
(2023) 02 OHC CK 0038
In the Orissa High Court
Case No : Writ Petition (C) No. 37282 Of 2021

Santilata Sahoo

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 09-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0038

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : Saswati Mohapatra, A.K. Sharma

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. The writ petition was presented on 25th November, 2021. It was moved on 12th January, 2022 before coordinate Bench. It came before this Bench on 16th November, 2022 (the order incorrectly states date as 16th November, 2021). Text of the order is reproduced below.

"1. Ms. Mohapatra, learned advocate appears on behalf of petitioner, who is Secretary of a Self Help Group (SHG). She draws attention to impugned order dated 26th August, 2021, whereby her client's grievance petition was disposed of on reliance of report dated 8th June, 2018 saying that 'Chhatua' supplied by the SHG is unsafe.

2. She draws attention to aforesaid report and demonstrates that the sample was collected on 8th January, 2018 and received for testing on 12th January, 2018. The report is dated 8th June, 2018, as aforesaid. Storage of the sample for such a long time caused change in sugar content in the Chhatua sample. On pointing this out, further sample was collected on 8th June, 2018 and received for testing on 30th June, 2018. She draws attention to report dated 7th September, 2018 saying that the sample was found to be satisfactory on the same test.

3. Mr. Babu, learned advocate, Additional Government Advocate appears on behalf of State and prays for adjournment to obtain instruction.

4. It is made clear further adjournment either for obtaining instructions or for subsequent prayer for filing counter is not likely to be allowed.

Further adjournment was obtained 20th December, 2022 by State. Still further adjournment was obtained on 12th January, 2023, after which counter has been filed.

2. Ms. Mohapatra presses for hearing and order. She submits, the sample of 'Chhatua' was not duly collected. Mr. Sharma, learned advocate, Additional Government Advocate appearing today on behalf of State points out from paragraph-4 in the counter that the sample was collected from petitioner's unit.

3. There are two test reports. Impugned order is based on test report dated 8th June, 2018. It may be called the first report. There is the second test report dated 7th September, 2018. It appears from both test reports that quality/characteristic tested on the samples gave result in both reports, of being within the quality parameters. It is the sample in the first report that exhibited fungal growth, for report on the sample to the unsafe.

4. Sample in respect of the first report was said in the report to be collected on 8th January, 2018 and received on 12th January, 2018. Sample in the second report was said in its report, to have been collected on 8th June, 2018 but received for testing on 30th June, 2018. In spite of such long gap between collection and test, there was not found fungal growth on the sample. However, sample in respect of the first report was tested within four days of collection and found to have fungal growth.

5. Scrutiny of the first report reveals, inter alia, date of manufacture was not mentioned. Condition of the package was in loose poly packet. Not only there was fungal growth but also odour found to be not agreeable. It is presumed that bad odour was caused by the fungal growth. What transpires is that the sample obviously was collected from a consignment that was not manufactured in recent past. As aforesaid, quality/characteristic of the sample could not be faulted in the test.

6. The material on record before Court is not sufficient for an inference that petitioner had supplied below par quality 'Chhatua'. There is nothing disclosed to show that the sample was collected from unit of petitioner on notice. Since it was collected from petitioner's unit, it cannot positively be said that in event the sample was taken from a consignment stored for long there, petitioner would have used it for supply. Petitioner having been selected to supply, it beats logic that the manufactured food item would be kept stored at its unit instead of it supplied. Sample taken at the point of supply and tested, would have been more reliable for the purpose.

7. Since petitioner stands disengaged and quality of supply could not be faulted

except that the sample was tested to be stale, this Court is inclined and does direct opposite party no.3 to release security deposit of petitioner and clear all outstanding in respect of supplies made, within four weeks of communication.

8. The writ petition is allowed to extent above and disposed of.

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