

M/S Ankur Spices vs State Of Rajasthan on 14 July, 2022

Author: Dinesh Mehta

Bench: Dinesh Mehta

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. Criminal Misc(Pet.) No. 3138/2022

1. M/s Ankur Spices, Through Proprietor Mr. Ankit Rathi, Address- E-529, M.i.a., Basni 2Nd Phase, Jodhpur, Rajasthan.

2. Mr. Ankit Rathi S/o Lt. Mr. Kamal Kishore Rathi, Aged About 33 Years, 41A/4, P.w.d. Colony, Jodhpur, Rajasthan.

----Petitioners Versus

1. State Of Rajasthan, Through Pp

2. Food Safety Officer, Chief Medical And Health Officer, Rajsamand, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Naman Mohnot
For Respondent(s)	:	Mr. S. K. Bhati, P. P.

JUSTICE DINESH MEHTA

Order

14/07/2022

1. By way of the instant petition, the petitioners have

challenged the proceedings pending in the Court of Additional District Magistrate, Rajsamand (hereinafter referred to as the 'trial Court') in Food Safety Case No.60/2022.

2. Mr. Mohnot, learned counsel for the petitioners submitted that the petitioner No.2, who is a manufacturer of red chilly powder has received a notice on 06.05.2022, issued by the trial Court whereupon he came to learn that on 20.08.2021, sample of chilly powder, allegedly manufactured by the petitioner, was taken from the premises of M/s. Ankur Spices. The result of Food Analysis Report of such sample shows that the same was 'mis- branded' and 'containing extraneous matter'.

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3. While submitting that it was the duty of the respondent No.2 to have provided a copy of the report dated 15.02.2022 to the petitioner so that he could prefer an appeal under Section 46 (4) of Food Safety and Standards Act, 2006 (hereinafter referred to as the 'Act of 2006'), learned counsel argued that since petitioner's right of preferring an appeal against report dated 15.02.2022 has been taken away, the proceedings are liable to be quashed.

4. Learned counsel submitted that the petitioner, being a manufacturer, is entitled to prefer an appeal against such report dated 15.02.2022 prepared by Chief Medical & Health Officer, Rajsamand as per the provisions of Section 46 of the Act of 2006.

5. Mr. Bhati, learned Public Prosecutor could not satisfy from the record that a copy of report dated 15.02.2022 was sent to the petitioner. He, however, submitted that instead of quashing the proceedings, a liberty be provided to the petitioner to prefer an appeal against the report dated 15.02.2022.

6. Section 46(4) reads thus:-

"46. Functions of Food Analyst.-

(1) XXX (2) XXX (3) XXX (4) An appeal against the report of Food Analyst shall lie before the Designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food Authority for opinion."

7. It is clear from the record that the petitioner Nos.1 and 2 were unaware about the sample being taken and about the report dated 15.02.2022. Admittedly, copy of the report has not been endorsed to the petitioner who is alleged to have manufactured the subject red chilly powder.

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8. Though petitioner is entitled to prefer an appeal under Section 46 (4) of the Act of 2006 against the report dated 15.02.2022 but his right has been practically taken away by the respondents.

9. The petition, therefore, succeeds.

10. The petitioner may prefer an appeal under Section 46 (4) of the Act of 2006 against the report dated 15.02.2022. In case the appeal is preferred before the competent authority within a period of 15 days from today, the same shall be decided in accordance with law ignoring the delay (if any).

11. The Appellate Authority shall decide the same as early as possible, preferably within a period of three months of receiving of the same.

12. The petitioner shall be free to take all defence before the trial Court including his plea and defence arising from the decision of the Appellate Authority, in accordance with law.

13. The stay application also stands disposed of accordingly.

(DINESH MEHTA),J 23-A.Arora/-

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