

Granary Wholesale Private Ltd vs Union Of India Through Ministry Of ... on 15 July, 2024

Author: B. P. Colabawalla

Bench: B. P. Colabawalla

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9890 OF 2024

Granary Wholesale Pvt. Ltd.,

Versus

Union of India & Others

Adv. Mr. Venkatesh Dhond, Sr. Advocate with Mr. Akshya Kolse
Alhan Kayser & Hinisha Patel i/b. Avesh Kayser, for the Peti

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Adv. Ashutosh Misra, for Respondent No.1-UOI.

CORAM: B. P. COLAB
FIRDOSH P.

DATE: JULY 15, 202

P. C.

1. At the outset, Mr. Dhond, the learned Senior Counsel appearing on behalf of the Petitioner submitted that there is a typographical error in prayer clause (a) of the Petition and sought leave to correct the same. Leave is accordingly granted. The correction shall be carried out forthwith in front of the Associate. Reverification is dispensed with. 2 The above Writ Petition is filed seeking to quash and set aside the impugned order dated 8 th July, 2024 passed by Respondent Nos. 2 & 3. By the impugned order, the Central Food and Safety Officer has inter alia JULY 15, 2024 S.R.JOSHI

6-wp-9890-2024.doc directed the Petitioner to immediately stop the unauthorized business of non-food articles (Cosmetics, toiletry items etc.) from their licensed premises until the authenticity of such stock and necessary documents are submitted to the Office of the Central Food and Safety Officer and the same be verified. By the impugned order, the Petitioner was directed not to receive, sell, purchase or store such non-food articles in the licensed premises until further directions are issued from the said Office.

3. According to the Petitioner, the above order is wholly unwarranted and contrary to the provisions of law. According to the Petitioner, there is no provision under the Food Safety and Standards Act, 2006 or any Regulations framed thereunder which prohibits the storage or sale of non-food items in the same premises as food items. According to the Petitioner, the Act and the Regulations contain several provisions that deal with separation of food items from chemicals, insecticides, sewage etc. Further, the FSSAI Handbook also states that where food and non-food items are transported in the same vehicle, they must be suitably segregated to prevent cross-contamination and non-food items must be stored separately. It is the case of the Petitioner that where the legislation wished to regulate the storage of food and non-food items, it has to be done in specific provisions and which are being complied with by the Petitioner. However, there is no blanket prohibition on storage of food and non-food items in the same JULY 15, 2024 S.R.JOSHI 6-wp-9890-2024.doc premises, is the argument. Further, even the license granted to the Petitioner, does not include any such prohibition. It is also the case of the Petitioner that food and non-food items are stored separately i.e. on different racks/ shelves in the licensed premises. For all these reasons and more, it the case of the Petitioner that the impugned order is unsustainable.

4. Today when the matter is called out, Mr. Misra, appears on behalf of Respondent No.1 and waives notice. As far as Respondent Nos. 2 and 3 are concerned, it appears that they have been served through e-mail on 12th July, 2024 and 13th July, 2024. Further, Respondent Nos. 2 and 3 have refused physical service on 12th July, 2024. All this is stated by the Petitioner in its Affidavit of Service dated 15 th July, 2024 and which is tendered before us today.

5. Be that as it may, we direct Registry to issue notice to Respondent Nos. 2 and 3, returnable on 29 th July, 2024. We further direct that since the offices of Respondent Nos. 2 and 3 are situated in Mumbai, the Advocate for the Petitioner shall once again serve the papers and proceedings of the above Writ Petition along with a copy of this order on Respondent No.2 and Respondent No.3 by hand delivery as well.

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6. It is made clear that if Respondent Nos. 2 and 3 do not appear despite service, this Court shall proceed to pass orders in their absence. 7 Further, the parties are put to notice that the above Writ Petition may be disposed of at the admission stage itself, time permitting.

8. In the meanwhile and until further orders, without prejudice to rights and contentions of all the parties, Respondent Nos. 2 and 3 are directed not to act upon and/or implement the impugned order dated 8 th July, 2024.

9. Stand over to 29th July, 2024 for ad-interim relief.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order. [FIRDOSH P. POONIWALLA, J.] [B. P. COLABAWALLA, J.] JULY 15, 2024 S.R.JOSHI