

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(STATUTORY APPELLATE JURISDICTION)

CUSTOMS APPEAL NO. 729 OF 2022

IN THE MATTER OF:

An appeal under Section 196D of the Customs Act, 1969.

And

IN THE MATTER OF:

Md. Imran Hossain

..... Appellant

-vs-

***Customs, Excise and VAT Appellate Tribunal
others.***

..... Respondents.

And

Mr. A.R.M. Qayyum Khan, Advocate with
Mr. Munshi Moniruzzaman, Advocate and
Mr. Mohammad Samiul Huq, Advocate

..... for the Appellant

Mr. Samarendra Nath Biswas, D.A.G. with
Mr. Md. Abul Kalam Khan (Daud), A.A.G. with
Mr. Md. Modersher Ali Khan (Dipu), A.A.G. and
Mr. Md. Taufiq Sajawar (Partho), A.A.G.

....For the Respondents-government.

***Heard on: 04.01.2023, 11.01.2023
and Judgment on:25.01.2023***

Present:

Mrs. Justice Farah Mahbub.

And

Mr. Justice Ahmed Sohel

Farah Mahbub, J:

This appeal is directed against the impugned judgment and order dated 21.03.2022 passed by the Customs, Excise and VAT Appellate Tribunal (Bench-1), Dhaka in Customs Appeal No.Cus-500/2021

communicated through Nothi No. CEVT/Case (Cus)- 500/2021/277 dated 28.03.2022 rejecting the appeal and thereby affirming the order dated 09.09.2021 passed by the respondent No.2 vide order No.10/Cus/2021 communicated through Nothi No.5-Cus 12-(244) গুন্ডায়ন টীম-১/২০২১/২০৩৯১ (৮), confiscating the imported items in favour of the State and also imposing penalty of Tk.25,00,000/- (Taka twenty five lac) only.

Facts, relevant for disposal of the appeal, in short, are that the appellant is the proprietor of SADEEQ, a sister concern of Sadeeq Agro Limited who produces and sells beef cattle and also, supplies large quantity of cow milk to the respective consumers. They also make collaboration with other foreign partners who are involved with agro based industries. The appellant has obtained Import Registration Certificate (IRC) bearing No.26032611044919 from the concerned authority in connection with the respective business.

On 01.05.2021, one Agro Trade International, 7020 HWY 75 South MADISONVILLE, Texas, USA made a promotional offer to the appellant at their expense to an experimental one year trial on Brahman breed cow/cattle and also, to take opportunity to conduct a study and assess the performance of the said category of cattles in Bangladesh climate by sending respective number of cows of Brahman breed. To that effect a memorandum of understanding was executed with the appellant. Pursuant to the said understanding 18 (eighteen) live cattles were sent to Bangladesh after due vaccination along with health certificate issued by the concerned office of the USA for the purpose of exportation of those cattles. However,

prior to import of those live cattles the appellant made an application before the office of respondent No.3 on 02.05.2021 along with required documents for no objection certificate, as a requirement of mortality of the importing object. Ultimately, said Agro Trade International of USA sent 18(eighteen) live cattles to Bangladesh for the purpose of research and development in favour of the appellant, as is apparent from Proforma Invoice, Packing list, Invoice and Airways Bill bearing No.235-IAH-68775906 dated 05.07.2021. While the said 18(eighteen) Brahman live cattles reached Hazrat Shahjalal Internatinal Airport, Dhaka the concerned C & F Agent of the appellant paid Tk.2,33,025/- (Taka two lace thirty three thousand and twenty five) upon submitting Bill of Entry bearing No.618220 dated 26.07.2021.

The appellant before being able to take steps for releasing those live cattles the respondent No.2 meanwhile had handed over 17(seventeen) live cattles since 1(one) meanwhile died, to Savar Diary Firm, a concern of respondent No.3. Subsequent thereto the respondent concerned vide order dated 29.07.2021 directed the appellant to have the consignment released under Bill of Entry No.618220 dated 26.07.2021 subject to fulfillment of the conditions as prescribed under the Import Policy Order, 2015-2018.

