

MHRG010025532019



Presented on : 08/07/2019
 Registered on : 08/07/2019
 Decided on : 18/08/2026
 Duration : Y. M. D.
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Part 'A'
(Title Page of Judgment)

<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE,</u> <u>RAIGAD ALIBAG.</u> <u>(Presided over by Shri. R. M. Nerlikar)</u>	
Date of Judgment : 18/08/2026 E.C.Act Special Case No. : 1/2019 Exh. No. : 43/A	
Details of FIR/ Crime and Police Station	Alibag Police Station
Complainant	Government of Maharashtra, Through P. F. Salve, Age – 50 years, Fertilizer Inspector & Quality Control Inspector, Taluka Agriculture Officer, Alibag, District – Raigad.
Represented by	Shri. Dilip P. Bahiram, Ld. APP for the State.
Accused	1) M/s. Rashtriya Chemicals & Fertilizer Ltd., through Director, Marketing Division, 8 th floor, R.C.F. Ltd., Priyadarshani, Eastern Express high-way, Sion – Mumbai 400 022,

	2) Bhalchandra Ramchandra Naik, Age – 60 years, M/s. Shree Samarth Agro, Sagmala Chowl, Tal. Alibag, District – Raigad.
Represented by	Shri. R.V. Oak, Ld. Advocate for accused No.1 Smt. Jaimala Patil, Ld. Advocate for accused No.2

Part 'B'

Date of offence	:	03/07/2014
Date of FIR	:	-----
Date of Complaint	:	22/07/2015
Date of Framing of Charges	:	07/06/17
Date on which Judgment is reserved	:	14/08/2026
Date of Judgment	:	18/08/2026
Date of the Sentencing order, if any	:	--

Ran k of accu sed	Name of accused	Date of Arre st	Date of Rele ase on bail	Offences Charged with	Wheth er acquitt ed or Convic ted	Sent ence impo sed	Period of Detentio n Underg one during Trial for the purpose of Section 428CR.

							P C.
1)	M/s. Rashtriya Chemicals & Fertilizer Ltd., through Director,	--	--	Under Sec. 13(2), 19(a)(b) of fertilizer (Control) Order, 1985	Acquit ted	--	--
2)	Bhalchand ra Ramchand ra Naik,	--	--	p.u.s. 3 r/w section 7(1) (a)(ii) of Essential Commoditie s Act, 1955.	Acquit ted	--	--

JUDGMENT

(Delivered on 18/08/2026)

The accused have faced trial for the offences punishable under Clauses 13(2) and 19(a) and (b) of the Fertiliser (Control) Order, 1985, read with Sections 3 and 7(1)(a)(ii) of the Essential Commodities Act, 1955.

02. The prosecution case, in brief, is that the complainant is a public servant working as Fertilizer Inspector and designated as Quality Control Inspector in the office of the Taluka Agriculture Officer, Alibag, District Raigad. He was appointed as Fertilizer Inspector under Clause 27 of the Fertiliser (Control) Order, 1985 and was authorised to inspect fertilizer manufacturers and dealers and to draw samples.

03. Accused No.1 is alleged to be the manufacturer of fertilizer namely 15:15:15 Nitrophosphate with Potash, which is an essential commodity under the Essential Commodities Act, 1955 and is included in Schedule I, Part A of the Fertiliser (Control) Order, 1985. Accused No.2 is alleged to be the dealer/shop owner and the person responsible for stocking and selling the said fertilizer.

04. On 03.07.2014, the Quality Control Inspector visited the premises of Accused No.2 for routine inspection and allegedly collected a sample of 15:15:15 Nitrophosphate with Potash from the stock. According to the prosecution, three samples were drawn and an acknowledgment was obtained in Form 'J'. One sample was handed over to Accused No.2.

05. One sample was thereafter sent to the Fertilizer Testing Laboratory, Nashik, for analysis vide Memorandum No.603 dated 04.07.2014. The laboratory report dated 23.07.2014 declared the sample to be not according to the prescribed specifications. The report recorded Total Nitrogen at 12.28 against the specified value of 15.00, Total P₂O₅ at 16.65 against 15.00 and Water Soluble K₂O at 16.68 against 15.00.

06. A show-cause notice along with the analysis report was thereafter issued to Accused Nos.1 and 2. Accused No.1 disputed the analysis and requested referee analysis under Clause 32-A(2) of the Fertiliser (Control) Order, 1985. The request was accepted and the sample was sent for re-analysis to the Fertilizer Testing Laboratory at Surat.

