

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.7628 of 2012

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26.08.2015

Between:

M/s.T.Stanes and Company Limited, Vijayawada

.. Petitioner

and

Government of Andhra Pradesh,
represented by its Secretary,
Food & Agriculture Department, Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.Avadhesh Narayan Sanghi
for Mr.P.Venugopal

Counsel for the respondents: Assistant Government
Pleader

for Agriculture (AP)

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The Court made the following:

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ORDER:

The petitioner, which claims to be a pioneer company in dealing with agro products, averred that it manufactures a product, viz., 'Bactrimycin Plus' containing 'Bronopol'. It is further averred that the petitioner's product was included in the schedule of the Insecticides Act, 1968 (for short 'the Act'); that following the same, the petitioner made an application to the Central Insecticides Board and Registration Committee, which is the registering authority, on 10.12.2012 for registration and that till the date of filing of the writ petition, the said authority has not passed any order. However, in the month of August, 2011, based on direction, dated 04.08.2011, issued by respondent No.2, proceeding, dated, 05.08.2011, was issued by respondent No.3 directing the petitioner to stop sale of the said product *qua* the Depot located at Kurnool and in respect of the stocks lying in Nellore Depot, the same were seized and a stop sale order was passed on 05.08.2011 by respondent No.4.

This Court, by order, dated 23.04.2012, in W.P.M.P.No.9672 of 2012, directed the respondents to release the seized stock to the petitioner subject to certain conditions, viz., (1) the petitioner shall furnish a bank guarantee for a sum of Rs.5,00,000/-, which shall be kept alive till 30.04.2013 to enable the respondents to finalize the proceedings; (2) the petitioner shall file an undertaking not to sell the stock within the limits of Andhra Pradesh; and (3) as soon as such undertaking is furnished, necessary instructions shall be passed on to respondent Nos.3 and 4 to enable the petitioner to transport the seized stock to the State of Tamilnadu.

In the counter-affidavit filed by respondent No.2, it is, *inter alia*,

stated that the petitioner obtained marketing permission for the product 'Bactrimycin 2000' from the Agriculture Department on 20.03.2002 after the approval of the product by the High Level Technical Committee as the product was not covered by the Act and the Fertilizer (Control) Order, 1985 at that time; that subsequently, the product 'Bronopol' (Bactrimycin 2000) was included in the insecticide schedule *vide* notification No.G.S.R.772 (E), dated 18.11.2002; that the petitioner applied for registration of the product on 10.12.2002 and that mere registration or deemed registration as interpreted by the petitioner would not entitle it to sell the said product in the absence of License from the Licensing Authority under Section 13 of the Act. It is further averred that any permission prior to the inclusion of the said product in the Act does not help the petitioner.

From the respective pleadings of the parties, it is evident that the petitioner's application for registration/permission for sale of 'Bactrimycin 2000' is stated to be pending before the Central Insecticides Board and Registration Committee. As rightly pleaded by the respondents, mere non-disposal of the application by the said Committee would not enable the petitioner to sell the said product till permission is granted by the said Committee for such sale. Therefore, the action of the respondents in interfering with the sale of the said product in the State of Andhra Pradesh cannot be said to be illegal. However, as regards the seizure of the product, as noted above, this Court already directed the competent authority to finalize the proceedings initiated against the petitioner with regard to the same.

At the hearing, the learned Assistant Government Pleader for Agriculture (AP) has submitted that so far no final order has been passed in relation to the seizure.

In the above facts and circumstances of the case, the Writ Petition is disposed of in the following terms:

- (i) Till such time as the petitioner gets its product

registered/permission for sale in the State of Andhra Pradesh is obtained, it cannot sell 'Bronopol' product with the ingredient of 'Bactrimycin plus' within the State of Andhra Pradesh;

- (ii) Within two months from the date of receipt of a copy of this order, the competent authority shall finalize the proceedings pertaining to seizure of the petitioner's product and communicate the order to the petitioner; and
- (iii) If the petitioner feels aggrieved by such order, it shall be free to avail appropriate remedy in accordance with law.

As a sequel to disposal of the writ petition, W.P.M.P.No.9672 of 2012 is disposed of and W.P.M.P.No.28265 of 2013 is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

26th August, 2015
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