Meanwhile, the appellant filed an application before the concerned authority of the Ministry of Commerce for issuing Clearance Permit (CP). In response thereof said Ministry issued CP on 05.08.2021 in favour of the appellant subject to certain conditions. Later, the appellant made another application with a prayer for modification of the earlier CP issued on 05.08.2021 by the said Ministry. The Ministry of Commerce accordingly

issued another CP on 26.01.2022 upon replacing the earlier one in favour of the appellant but maintaining similar conditions.

At this juncture, the Commissioner concerned vide Nothi No. ৫-কাস-১২(২৪৪) টীম-১/২০২১/১৭৩১২ dated 10.08.2021 issued a show cause notice upon the appellant as to why the imported consignment should not be confiscated and penalty be imposed upon the appellant basing on the allegations, *inter alia*, that the appellant had brought live cattles in Bangladesh through Air on 05.07.2021, but did not take any immediate steps for release of those items. Moreover, despite the appellant was informed to take necessary steps under Section 79 of the Customs Act, 1969 (in short, Act, 1969) for release of those cattles but respective Bill of Entry was submitted after a lapse of 21(twenty one) days of its arrival; hence, had violated Section 82 of the said Act; also, for having failed to submit quarantine certificate as was required under Clause 26(41) of the Import Policy Order, 2015-2018. In addition, vide the respective office letter issued by the Directorate of Livestock, it was stated that the appellant had imported those live cattles before taking prior permission from the said authority; hence, had violated Clause 3(11) of the “বেসরকারি পর্যায়ে গবাদি পশুর কৃত্রিম প্রজনন কার্যক্রম পরিচালনার সংশোধিত নীতিমালা-২০১৬” (in short, the Guidelines) and Schedule (ka) of the respective Rules and Regulations ; also, having failed to comply with the conditions as prescribed under Clearance Permit (CP) issued by the Ministry of Commerce in particular condition (ka) and (uma). Accordingly, the appellant was directed to give reply within a prescribed period. In response thereof, the appellant gave reply on 23.08.2021 controverting the assertions so made therein. Upon hearing the respective contending parties the Commissioner of Customs, Customs House, Dhaka

vide adjudication order No.10/Cus/2021 dated 09.09.2021 confiscated the live cattles in favour of the State under Section 17 of the Customs Act, 1969 for violation of Section 16 of the said Act for non-compliance of Clause 26(41) of the Import Policy Order, 2015-2018 read with “বাংলাদেশ পশু ও পশুজাত পণ্য সঙ্গ নিরোধ আইন, ২০০৫” (in short, the Act, 2005) and had also, imposed penalty of Tk.25,00,000/- (Taka twenty five lac) only under Clause 9(1) of the Table of Section 156(1) of the Act, 1969.

Being aggrieved, the appellant preferred an appeal before the Tribunal bearing Appeal No.Cus-500/2021, which was ultimately dismissed upon hearing the parties concerned vide judgment and order dated 21.03.2022 and thereby affirmed the order dated 09.09.2021 passed by the Commissioner concerned.

Challenging the judgment and order dated 21.03.2022 passed by the Tribunal, the appellant has preferred the instant appeal before this Court under Section 196D of the Customs Act, 1969.

Mr. A.R.M. Qayyum Khan, the learned Advocate appearing with Mr. Munshi Moniruzzaman and Mr. Mohammad Samiul Huq, the learned Advocates for the appellant submits that since there is no restriction imposed by any legal instrument in observing growth and survival rate of Brahman cattle in Bangladeshi climate, keeping that view in mind those category of cattles were imported by the appellant in order to carry out natural growth and rehabilitation. To that effect, Agro Trade International, USA had entered into a Memorandum of Understanding with the appellant.