07. The referee analysis report dated 21.02.2015 also declared the sample to be not according to specification and recorded failure in respect of Total Nitrogen, NH₄ Nitrogen, NO₃ Nitrogen and Water Soluble k₂O contents.

08. The prosecution alleges that Accused No.1 manufactured, sold and distributed non-standard fertilizer and that Accused No.2 stocked and sold the said fertilizer, thereby contravening Clauses 13(2) and 19(a) and (b) of the Fertiliser (Control) Order, 1985 and attracting penal provisions under Sections 3 and 7(1)(a)(ii) of the Essential Commodities Act, 1955.

09. The learned Chief Judicial Magistrate committed the case to the Court of Sessions, as the alleged offences were exclusively triable by the Court of Sessions. Charge was framed at Exhibit 30 for the aforesaid offences. The contents of the charge were read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. Their defence is of total denial and false implication.

10. The prosecution examined Pandurang Fakira Salave (PW1). The accused did not adduce any evidence in defence. Their statements under Section 313 of the Code of Criminal Procedure were recorded.

11. Heard learned APP Shri Dilip P. Bahiram for the State, learned Advocate Shri R.V. Oak for Accused No.1, learned Advocate Shri J.G. Patil for Accused No.2 and learned Advocate Shri A.G. Patil

for Accused No.3.

12. Learned counsel for the accused relied upon the judgment of the Hon'ble Supreme Court in ITC Limited Vs. State of Karnataka and Another, (2026) 4 Supreme Court Cases 603, particularly the observations regarding applicability of the procedure prescribed under the Code of Criminal Procedure to special enactments unless expressly excluded.

Note :- “The oral as well as documentary evidence produced by the prosecution/ complainant/ accused/ Court is shown in Part ‘C’, appended to the judgment, as directed in Para 44(iii), Chapter VI of Criminal Manual.”

13. The points for determination along with my findings thereon as under;

<u>Sr. No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1)	Does the prosecution prove that, on 03/07/2014 at M/s. Shree Samarth Agro, Sagmala Chowl, Tal. Alibag, Dist. Raigad accused No.2 stocked for sale and sold the non standard fertilizer 15:15:15 Nitrophosphate with Potash to complainant, Fertilizer Inspector and accused No.1 manufactured, sold and	.. No.

	distributed the non standard fertilizer 15:15:15 Nitrophosphate with Potash and thereby, committed an offence in contravention of provisions of Section 13(2), 19(a)(b) of Fertilizer (Control) Order, 1985 punishable Section 3 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955 ?		
2)	What order ?	..	As per final order.

REASONS

AS TO POINT NO. 1:-

14. The complainant has been examined as PW-1. His evidence establishes that he was working as an officer concerned with fertilizer inspection. The Maharashtra Government Gazette at Exhibit 16 shows his appointment as Fertilizer Inspector. Therefore, his competence to inspect and draw samples cannot be seriously disputed.

15. However, the principal question is whether the prosecution has established that the sample alleged to have been collected from the stock of the accused was drawn strictly in accordance with the mandatory procedure prescribed under the Fertiliser (Control) Order, 1985.

16. In his cross-examination, PW-1 admitted that he could not say whether he had taken the sample from a gunny bag. He further admitted that he had not prepared a panchanama regarding the taking of the sample. He himself had carried a plastic bag for keeping the sample and admitted that he had not assured the shopkeeper that the bag was clean and dry.

17. PW-1 further admitted that he had obtained the sample directly from the bag and had not poured the fertilizer on a clean surface for mixing before taking the representative sample. He also admitted that it was necessary to collect a representative sample from the stock.

18. The aforesaid admissions assume significance because the Fertiliser (Control) Order prescribes a specific procedure for drawing samples. The sampling instrument, the material sampled and the bags used for samples are required to be free from contamination and appropriate precautions are required to be taken while collecting the representative sample.

19. PW-1 also admitted that the original copy of Memorandum No.603 dated 04.07.2014 was not produced on record and that he had not obtained an acknowledgment showing dispatch of the sample to the Fertilizer Testing Laboratory, Nashik.

20. The prosecution relies heavily upon the laboratory report. However, an analyst's report by itself cannot establish the guilt of the

accused unless the prosecution first establishes that the sample analyzed was properly drawn from the stock of the accused and that the sample tested was the same sample which was collected during the inspection.

