



W.P.(MD)No.10269 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.03.2023

Delivered on : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10269 of 2016

and

W.M.P.(MD)Nos.8024 and 8025 of 2016

Tamil Nadu HDPE Knitted Fabrics
MFRS Association,
Represented by its President,
C.Suresh Kumar,
Plot No.19 & 20,
Authur Sidco Industrial Estate,
Vennaiimalai Post, Karur District.

.... Petitioner

versus

1. State of Tamil Nadu,
Represented by its Secretary cum
Agriculture Production Commissioner,
Department of Agriculture,
Secretariat,
Chennai – 9.
2. The Director of Agriculture,
Directorate of Agriculture,
Chepauk,
Chennai – 5.



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3. The Deputy Director of Agriculture (P.P.),
Directorate of Agriculture,
Chepauk,
Chennai – 5.
4. The Joint Director of Agriculture,
Collectorate Campus,
Karur District.
5. The Director,
Directorate of Vigilance and Anti-Corruption,
NCB 21-28, P.S.Kumarasamy Raja Salai,
Raja Annamalaipuram,
Chennai – 28.
6. The Secretary,
Tamil Nadu Vigilance Commission,
Secretariat,
Chennai – 9.
7. M/s.Shobikaa Impex Pvt. Ltd.,
Rep. by its Director,
No.34, Sannathi Street,
Vennaiyalai PO,
Karur District.
8. M/s.V.K.A.Polymers Pvt. Ltd.,
Rep. by its Director,
No.3A, Coimbatore Road,
Karur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,



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seeking for the issuance of Writ of Mandamus, to forbear the respondent Nos.2 and 3 herein from granting and issuing manufacturing licence to the respondent Nos.7 and 8 for 19 and 23 separate manufacturing units respectively as Section 9(2) of the Insecticides Rules, 1971, mandates separate applications for licensing and consequently direct the respondent No.6 to conduct a detailed enquiry in the progress of the licensing Authority to bring the fowl play played by the respondent Nos.7 and 8.

For Petitioner	: Mr.T.Lajapathi Roy, Standing Counsel for Mr.S.Rajasekar
For R1 to R6	: Mr.T.Vilavankothai, Additional Government Pleader
For R7	: Mr.Srinath Sridevan for Mr.Raj Kamesh
For R8	: Mr.P.Samuel Guna Singh

ORDER

The petitioner is the President of Tamil Nadu HDPE Knitted Fabrics MFRS Association, Authur Sidco Industrial Estate, Vennaiimalai Post, Karur District. The 7th and 8th respondents are manufacturing and exporting Long Lasting Insecticidal Nets impregnated with “Alphacypermethrin”.



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WEB COPY 2. The petitioner, with a grievance that the 7th and 8th respondents, without having any required licence, are selling their products in the domestic market, has filed this writ petition in the year 2016 for a Mandamus, forbearing the 2nd and 3rd respondents herein, namely, the Director of Agriculture and Deputy Director of Agriculture, Chepauk, Chennai, from granting and issuing manufacturing licence.

3. The case of the petitioner is that as per Section 9(2) of the Insecticides Rules 1971, each and every establishments or units manufacturing Long Last Insecticidal Nets impregnated with “Alphacypermethrin” shall be issued with a licence by the competent authority. The 7th and 8th respondents are having 42 separate units and they have not obtained any licence or Certificate of Registration for these units. As per the Certificate of Registration issued by the Central Insecticides Board and Registration Committee, the 7th and 8th



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respondents, they can manufacture Long Lasting Insecticidal Nets impregnated with “Alphacypermethrin” only in the specified premises or establishments and the entire production is strictly for export only. However, the 7th and 8th respondents are running units without any licence and also selling their products in the domestic market, which is also evident from the proceedings of the Joint Director of Agriculture, Karur, dated 01.12.2015.

4. It is the further case of the petitioner that both the 7th and 8th respondents have not obtained clearance from the Pollution Control Board. Further, they do not have any lab facility and they have not obtained clearance from the Fire Service Department. The original licence which was granted to the 7th and 8th respondents was revoked by the 3rd respondent by his proceedings dated 28.11.2014 on the ground of violations and appeals preferred by them before the Additional Director of Agriculture (seeds) was also dismissed, against which, they have also filed a second appeal, which was also dismissed and the same



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was challenged in W.P.Nos.8408 and 8409 of 2015, which were also disposed.

5. The learned counsel appearing for the petitioner submits that the 7th and 8th respondents got licence only for exporting their products, but, they are dumping their products in the domestic market and therefore, other domestic manufacturers are also affected. The 7th and 8th respondents are also selling their products without disclosing that their product is impregnated with insecticide and in view of that, 300 small scale and tiny industries are affected.

6. The learned Additional Government Pleader appearing for the official respondents submits that if any person desires to manufacture or import any insecticide and the production of raw material which is used for manufacturing of any insecticide, he has to register before the Central Insecticide Board Registration Committee (CIBRC). The 7th and 8th respondents herein were issued manufacturing licence to



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manufacture long lasting insecticide nets impregnated with Alphacypermerthrin, under Section 13(1) of the Insecticides Act, 1968.