He further submits that clause Article 26(41) of the Import Policy Order, 2015-2018 refers to the requirement of quarantine without giving reference to Act of 2005, which is not a restriction to import, as envisaged

in Section 16 read with Section 17 of Customs Act, 1969. Moreover, he submits, the scheme of the Act of 2005 is to ensure that animals are quarantined so that no contagious disease can spread from animals and that said requirement under the Act of 2005 is applicable only after arrival of cattles, not before. Accordingly, he submits that since the cattles in question were never handed over to the appellant hence, the appellant was not in a position to comply with the quarantine procedures.

He also goes to argue that although the appellant failed to notify the concerned authority 15 days prior to arrival of the cattles in Bangladesh in compliance of Section 9 of the Act, 2005; but since those cattles have been kept in isolation for the last 1 (one) year hence, the necessity and purpose for complying with the quarantine procedure under the Act of 2005 and Import Policy Order, 2015- 2018 have already been meted out. Moreover, vide Section 20 of the Act, 2005 for violation of the Act of 2005 will not render confiscation of the cattles in question.

He again submits that the appellant's dairy farm does not have any infrastructure to conduct “কৃত্রিম প্রজনন” and the Directorate of Livestock also did not grant any permit to appellant's farm to conduct the same, As such, “বেসরকারি পর্যায়ে গবাদি পশুর কৃত্রিম প্রজনন কার্যক্রম পরিচালনার সংশোধিত নীতিমালা-২০১৬” does not have any manner of application in the instant case.

In this regard he also submits that Clearance Permit (CP) was obtained by the appellant after the arrival of the cattles in question; as such, question of compliance of the quarantine requirement, as stipulated in the CP were applicable only when the cattles were released in their favour. Hence, it cannot be said that the appellant has violated the conditions as prescribed in the CP.

Lastly, he submits that on receipt of the CP, the Commissioner concerned ought to have released the cattles by imposing necessary duties and fine. Instead, by passing the impugned order of confiscation he has totally frustrated the purpose of obtaining the CP by the appellant. Accordingly, he submits that upon allowing the appeal a direction is required to be given upon the respondents concerned to release the cattles in question in favour of the appellant within a prescribed period.

Countering the assertions of the appellant, Mr. Samarendra Nath Biswas, the learned Deputy Attorney General appearing on behalf of the respondents concerned submits that admittedly prior to initiating the process for exportation of the live cattles in question in Bangladesh, the appellant did not take any approval from the Directorate of Livestock nor the officer concerned of the said department was informed to that effect, as is required under Section 9 of the Act, 2005. Above all, he submits, the appellant did not take quarantine certificate to be issued by the said Directorate in compliance of clause 26(41) of the Import Policy Order, 2015-2018 read with Sections 3 and 4 of the Act, 2005.

In this regard, drawing attention to the respective correspondences so made by the respondent concerned including Clearance Permit issued by the Ministry of Commerce, he submits that prior to initiating proceedings under Section 156(1) of the Act, 1969 the appellant was repeatedly requested by the respondent concerned to take release of the cattles subject to fulfillment of the conditions as prescribed under the law, but it failed miserably. In that view of the matter, he submits that the appellant having violated the restrictions so have been imposed by the Legislature and also, in the respective Rules as well as the Guidelines framed by the

government, the Commissioner, Customs House, Dhaka has rightly confiscated those live cattles under Section 17 of the Act, 1969 upon detaining and placing them at Savar Poultry Farm by passing the impugned adjudication order dated 09.09.2021, which has been affirmed by the Tribunal. Accordingly, he submits that the appellant having failed to substantiate any of its contentions, this appeal is liable to be dismissed.

In view of the submissions of the learned Advocate for the appellant and the learned Deputy Attorney General for the respondent concerned, we have gone through the adjudication order dated 09.09.2021 passed by the Commissioner concerned as well as the impugned judgment and order dated 21.03.2022 passed by the Tribunal in Appeal No. Cus-500/2021, which is under challenge in this appeal.