21. In the present case, serious deficiencies have emerged regarding the manner in which the sample was drawn. PW-1 was unable to state from which bag the sample was taken. No panchanama of the sampling was prepared. There is also no satisfactory evidence that the necessary precautions regarding cleanliness and dryness of the sampling instrument and container were followed.

22 The prosecution has thus failed to establish compliance with the prescribed procedure for obtaining a representative sample. This assumes further importance because the entire prosecution case regarding the fertilizer being non-standard rests upon the analysis of that sample.

23. It is true that the first analysis report as well as the referee analysis report declared the sample to be below the prescribed standards. However, the existence of an adverse laboratory report does not by itself prove that the accused committed the alleged offence. The prosecution must establish the identity and integrity of the sample and compliance with the mandatory sampling procedure.

24. The settled principle applicable to prosecutions under the Fertiliser (Control) Order is that where penal consequences follow from an alleged breach of the Order, the prosecution must establish compliance with the prescribed mandatory procedure. The prosecution must prove that the sample was properly drawn, sealed, labeled and dispatched and that the sample analyzed was the same sample collected from the accused.

25. In the present case, the evidence of PW-1 itself creates material doubt regarding the manner in which the sample was collected. The prosecution has therefore failed to establish beyond reasonable doubt that the sample analyzed by the laboratory was a properly drawn representative sample of the fertilizer stocked or sold by the accused.

26. It is a settled principle of criminal jurisprudence that the burden rests upon the prosecution to establish the guilt of the accused beyond reasonable doubt. The accused are entitled to the benefit of every reasonable doubt arising from the prosecution evidence.

27. In view of the material deficiencies in the sampling procedure and the consequent doubt regarding the identity and reliability of the sample analyzed, this Court is of the considered opinion that the prosecution has failed to establish the essential ingredients of the alleged offences beyond reasonable doubt. Consequently, Point No.1 is answered in the Negative.

AS TO POINT NO.2:-

28. In view of the finding on Point No.1, the accused are entitled to acquittal. So far as seized muddemal property if any is concerned shall be dealt with in accordance with law after expiry of the appeal period. Accordingly I answer point No.2 and pass following order.

ORDER

1. Accused Nos.1 and 2 are hereby acquitted of the offences punishable under Clauses 13(2) and 19(a) and (b) of the Fertiliser (Control) Order, 1985, read with Sections 3 and 7(1)(a)(ii) of the Essential Commodities Act, 1955.
2. Their bail bonds stand cancelled.
3. The accused shall furnish P. R. bond of Rs.15,000/-, each with one surety in the like amount or cash surety of Rs.15,000/- each as per the provisions of Sec. 437-A of Code of Criminal Procedure.
4. The seized property, if any, shall be dealt with in accordance with law after expiry of the appeal period.
5. The accused are set at liberty forthwith, if not required in any other case.

Alibag.
Date: 18.08.2026

(R. M. Nerlikar)
Addl. Sessions Judge,
Raigad-Alibag

PART 'C'**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES****A. Prosecution Witnesses :**

Rank	Name of Witness	Nature of Evidence
PW-1	Pandurang Fakira Salave	Complainant

B. Defence Witnesses, If any :

Rank	Name of Witness	Nature of Evidence
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C. Court Witnesses, If any :

Rank	Name of Witness	Nature of Evidence
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List of Prosecution / defence / Court exhibits :-**A. Prosecution**

Sr. No.	Exhibits Number	Description
1.	Exh. 16	Maharashtra Government Notification
2.	Exh. 17	Form "J"
3.	Exh.18	Form "K"
4.	Exh. 19	Form "L"
5.	Exh. 20	Show cause notice dt.09/09/2014
6.	Exh. 21	Report of Rashtriya Chemicals & Fertilizers Lmt.

7.	Exh. 22	Letter dt.20/10/2014
8.	Exh. 23	Letter dt.11/12/2014
9.	Exh. 24	Analysis Report of Surat
10.	Exh. 25	Show cause notice dt.19/05/2015
11.	Exh. 26	Order dt. 19/05/2015

B. Defence :

Sr. No.	Exhibits Number	Description
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C. Court Exhibits :

Sr. No.	Exhibits Number	Description
1.	30	Charge

D. Material Objects :

Sr. No.	Material Object Number	Description
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Alibag.
Date: 18.08.2026

(R. M. Nerlikar)
Addl. Sessions Judge,
Raigad-Alibag