

Court No. - 29

Case :- WRIT - C No. - 28854 of 2022

Petitioner :- Godawari Poultry Farmers Welfare Association

Respondent :- State Of U.P. And 7 Others

Counsel for Petitioner :- Saurabh Pratap Singh, Sr. Advocate

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Misra, J.

Hon'ble Vikas Budhwar, J.

The petitioner claims itself to be an association of Poultry Farmers registered under the Society Registration Act, 1860.

Petitioner is aggrieved by certain directions issued by the Director, Horticulture and Food Processing, U.P., Lucknow (for short the Director) in respect of dealing with eggs stored in the cold storages within the State of Uttar Pradesh.

From the document which has been annexed as annexure-3 to the petition it appears that the Director issued a direction in the form of an advisory to various District Horticulture Officers of the State; Superintendent of Government owned gardens; and Potato and Vegetable Development Officers of the State in respect of handling and storage of eggs in the cold storages. The said advisory letter dated 13.09.2022 mandates that only those eggs are to be stored in a cold storage which comply the BIS Standards and their storage should be in a separate compartment maintaining a specified temperature. Pursuant to the advisories, the concerned authorities have been required to carry out spot inspection of cold storages with in the State of Uttar Pradesh to ascertain whether eggs are being stored in the manner specified.

As a follow up to the advisory issued on 13.09.2022, the Director issued a letter on 16.09.2022 addressed to the District Udyan Adhikari, Lucknow with copy to: (1) the personal secretary of Krishi Utpadan Commissioner, Government of U.P., Lucknow; (2) District Magistrate/Licensing Authority of all cold storages within the State of U.P.; and (3) All Regional Deputy Director of Horticulture and District Horticulture Officers within the State of Uttar Pradesh. By the said letter a direction has been issued that eggs stored in all private cold storages be taken out by 17.09.2022 and it be ensured that private cold storages do not store eggs.

We have heard Sri R. K. Ojha, learned Senior Counsel for the petitioner and the learned Standing Counsel for the respondent nos. 1 to 8.

Sri R. K. Ojha, submitted that if the direction dated 16.09.2022 is strictly complied then all eggs stored within the State of Uttar Pradesh would have to be taken out of the cold storages resulting in massive loss not only to the poultry farmers but also to the public at large and it may be a threat to food security. He further submits that from the letter dated 13.09.2022, which has been issued by

the Director in the form of an advisory, it does not appear that storage of eggs in cold sotrages is prohibited. Rather, it seeks to regulate their storage so that eggs are kept in separate chambers of the cold storage and at a specified temperature. The terms and conditions of the license for running a cold storage require that items stored, having different smell, be kept separately. There is no blanket prohibition on keeping eggs therefore, the kind of direction issued by the Director dated 16.09.2022 is uncalled for and arbitrary as also violates fundamental right guaranteed under Article 19(1)(g) of the Constitution of India.

The learned Standing Counsel on the contrary argued that storage in a cold storage is governed by U.P. Regulation of Cold Storages Act, 1976 as per which, only an agricultural produce as defined in Section 2 (a) of the 1976 Act can be stored. The definition of an agricultural produce does not include poultry product therefore, as the licenses issued under the 1976 Act permit only keeping of agricultural produce, storage of eggs in the cold storage would not be permissible, therefore, the direction issued is neither arbitrary nor without jurisdiction.

The matter requires deeper consideration after inviting response from the State-respondents.

However, as we notice from the advisory letter dated 13.09.2022, which is at page 19 of the paper book (Annexure-3), that there is no absolute prohibition for storage of eggs in the cold storages though, they are to be kept separately in a separate compartment, at a different temperature, after they meet the BIS Standard, we are of the view that the Director Horticulture and Food Processing, Uttar Pradesh should re-examine its order dated 16.09.2022 keeping in mind the earlier advisory letter dated 13.09.2022 as also the provisions of the 1976 Act, the Rules and Regulations framed thereunder and may pass a fresh order by the next date.

Let this matter be listed on 28.09.2022 as fresh. In the meantime, the second respondent (The Director, Horticulture and Food Processing Uttar Pradesh) shall re-examine the order dated 16.09.2022 in the light of the observations above and may pass an appropriate order which is to be placed before the Court by the next date.

A copy of this order be supplied to the Chief Standing Counsel for communication and necessary action.

Order Date :- 20.9.2022

Nisha