From record it appears that at the instance of the appellant 18(eighteen) Brahman live cattles were imported by Air, which arrived at Hazrat Shahjalal International Airport, Dhaka on 05.07.2021. Since the appellant was not available at the relevant time and place hence, vide office order dated 05.07.2021 passed under Nothi No.5-cus-(40)ঐ:/Dha:Ka:Ha:- preventive the authority concerned directed the other concerned authority to take necessary steps to stop release of those cattles and also, for making necessary arrangements for temporary preservation of those. Pursuant thereto Biman Bangladesh Airlines handed over 17(seventeen) live cattles, since 1(one) had died meanwhile, to the authority concerned of the Directorate of Livestock for temporary preservation.

It also appears from record that without submitting any Bill of Entry, which is the mandatory requirement of law, the appellant made applications to the authority concerned on 07.07.2021, 11.07.2021 and

14.07.2021 respectively for release of those cattles. In response thereof, the respondent concerned vide office letters dated 11.07.2021, 13.07.2021 and 15.07.2021 respectively directed the appellant to submit required documents under Import Policy Order, 2015-2018 and other relevant documents along with Bill of Entry. However, after a lapse of 21 days of arrival of those cattles the appellant submitted Bill of Entry bearing No.C-618220 dated 26.07.2021, but without submitting clearance permit and other required documents. Accordingly, the respondent concerned vide office letter dated 29.07.2021 requested the appellant to have those cattles released upon submission of required documents. Meanwhile, pursuant to the direction given by this Court in writ petition No. 103(A-17) of 2021 the customs authority upon disposing of the application of the appellant dated 11.07.2021 vide office letter dated 13.07.2021 notified that without submission of bill of entry under Section 79 of the Act, 1969 and other relevant documents under Import Policy Order decision for assessment and release of the cattles could not be possible.

On 08.08.2021, the appellant made an application before the authority concerned for release of the live cattles upon obtaining clearance permit issued by the Ministry of Commerce on 05.08.2021. However, for violation of the respective provisions of law while importing those live cattles a show cause notice was accordingly issued upon the appellant on 10.08.2021 by the Commissioner concerned. In response thereof, the appellant gave reply. The reply of the appellant having been found not satisfactory, said Commissioner vide adjudication order dated 09.09.2021 confiscated the live cattles under Section 17 of the Act, 1969 for violation of Section 16 of the said Act read with clause 26(41) of the Import Policy

Order, 2015-2018 and “বাংলাদেশ পশু ও পশুজাত পণ্য সঙ্গ নিরোধ আইন, ২০০৫, which led to filing the instant appeal before the Tribunal and ultimately, before this Court under Section 196D of the Customs Act, 1969.

Admittedly, import of live cattles is not prohibited under the law but subject to restrictions as have been imposed under the respective statute, Rules and Import Policy Order, 2015-2018.

Now, let us have a look at the relevant provisions of law, which deal with the respective procedures in order to import live cattles in Bangladesh.

Vide Section 3 of the “বাংলাদেশ পশু ও পশুজাত পণ্য সঙ্গ নিরোধ আইন, ২০০৫” (Act No.6 of 2005) Act, (in short, the Act of 2005) the government is empowered to impose conditions in the respective Import Export Policy Order so framed under the Imports and Exports (Control) Act, 1950 (Act No. 39 of 1950)] to quarantine any live cattles or livestock, prohibit its import or export or restrict or any other way may control it. However, vide Section 4 any notification published under Section 3 shall be deemed to have been issued under Section 16 of the Customs Act, 1969.

