

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 28221 of 2011

ORDER:

This writ petition was filed challenging the action of the respondents in interfering with the lawful bio-products business of the members of the petitioner-association, which was alleged to have been conducted for the last 10 to 20 years.

The issue relating to the bio-products was considered by this Court elaborately by taking into consideration the previous order passed by this Court from time to time in W.P.No.25293 of 2014 and batch, dated 10.07.2015.

This Writ Petition is disposed of in terms of the said order, the operative portion of which reads as follows:

“19. Keeping in view the above facts and circumstances, all these writ petitions are disposed of with the following directions:

- i) The petitioners shall **not** deal with bio-products without maintaining proper packing and marking of the product. The packing of bio-products shall contain the ingredients included in the product, analytical procedure and their percentage. This enables the authority to verify the contents of the product.
- ii) The manufacturer of every bio-product should intimate the concerned Commissioner of Agriculture with regard to the manufacturing activity undertaken by it with name of the product, process and its content. The Commissioner of Agriculture need not grant any permission and mere information from the manufacturer is enough for this purpose. The Commissioner of Agriculture shall issue an acknowledgement of such information.

- iii) The dealer of bio-products should have the information with regard to the source of purchase of bio-products and shall maintain a register for the said purpose in order to enable the authorities to inspect the stock from time to time.
- iv) It is for the authorities to inspect the bio-products in the location of the manufacturer prior to its despatch to the dealer or in the location of the dealer and take sample thereof in order to verify whether any such product contains harmful substances attracting the provisions of Insecticides Act, 1968 or used as a fertilizer violating the provisions of Fertilizer (Control) Order, 1985. The sample of the product shall be collected from the said source by the authorities under the signature of the persons dealing with bio-products and the authority who is collecting for the purpose of sending it to the appropriate Laboratory in order to verify the contents of the said product.
- v) From a copy of the report if any prohibited substance is found by the authority, the authority shall issue a notice along with a copy of the report to the persons dealing with the product and take necessary action against such persons either under the provisions of Insecticides Act, 1968 or Fertilizer (Control) Order, 1985. After receipt of the explanation from the person, the authority can pass appropriate orders under the provisions of the said enactments.
- vi) The report from the concerned Laboratory shall be obtained as expeditiously as possible, preferably not later than a week from the date of collection of the sample and till such time, the concerned authority can withhold manufacture and sale of bio-product. Against the order passed by the authority who collected sample, the aggrieved party can file an appeal to the higher authority as provided in the above provisions if so advised.
- vii) The collection of samples and the process of passing order shall not be resorted to routinely but should be on credible information that the product is causing damage to the public agriculture activity and on prima facie satisfaction of such information.

- viii) The respondents shall not violate the law and resort to unnecessary harassment of the manufacturers or dealers in a routine manner.
- ix) In case of violation of the above directions, it is open to the petitioners to bring it to the notice of the higher authorities of the action of the officers violating the directions, and the higher authority to the authority interfering with the activity of the petitioners shall dispose of the representations with utmost expediency and not later than ten days from the receipt thereof.”

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 04.11.2016
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(A.RAMALINGESWARA RAO, J)

