

In the High Court of Punjab and Haryana at Chandigarh.

**CWP No. 20461 of 2015 (O&M)
Decided on 19.10.2015**

M/s Kissan Kheti Centre, Dasuya

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Arun Chandra, Advocate, for the petitioner

Rakesh Kumar Jain,J: (Oral)

CM No.13227 of 2015

Application is allowed. Affidavit of the petitioner dated
29.9.2015/30.9.2015 is taken on record.

CWP No.20461 of 2015

The petitioner has approached this Court in a writ of certiorari
to challenge the order dated 31.3.2015 passed by the Insecticides Inspector

and the order dated 09.4.2015 passed by the Sub Divisional Judicial Magistrate, Dasuya, under Section 21 (d) and 22 (2) (b) of the Insecticides Act, 1968.

In brief, learned counsel for the petitioner has argued that the petitioner is the distributor of various insecticides under the Act and being a distributor, he is a licensee of various insecticides. He is a holder of Licence No.7. He moved an application dated 15.5.2014 to the Chief Agriculture Officer, Hoshiarpur (Punjab) in order to add insecticides of some companies to his licence in order to enable him to distribute them. Addition was done by the Chief Agriculture Officer and the licence was made enforceable w.e.f. 01.1.2014 to 31.12.2015. The petitioner was, however, not allowed the sale of Ammonium Phosphade tubes.

The petitioner was served with a notice for violation of Section 18 of the Act and Rules 10,10B and 10C of the Insecticides Rules, 1971 (for short, the Rules) in which it was averred that the Licencing Authority and Chief Agricultural Officer, Hoshiarpur, in the presence of Dr. Majhail Singh, Insecticide Inspector, raided the premises of the petitioner with Sub Divisional Magistrate, Dasuya, Barjinder Singh, Tehsildar, Tarsem Singh Agriculture Officer, Tanda, Dr. Satnam Singh, Agriculture Development Officer, Dasuya and Dr. Yashpal.

During the course of checking, number of pesticides were lying stored in the premises by the petitioner at a place for which no licence was issued to him. He was also not found in possession of any licence or site plan at the spot. Thus, it was decided to take action against him under Section 29 read with Section 33 and Rule 27 (5) of the Rules, but before taking any action, the petitioner was afforded personal hearing. The

petitioner gave reply to the show cause notice. Thereafter, the impugned orders dated 31.3.2015 and 09.4.2015 were passed.

The main argument of learned counsel for the petitioner is that the respondents have committed an error in initiating the aforesaid proceedings against the petitioner under the Act and Rules as the petitioner already had the licence for the said insecticides which had been seized by the authority under the Act and are in custody as per the orders of the Court.

I have heard learned counsel for the petitioner and after examining the available record, have found that there is a procedure prescribed in Sections 21 and 22 of the Act. Section 21 (d) in which action has been taken against the petitioner provides that *“to stop the distribution, sale or use of an insecticide which he has reason to believe is being distributed, sale or used in contravention of the provisions of this Act or the rules made thereunder, for a specified period not exceeding [thirty] days, or unless the alleged contravention is such that the defect may be removed by the possessor of the insecticide, seize the stock of such insecticide”*.

Section 22 (2) (b) provides that if he seizes the stock of the insecticide, he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof. Section 22 (2) reads as under:-

“Where an Insecticide Inspector takes any action under clause (d) of sub section (1) of Section 21-

(a) he shall use all despatch in ascertaining whether or not the insecticide or its sale, distribution or use contravenes any of the provisions of section 18 and if it is ascertained that the insecticide or its

sale, distribution or use does not so contravene, forthwith revoke the order passed under the said clause or as the case may be, take such action as may be necessary for the return of the stock seized;

(b) if he seizes the stock or the insecticide he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof;

(c) without prejudice to the institution of any prosecution, if the alleged contravention is such that the defect may be remedied by the possessor of the insecticide, he shall, on being satisfied that the defect has been so remedied, forthwith revoke his order and in case where the Insecticide Inspector has seized the stock of insecticide, he shall as soon as may be, inform a Magistrate and obtain his orders as to the release thereof’

However, Section 22 (2)(c) of the Act provides remedy as it is stated therein that if the alleged contravention be such that the defect may be remedied by the possessor of the insecticide, he shall on being satisfied that the defect has been so remedied, forthwith revoke his order and in case where the Insecticide Inspector has seized the stock of insecticide, he shall as soon as may be, inform a Magistrate and obtain his orders as to the release thereof.

After hearing learned counsel for the petitioner, I find that there is a remedy provided under the Act. The petitioner has a right to approach the Insecticide Inspector/authority who had seized the stock of the petitioner and has obtained order of custody from the Magistrate. In case, the petitioner approaches the said authority under the Act, who had passed the order in terms of Section 22 (2) (c) of the Act, then the same shall be

decided within a period of 7 days by passing a speaking order, in accordance with law.

Disposed of accordingly.

19.10.2015

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(Rakesh Kumar Jain)
Judge