Sections 3 and 4 of the Act, 2005 are quoted as under-

“৩। The Imports and Exports (Control) Act, 1950 (XXXIX of 1950) এর অধীন সরকার কর্তৃক, সময় সময় জারীকৃত আমদানি বা রপ্তানি নীতি আদেশে বিধৃত শর্তে কোন পশু বা মানুষের রোগের কারণ হইতে পারে এইরূপ কোন পশু বা পশুজাত পণ্যের সঙ্গনিরোধ, আমদানি বা রপ্তানি নিষিদ্ধ, সীমিত বা অন্য কোনভাবে নিয়ন্ত্রণ করা যাইবে।

৪। ধারা ৩ এর অধীন জারীকৃত প্রজ্ঞাপন এইরূপে কার্যকর হইবে যেন উহা The Customs Act, 1969 (IV of 1969), অতঃপর এই ধারায় উক্ত Act বলিয়া উল্লিখিত, এর ধারা-১৬ এর অধীন জারী করা হইয়াছে, এবং উক্ত Act এর অধীন কোন পণ্য আমদানি বা রপ্তানির ক্ষেত্রে শুল্ক কর্মকর্তাদের, সময় সময়, বাধা-নিষেধ আরোপ করিবার যেই ক্ষমতা রহিয়াছে সেই একই ক্ষমতা উক্ত প্রজ্ঞাপনে উল্লিখিত পশু বা পশুজাত পণ্যের আমদানি বা রপ্তানির ক্ষেত্রে প্রয়োগ করা যাইবে, এবং উক্ত Act এর বিধানাবলী একইরূপে এই আইনের ক্ষেত্রেও বলবৎ থাকিবে।”

Section 16 of the Customs Act, 1969 is also quoted below for ready reference.

“16. The Government may, from time to time, by notification in the official Gazette, prohibit or restrict the bringing in to or taking out of Bangladesh of any goods of specified description by air, sea or land.”

In view of the above provisions of law, the Legislature has made the conditions as prescribed under the Act, 2005 as well as Import, Export Policy Orders applicable under the Customs Act, 1969 for import or export of live cattles.

However, under Section 9 of the Act, 2005 the importers are required to inform the respective quarantine officers in the prescribed form 15 days prior to import of the said cattles, which runs as under-

“ ধারা ৯- আমদানিকারক কর্তৃক আমদানির বিষয়ে অবহিতকরণ-

প্রত্যেক আমদানিকারক কোন পশু ও পশুজাত পণ্য আমদানির ক্ষেত্রে উক্ত আমদানির অনূন ১৫ (পনের) দিন পূর্বে উক্ত আমদানিতব্য পশু বা পশুজাত পণ্য সম্পর্কে সঙ্গনিরোধ কর্মকর্তাকে নির্ধারিত পদ্ধতিতে অবহিত করিবো।”

At the same time, Section 78 of the Act, 1969 prescribes the procedures of prior entry for immediate release /discharge so that the lives of those cattles would not be at risk and also, to avoid destruction of government property.

In addition, vide Section 79(1B) of the Act, 1969 the owner of those imported cattles is required to deliver bill of entry within 5(five) working days since arrival. Even, vide the proviso to sub-section (2) of Section 79, the Commissioner of Customs may permit a bill of entry to be represented before delivery of the import manifest if the aircraft in which the cattles have been boarded for importation is expected to arrive within 30(thirty) days from the date of such presentation.

Section 79(1B) and proviso to sub-section (2) of Section 79 are quoted below for cursory glance –

“79(1B) A bill of entry under sub-section (1) shall be delivered within five working days since the arrival of goods:

Provided that the Board may, by notification in the official Gazette, extend such time upon stipulating such conditions or limitations as it deems fit and proper.]

⁴[(2) A bill of entry under sub-section (1) may be presented and the goods be cleared at any time within ⁵[thirty] days of the date of unloading thereof at a customs-port or a land customs-station or customs-inland container depot or ⁶[within twenty one days of] the date of unloading thereof at a customs-airport or within such extended period as the Commissioner of Customs may deem fit:

Provided that the Commissioner of Customs may permit a bill of entry to be presented even before the delivery of the manifest if the vessel or the aircraft by which the goods have been shipped for importation into Bangladesh is expected to arrive within thirty days from the date of such presentation ”

However, vide clause 26(41) of the Import Policy Orders, 2015-2018 quarantine certificate for live cattles issued by the Directorate of Livestock is mandatory, which runs as under:

