasthan, Through Its Proprietor -
Mangilal Gulecha S/o Shri Chandan Mal Gulecha, Aged About 64
Years, R/o C1, Chandan Kamal, Paota B Road, Jodhpur,
Rajasthan.

----Petitioner

Versus

1. Union Of India, Through Its Secretary, Ministry Of
Commerce And Industries, Government Of India, New
Delhi - 110107.
2. Directorate General Of Foreign Trade, Through Additional
Secretary, Vanijya Bhawan, A Wing, New Delhi- 110011.
3. Union Of India, Through Its Secretary, Ministry Of
Agriculture And Farmers Welfare, Krishi Bhawan, New
Delhi - 110001.
4. Central Board Of Excise And Customs, Through
Commissioner, 815, Nehru PI Market Road, Nehru Place,
New Delhi, Delhi- 110019

----Respondents

For Petitioner(s)	:	Mr. R.N. Mathur, Sr. Advocate (through VC) assisted by Mr. Avin Chhangani.
For Respondent(s)	:	Mr. R.D. Rastogi, ASG with Mr. Devesh Yadav (through VC). Mr. Bhanu Pratap Bohra Mr. Pooshan Mr. Sheetal Kumbhat Mr. Manish Rajpurohit for Mr. Rakesh Arora. Mr. Prashant Tatia

HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

HON'BLE MR. JUSTICE KULDEEP MATHUR Order 25/07/2024 [2024:RJ-JD:30434-DB] (2 of 3) [CW-6182/2024] The petitioner claims that he obtained a license under the Food Safety and Standards Act, 2006 from the Food Safety and Standards Authority of India for trade/stock/retail import of several items including "hemp seeds and seed products".

2. The petitioner seeks to challenge the notification dated 05.04.2024 issued by the Ministry of Commerce and Industry, Government of India (Directorate General of Foreign Trade). It is stated that by virtue of an order passed on 20.02.2024 in S.B. Civil Writ Petition No.2502/2024 (Suchi Impex vs. Union of India & Anr.), the public notice dated 14.02.2024 was stayed by the writ court and thereafter, the respondent authority issued another notification on 05.04.2024 whereunder, the import of watermelon seeds has been made unrestricted commodity.

3. Mr. R.N. Mathur, learned Sr. Counsel assisted by Mr. Avin Chhangani, learned counsel appearing for the petitioner submits with reference to the "effect of notification dated 05.04.2024", that import of watermelon seeds which was imported or shipped or arrived without license, now becomes valid import by virtue of the change in the import policy. The submission made at the Bar is that no policy decision can be made to clothe an illegal action with legality.

4. In the first place, we intend to record that the petitioner has not provided any instance of import which was intended without valid license prior to 05.04.2024. The mere clarification under the notification dated 05.04.2024 under the caption "Effect of this Notification" cannot be stretched too far to infer that certain illegal imports of watermelon seeds were intended to be legalized under the notification dated 05.04.2024. In our opinion, the writ [2024:RJ-JD:30434-DB] (3 of 3) [CW-6182/2024] petitioner himself is not able to establish his locus to file this writ petition inasmuch as under the license for import of various articles, he is not entitled to import watermelon seeds. At serial no.3 of the license granted under the FSS Act of 2006, the petitioner is permitted to import "hem seeds and seeds products"

and not watermelon seeds.

5. This is also too well settled that the legislature can take a decision and change the policy in the light of an observation by the Court and no exception can be taken to the notification dated 05.04.2024 which according to the petitioner has been adopted on account of the interim order passed by the writ court on 20.02.2024.

6. Learned counsel appearing for the respondents have brought to our notice the observation of this court made on 03.07.2024 that by efflux of time the present writ petition has become infructuous.

Notwithstanding that, we do not find any substance in the present writ petition which is accordingly dismissed.

7. Stay application also stands dismissed. (KULDEEP MATHUR),J (SHREE CHANDRASHEKHAR),J 231-Hanuman-Tikam/-

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