

**(2022) 09 KAR CK 0001**

**In the Karnataka High Court**

**Case No :** Writ Petition No. 21183 Of 2010 (GM-RES-PIL)

Cauvery Sene & Others

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

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**Date of Decision :** 03-09-2022

**Acts Referred:**

**Citation :** (2022) 09 KAR CK 0001

**Hon'ble Judges :** S Vishwajith Shetty, J

**Bench :** Single Bench

**Advocate :** P. Anu Chengappa, Prathima Honnapura, Sammith S, S.Shivananda

**Final Decision :** Dismissed

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## **Judgement**

S.Vishwajith Shetty, J

1. This writ petition has been filed as public interest litigation seeking for the following reliefs:

1. To issue a writ of mandamus directing the first, second, third and fourth respondents to procure and distribute to the orange farmers of Kodagu only "Coorg Mandarin" orange saplings under the National Horticulture Mission Programme.

2. Issue a writ of mandamus directing the first, second, third and fourth respondents to procure and distribute Coorg Mandarin saplings within the first week of June every year and to call tenders for only "poly bag" saplings.

3. Issue a Writ of Mandamus directing the First, Second , Third and Fourth Respondents to constitute a committee to prepare an inventory to assess, quantify and compensate the loss suffered by the Orange growers of Kodagu due to the planting of Nagpur Mandarin orange saplings sown in the year 2009-2010.

4. Issue a Writ of Mandamus directing the First, Second, Third and Fourth Respondents to compensate the loss incurred by the Kodagu farmers due to the

planting of Nagpur Mandarin orange saplings distributed under the Fifth Respondent's direction/order.

5. Issue a Writ of Mandamus directing the First, Second, Third and Fourth Respondents to recover the cost of compensation as in the second prayer above from the salary and personal assets of the Fifth Respondent.

6. Direct the First and Second Respondents to conduct an enquiry and initiate penal action against the Fifth Respondent for the grave misappropriation of funds and non-adherence of the prescribed mandates in procuring of Nagpur Mandarin orange saplings in the year 2009.

7. Direct the First and Second Respondents to recover the amount of Rs. 47 (rupees forty seven) lakhs spent to unauthorisedly procure Nagpur Mandarin saplings in the year 2009, from the personal assets of the Fifth Respondent.

8. Direct the First, Second, Third and Fourth Respondents to constitute a committee consisting of NGOs, scientists and representatives of farmers organizations, Indian Institute of Horticultural Research, Central Horticultural Experiment Station and State Agricultural Universities to ensure effective procurement, distribution, cultivation and rejuvenation of Coorg Mandarin Orange.

9. Pass any other such orders or directions that this Honourable Court deems fit to pass in the interests of justice and equity".

2. Heard the learned counsel appearing for the parties and also perused the material available on record.

3. Facts leading to filing of this writ petition narrated in brief are, during the year 2009-2010, the respondents had supplied Nagpur Mandarin saplings to the farmers of Kodagu and other adjacent Districts, where orange is grown, instead of Coorg Mandarin saplings which was grown in this region for the last several decades. It is the case of the petitioners that because of the same, the farmers had to suffer and their crop had failed which had resulted in financial loss to them. It is the case of the petitioners that the respondents without obtaining any expert's opinion had experimented by supplying Nagpur Mandarin saplings and inspite of protests from the farmers' community, respondent No.5 continued to distribute the Nagpur Mandarin saplings and it is under these circumstances, the present writ petition was filed.

4. Learned Counsel appearing for the petitioners, at the outset, submitted that supply of Nagpur mandarin saplings has been stopped after filing of this writ petition and the respondents have been now supplying Coorg Mandarin saplings to the farmers, and therefore, prayer Nos.1 and 2 made in the writ petition will not survive for consideration. She has placed reliance on the preliminary enquiry report at Annexure-M and submits that the concerned Horticulture officers have been warned and they have been directed not to supply Nagpur Mandarin saplings in future. She also submitted that there is no scientific/analytical basis to state that Nagpur orange gives a better yield than Coorg Mandarin orange,

and therefore, there was no necessity for carrying on experiment of supplying Nagpur Mandarin saplings to the farmers.

5. Per contra, learned Additional Government Advocate submits that the material on record would go to show that sufficient number of Coorg Mandarin saplings were not available during the relevant year, and therefore, after obtaining necessary permission from the concerned authorities, Nagpur Mandarin saplings have been supplied. She submits that Coorg Mandarin saplings and Nagpur Mandarin saplings are the same and a DNA report to the said effect has been obtained, which is available on record. She also submits that procuring and supply of Nagpur Mandarin saplings were made through tender process as per the requirements of Karnataka Transparency in Public Procurements Act, 1999, and there is no irregularity as such, either in the procurement or in supply of Nagpur Mandarin saplings.

6. Since the learned counsel for the petitioners has fairly submitted that the prayer Nos.1 and 2 in the writ petition would not survive for consideration having regard to the fact that after 2009-10, the respondents have been supplying only Coorg Mandarin saplings, the only question that arises for consideration is regarding the loss suffered by the farmers and the compensation, if any, to be paid to them.

7. In view of various complaints received from the farmers regarding the loss suffered by them as a result of supplying Nagpur Mandarin saplings instead of Coorg Mandarin saplings, a preliminary investigation was conducted by the Department of Horticulture and it was submitted to the State Government and a copy of the same is produced at Annexure-R1 along with the statement of objections filed by the respondents – State. A perusal of the same would go to show that during the relevant year i.e., 2009-10, there was shortage of Coorg Mandarin saplings, and therefore, a decision was taken for supply of Nagpur Mandarin saplings and procurement of said saplings was made through a tender process. All the tender formalities were observed before procuring the saplings, and therefore, it is clear that a transparent process was followed by the respondents for procuring and supply of Nagpur Mandarin saplings. It is also averred in the statement of objections that a DNA test report was obtained by the Department of Horticulture and it was found that Nagpur Mandarin saplings and Coorg Mandarin saplings are genetically same. Respondent No.5, in fact, was performing his duty to implement the government programme with good intention and there is absolutely no material on record to show that he had indulged in any irregularity, either in supply or procurement of the saplings. The supply of Nagpur Mandarin saplings have been made with good intention, and therefore, no fault as such can be found in supply of saplings.

8. The material on record would go to show that there was shortage of Coorg Mandarin saplings during the relevant year. The petitioners have not placed any material to show that what is the exact loss the farmers have suffered in view of the supply of Nagpur Mandarin saplings to them during the year 2009-10. The

preliminary report at Annexure-M would go to show that Coorg Mandarin and Nagpur Mandarin oranges are two forms of same variety and it is also stated in the report that there is no truth in the allegations that defective and deceased saplings were supplied to the farmers. The report further states that it is only having regard to the traditional and emotional feelings of the farmers of the area, a decision has been now taken to stop supply of Nagpur Mandarin saplings and not for any other reason.

9. Under these circumstance, we are of the considered view that there is no merit in the remaining prayers relating to awarding compensation made by the petitioners in this writ petition. Accordingly, writ petition is dismissed.