“26 (41) প্রাণী, উদ্ভিদ ও উদ্ভিদ পণ্য- প্রাণী, উদ্ভিদ ও উদ্ভিদ পণ্য আমাদানির ক্ষেত্রে কোয়ারান্টাইন শর্তাবলী প্রযোজ্য হইবে এবং উদ্ভিদ ও উদ্ভিদ জাত পণ্য আমাদানি ও রপ্তানিতে উদ্ভিদ সংগনিরোধ আইন, ২০১১ প্রযোজ্য হইবে। ”

Further, in view Clause 3.11 of the “বেসরকারি পর্যায়ে গবাদি পশুর কৃত্রিম প্রজনন কার্যক্রম পরিচালনার সংশোধিত নীতিমালা-২০১৬” (in short, the Guidelines) any artificial breeding process under Beef Cattles Development Project shall be under the control of the Government and thereby debarring private sector from running those kinds of cattle projects. However, without approval of the authorized officer of the respective Directorate the procedures of artificial breeding shall not be allowed to run. However, in Clause 3.0 of sub Clause (ii) of “পরিশিষ্ট ক” of the said Guidelines, 2016, 50% Brahman and 50% local beef cow will be used for meat production.

Subject to the above restrictions and compliance of the respective procedures as prescribed under the statute i.e. Section 16 of the Act, 1969 and the Rules so framed thereunder as well as the Guidelines the importer is entitled to import live cattles by air, sea or land. However, under Section

17 of the Act, 1969 if any cattle is imported in violation of the restrictions so imposed vide notification issued under Section 16, is liable to be detained and confiscated and shall be disposed of in such manner as may be prescribed under the law.

Section 17 of the Act, 1969 is accordingly quoted below:

“⁶¹[17. Where any goods are imported into or attempted to be exported out of Bangladesh in violation of the provisions of the section 15 or of a notification under section 16, such goods shall, without prejudice to any other penalty to which the offender may be liable under this Act, or any other law, be liable to be detained and confiscated and shall be disposed of in such a manner as may be prescribed.]”

In the instant case, admittedly the appellant did not inform the quarantine officer 15(fifteen) days prior to boarding the live cattles in the in the respective aircraft, as was required under Section 9 of the Act, 2005 nor obtained certificate from the Directorate concerned prior to importation of those cattles. Further, the appellant did not submit bill of entry within time as prescribed under Section 79, but after a lapse of 21(twenty) days of arrival of those cattles i.e. on 26.07.2021.

Moreover, though Clause 3.0 (ii) of the Guidelines, 2016 allows Brahman to cross breed with local cow under research trial for production of meat but that is subject to approval of the Directorate concerned. In addition, vide Clause 3.11 of the said Guidelines artificial breeding process under Beef Cattles Project is controlled by the government, not by private sector. In this regard, we are in agreement with the findings of the Commissioner, Customs House, Dhaka, affirmed by the Tribunal. Relevant portion of the said finding are quoted below-

“খ। বেসরকারি পর্যায়ে গবাদিপশুর কৃত্রিম প্রজনন কার্যক্রম পরিচালনার সংশোধিত নীতিমালা ২০১৬ এর অনুচ্ছেদ নং ৩.১১ এ বিফ ক্যাটেল ডেভেলপমেন্ট প্রকল্পের

