HIGH COURT OF JUDICATURE AT BOMBAY

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.6858 OF 2018

M/s. Ganga Krushi Kendra,
A Proprietary Concern,
Through its Proprietor,
Vinod Balaji Kallawar,
Aged about 51 years,
Occupation : Business,
R/o. Main Road, Shivaji Chowk,
Pusad, Distt. Yavatmal. : PETITIONER

...**VERSUS**...

1. State of Maharashtra,
Through the Ministry of Agriculture,
Mantralaya, Mumbai.

2. District Superintending Agriculture Officer,
& Licensing Authority, Yavatmal. : RESPONDENTS

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3. Heard finally by consent.

4. The impugned order has been passed under Section 14 of the Insecticide Act, 1968. Section 14 confers the power upon the Licensing Officer to suspend, revoke or amend the licence. However, this has to be done by the Licensing Officer after giving the holder of the licence an opportunity of showing cause. This provision is embedded in Section 14 itself and, therefore, it assumes significance in the matter. The opportunity of showing cause to be granted to the licence holder is not an empty formality. It has to be an effective opportunity. After all, any order suspending licence has serious civil consequences for the licence holder and, therefore, it is incumbent on the part of the Licensing Officer to disclose all the material which is against the licence holder and on which the Licensing Officer intends to place his reliance upon. So, the legality and correctness of the impugned order would have to be tested on the touchstone of the principles just stated by me.

5. It is seen from the impugned order that the contravention of the provisions of the Act, according to the Licensing Officer, has occurred because the insecticides have been purchased by the petitioner from a vendor whose name was not included in licence No. LAID 25080014. However, it is an admitted fact that apart from the said licence number there are other licence numbers granted to the other vendors for sale of the insecticides. So, it is obvious that it is not necessary for the retailer

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like the petitioner to make purchases only from the holder of the licence No. LAID 25080014 and that such retailer can also make purchases from the other licence holders.

6. It is the contention of the petitioner that he made purchases of the insecticides from Mahesh Enterprises, having a certificate from the principal manufacturer for sale of its insecticides. However, it is seen from the impugned order that this fact has not been verified for its correctness or otherwise by the Licensing Officer. Section 14 contemplates that the Licensing Officer must be satisfied about the contravention of the provisions of the Act before he passes an order relating to revocation or suspicion etc. of the licence granted. In the absence of the verification properly having been made by the Licensing Officer, I do not think that any satisfaction for the necessity of invoking the power under Section 14 could have been recorded in a lawful manner by the Licensing Officer. However, I find that this requirement of law has not been complied with by the Licensing Officer in the present case. Therefore, the impugned order cannot be sustained in the eye of law, it being patently illegal.

7. Before parting with the order, I must say that the writ petition as filed by the petitioner is maintainable at law. The observation is being made for the reason that initially, learned Assistant Government Pleader for the State, raised an objection regarding maintainability of the

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petition as there is an alternate remedy of appeal provided under Section 15 of the insecticide Act. Section 15, its bare perusal is enough, speaks about the appeal against those orders which are passed under Section 13 except the order passed under proviso to sub-section (4) of Section 13 and Section 14. Impugned order is the one which is passed under Section 14 which is not covered by the provision of Section 15 of the Insecticide Act, 1968. There is no other provision made in the Insecticide Act and which has been shown to me by the learned Assistant Government Pleader which makes the order passed under Section 14 of the Insecticide Act appellable.

8. In view of above, this writ petition is allowed.

9. The impugned order is hereby quashed and set aside.

10. The matter is remanded back to the Licensing Officer for a fresh consideration in accordance with law.

11. Needless to say adequate opportunity of hearing shall be granted to the petitioner.

JUDGE

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