They have also been issued with licence for their separate premises of 31 in number under Section 9(2) of the Act. He further submits that there is no provision in the Act or in the Rules that the premises of the manufacturing unit should own by the licensee.

7. The learned Additional Government Pleader further submits that as per the prescribed conditions in Rule 6(2), based on the Certificate of Registration issued by the Central Insecticide Board and Registration Committee at Faridabad, the State License Authority issued the license for stocking licence. The petitioner herein has also lodged a complaint that the 7th and 8th respondents are stocking the insecticides in the premises without any licence. Based on the inspection report of the 3rd respondent, licences have been issued to the premises of the 7th and 8th respondents. The petitioner has also approached the National Green Tribunal by way of filing an application



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in Application No.273 of 2014 against the 7th and 8th respondents alleging that they are disposing the waste to third parties without licence and spoiling the environment. The Hon'ble National Tribunal, by its order dated 15.12.2015, has passed the following order.

“Alpha-cypermethrin is a highly active synthetic pyrethroid insecticide. It is generally harmless to human beings in low doses and comes under Class A. Schedule II of Hazardous Wastes Rules, 2008 for which the concentration limit is 50 mg/kg. The TCLP test results showed that the concentration of alphacypermethrin in the waste is 0.026 mg/kg which is far below the concentration limit of 50 mg/kg. TCLP is designed to understand the behaviour of a solid waste in the environmental conditions because the test stimulates potential disposal scenario. The test determines the concentration of the alpha-cypermethrin that would come into the environment from the disposed LLIN waste. Based on the results, the Board issued certificates to both the companies to sell the solid waste.”

8. The learned Additional Government Pleader further submits



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that the petitioner has not produced any materials that the licence issued to the 7th and 8th respondents were misused and the products were sold by the 7th and 8th respondents in the domestic market.

9. The learned counsel appearing for the 7th and 8th respondent submits that the 7th and 8th respondents Companies are well-known manufacturers of polymer products, particularly, for advanced mosquito nets with incorporated pesticides to ensure greater efficacy of the product in combating the threat of mosquitoes and disease thereof. The product of LLIN mosquito nets with Alphacypermethrin is well known in the global market for its outstanding quality and durability and it was tested and approved by WHO for safety and performance after 3 years of expensive, rigorous field and lab trials. The 7th and 8th respondents have obtained requisite approval from the Central Insecticides Board of India and got registration from the Registration Committee of India to manufacture and export Impregnated Long Lasting Net containing Alphacypermethrin 0.55% and



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Alphacypermerthin 15% GR. They exported their goods to over sixty countries. It is further submitted that MAGNet LLIN is procured by reputed NGOs such as The Global Fund, UNICEF, USAID, UNOPS, ICRC, UNHRC and World Bank Projects, LLINS are also used extensively by Ministry of Health and Family Welfare, Government of India for the anti-malaria campaign in India.

10. The learned counsel appearing for the 7th and 8th respondents further submit that the petitioner was doing domestic business by manufacturing mosquito net fabric and selling it within India, from the companies called M/s.VRC Industries and Sabari Knitting. Over the period of 12 years, he developed a Long-Lasting Insecticidal net with alphacypermethrin 0.55% and got a registration certificate from the Central Insecticide Board for producing Long Lasting Insecticidal net with the same insecticide alphacypermethrin 0.55% as like that of the product of the 7th and 8th respondent products MAGNet Long Lasting Insecticidal mosquito net. The petitioner has also tried to get job work



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and orders for manufacturing of LLIN's using Alphacypermethrin from different companies, but, he was unsuccessful in getting any orders and therefore, he started this association only to harass the growth of the 7th and 8th respondents who are successful in this field.

11. The learned counsel appearing for the 7th and 8th respondents further submit that this writ petition has been filed with an ulterior motive to extract money from the 7th and 8th respondents. The petitioner Association has filed several writ petitions and also filed an application before the National Green Tribunal, Chennai, in O.A.No. 273 of 2014. The learned counsel has also made a specific averment that the petitioner has approached the respondents and demanded money for withdrawing the cases and since they refused to pay the money, he is filing the petitions repeatedly. According to them, the 7th and 8th respondents have obtained necessary licence from the competent authority for their units and for their additional units in accordance with law. They further submit that this issue has already



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been decided in O.A.No.273 of 2014 by the National Green Tribunal, Chennai and yet another writ petition filed by one Dr.M.Solomon Bernard Shaw in W.P.(MD)No.2102 of 2022, at the instance of the petitioner, was also dismissed with cost of Rs.50,000/-.

12. This Court considered the rival submissions made and perused the materials available on record.

13. The petitioner is the President of Tamil Nadu HDPE Knitted Fabrics MFRS Association, whose members are manufacturing mosquitoes net fabric and doing business in the domestic market. The 7th and 8th respondents are also manufacturing and exporting Long Lasting Insecticidal Nets impregnated with Alphacypermethrin.