কৃত্রিম প্রজনন কার্যক্রম সরকার কর্তৃক নিয়ন্ত্রিত হবে মর্মে উল্লেখ আছে। সে কারণে বেসরকারি পর্যায়ে কার্যক্রম পরিচালনা আপাতত কোন সুযোগ নেই। এছাড়া উক্ত নীতিমালা পরিশিষ্ট ক তে (গবাদিপশুর জাত উন্নয়ন এবং প্রজননের জন্য সুপারিশকৃত নীতিমালা ২০০৭ থেকে উদ্ধৃত) স্বল্পমেয়াদি ও মধ্যমেয়াদি নীতেতে গবাদিপশুর জাত উন্নয়নের জন্য ব্রাহ্মা জাতের গরুর উল্লেখ নেই। ব্রাহ্মা জাতটি শুধুমাত্র মাংশ উৎপাদনের উদ্দেশ্যে ব্যবহৃত হয়। বর্তমানে উল্লিখিত প্রজনন নীতিমালার আলোকে বাংলাদেশ মাংস উৎপাদনে স্বয়ংসম্পূর্ণতা অর্জনের পাশাপাশি দুধ উৎপাদনে ব্যাপক সাফল্য অর্জন করেছে। ব্রাহ্মা জাতের গরু আমদানি অব্যাহত থাকলে দুধ উৎপাদনের জাত উন্নয়নের কার্যক্রম মারাত্মকভাবে ব্যাহত হবে।

ঘ। প্রানিসম্পদ অধিদপ্তরের প্রানিসম্পদ কোয়ারেন্টাইন স্টেশন, হযরত শাহজালাল আন্তর্জাতিক বিমানবন্দর, ঢাকার নাম ব্যবহার করে *Cattle Import Authorization* সংক্রান্ত যে পত্রটি রপ্তানিকারক দেশকে সরবরাহ করা হয়েছে এবং যার পরিপ্রেক্ষিতে উল্লিখিত ১৮টি গরু রপ্তানিকারক দেশ শিপমেন্ট করেছে তা অধিদপ্তর থেকে ইস্যুকৃত নয়। ইহা একটি বড় ধরনের জালিয়াতি। অন্যদিকে ব্রাহ্মা জাতের গরু আমদানি নিয়ন্ত্রিত। অর্থাৎ প্রানিসম্পদ অধিদপ্তরের অনুমতি ব্যতিরেকে আমদানিযোগ্য নয়। বর্ণিত প্রেক্ষাপটে আমদানিকৃত গরুগুলো রপ্তানিকারক দেশে পুণঃপ্রেরণ/বাজেয়াপ্ত ঘোষণা করার প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য অনুরোধ করা হলো।”

In addition, the appellant had also failed to submit quarantine certificate issued by the Directorate of Livestock, which is a mandatory requirement under Clause 26(41) of the Import Policy Order, 2015-2018 read with Sections 3 and 4 of the Act, 2005.

Last but not the least, clearance certificate issued by the Ministry of Commerce on 05.08.2021 is subject to fulfillment of the conditions, in particular Clause-(ka) and (uma), which are quoted as under:

“(ক) প্রাণী, উদ্ভিদ ও উদ্ভিদ পণ্য আমদানির ক্ষেত্রে কোয়ারেন্টাইন শর্তাবলী প্রযোজ্য হইবে;
 (খ).....
 (গ).....
 (ঘ).....
 (ঙ) আমাদানির ক্ষেত্রে আমদানি নীতি আদেশের প্রযোজ্য সকল বিধি- বিধান প্রতিপালন করতে হবে।”

The appellant has measurably failed to fulfill those conditions prior to making prayer for release of those live cattles.

Consequently, we have no manner of doubt to find that importation of 18(eighteen) live cattles in Bangladesh by the appellant having been done in violation of Section 16 of the Act, 1969 hence, detaining and confiscating those cattles under Section 17 of the Act, 1969 by the Commissioner concerned vide the adjudication order dated 09.09.2021 and being affirmed by the Tribunal by the impugned judgment and order dated 21.03.2022 do not suffer from any illegality requiring interference by this Court.

Considering the above findings, the respondent No.3 is hereby directed to take necessary steps for giving proper attention and care to the cattles in question. However, said respondent may utilize those cattles by adopting lawful procedures for cross breed and also, for meat production.

In view of the above, this appeal is accordingly dismissed without any order as costs.

Communicate the judgment and order to the respondents concerned at once.

Send down the LCR at once.

Ahmed Sohel,J:

I agree.