14. It appears that the 7th and 8th respondents are supplying these LLIN's nets to 60 countries and also obtained ISO 9001 certification in the year 2015. The grievance of the petitioner is that the 7th and 8th



respondents got licence only for exporting their products, but, they are dumping their products in the domestic market and therefore, other domestic manufacturers in the domestic market are affected. With the very same allegations, the petitioner has also filed an application before the National Green Tribunal in O.A.No.273 of 2014 and the same was dismissed by the Tribunal in its order dated 15.12.2015 as under:

“26. The applicant has not produced any evidence of misuse of the permission granted to the 5th and 6th respondents or for that matter against any other particular LLIN manufacturing unit to prove that they are selling the products in the domestic market and causing pollution and health hazard to the public. Therefore, based on the aforesaid record placed before us and having heard that parties at length, we agree with the contentions put forward by the 4th, 5th and 6th respondents. Since the test results show that the alpha-cypermethrin is in such low concentration far below the registered value and the waste material is sent only to the authorized mother unit for reuse or recycling as approved by the Board after the test results, we see no merits in the averments made by the applicant that the respondent



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companies are allegedly involved in the illegal sale of hazardous waste materials and misusing the export quota thereby causing pollution and damaging the health of the people.”

15. This writ petition is filed on 04.06.2016 by concealing the order passed by the National Green Tribunal dated 15.12.2015. The petitioner has made a specific averment in his affidavit that both the 7th and 8th respondents are indulged in sale of their products in the domestic market against the licence conditions. It appears that in this regard, the petitioner has made a complaint before the 3rd respondent/the Deputy Director of Agriculture, Chennai, who in turn directed the Assistant Director of Agriculture, Karur to conduct an inspection. The Assistant Director of Agriculture, Karur, has submitted a report dated 28.10.2015, by enclosing the report from Commercial Tax Department that the 7th respondent has sold the finished products in the domestic market in violation of terms and conditions of the licence. In this connection, the Joint Director of Agriculture, Karur



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was intended to conduct an enquiry on the 7th respondent premise, at that time, the petitioner has objected such inspection. The Joint Director of Agriculture, Karur, in his proceedings dated 01.12.2015 has recorded as under:

“Further, President, TNHDPE Association, Knitted Fabrics Manufacturers Association, Karur is frequently approaching this office over phone and verbally and vehemently objecting to such an inspection by this office, till the objection petition filed in this regard is disposed off by License issuing authority, Chennai, it is feared that in view of the labour-centric problems and also considering the ground realities in conducting the inspection against the prevailing situation and also the legal and local issues are involved. It is submitted that the inspections as instructed by Deputy Director of Agriculture (PP) Chennai may be deferred till the cases filed in this regard are disposed off legally as the matter is under sub-judice.”

16. Dr.M.Solomon Bernard Shaw had filed a Public Interest Litigation in W.P.(MD)No.2102 of 2022, challenging the licence



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granted to M/s.Shobikaa Impex Pvt. Ltd., Karur, who is the 7th respondent herein, under Section 9(3) of the Insecticides Act and also obtained an order of interim stay on 03.02.2022, without impleading the Company as a party to the writ petition. On knowing the grant of interim stay, the said company had filed an impleading application to implead them as a party to the writ petition and brought to the notice of this Court that based on the appeal filed by them, the order dated 23.12.2021, which is impugned in this writ petition, was set aside by the appellate authority and the matter was remanded back to the Registration Committee for fresh consideration. Considering the fact that the writ petition was filed without impleading the Company and also by giving false information, this Court, by order dated 14.06.2022, dismissed the writ petition with cost of Rs.50,000/- payable to the Company within a period of six weeks from the date of receipt of a copy of the order.

17. The petitioner has also filed another writ petition in W.P.



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(MD)No.6790 of 2019 seeking a direction to the Director of Agriculture, Chepauk, Chennai, to take action against the respondents 5 and 6 therein and revoke the manufacturing license issued in favour of them as per Section 14 of the Insecticides Act and also by considering the complaint of the petitioner dated 30.10.2018, 20.12.2018 and 11.02.2019. However, that writ petition was dismissed on 08.12.2022, based on the representation of the petitioner that nothing survives for further adjudication.

18. The petitioner has also raised certain plea before the National Green Tribunal, Chennai and has also agitated the issue even after the order of the National Green Tribunal continuously and prevented the officials from conducting inspection on the respondents 7 and 8 premises.

19. It appears that this writ petition has been filed due to business rivalry. The earlier writ petition filed as against the grant of licence in



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favour of the 7th respondent herein was also dismissed by the Division Bench of this Court with the cost of Rs.50,000/-. Considering the conduct of the petitioner and the manner in which this writ petition has been filed, this Court is of the view that this writ petition also deserves to be dismissed with the cost of Rs.10,000/- each payable to the 7th and 8th respondents.

20. Accordingly, this writ petition is dismissed with cost of Rs.20,000/- which has to be paid to the 7th and 8th respondents as Rs.10,000/- each. Consequently, connected miscellaneous petitions are closed.

22.12.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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Department of Agriculture,
Secretariat,
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B.PUGALENDHI, J.

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Pre-delivery order made in
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22.12.2023