

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.776 of 2016 (O&M)

Date of Decision : 9.5.2016

M/s Chittari Agricare Pvt.Ltd.

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS.JUSTICE LISA GILL

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Rakesh Verma, Advocate
for the appellant.

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MAHESH GROVER.J.

Delay of 58 days in filing the appeal is condoned.

The appellant is aggrieved of the judgment dated
4.2.2016 and has preferred the instant appeal.

Before the writ court the appellant pleaded that he is
the seller of bio-products claimed to be substitutes of insecticides
and fertilizers to boost crop production. It was pleaded that such
products are not 'insecticides' and thus attempt of the State of
Haryana to prohibit their sale without compliance of the
procedures of law was impermissible.

In a bunch of writ petitions this Court in order to ascertain the veracity of the claim of the appellant and the products that they were selling as bio-product ordered their analysis subject to a payment of fee to be fixed by the State Government but paid by the desirous manufacturers. Pursuant thereto an exercise was conducted where out of 8 products manufactured by the appellant 6 were found to be containing insecticides while against “Astra (Granules)” and ‘Apoorva’ the report regarding presence of pesticide is ‘Nil’.

Learned counsel for the appellant contends that by virtue of the impugned order the entire writ petition has been dismissed whereas the aforesaid product where no pesticides was detected ought to have been saved from the action of the State.

On due consideration, we are of the opinion that the present appeal is without merit to warrant dismissal but needs just one clarification that the competent authority enabled in law shall take notice of the directions already given by this Court and extracted herebelow to evaluate the grievance of the appellant in this regard:-

“Any manufacturer producing any bioproduct claiming to be substitute of ‘insecticides’ or ‘fertilizer’ but not strictly covered under the definition of ‘insecticides’ or ‘fertilizer’ shall apply

to the Director General Agriculture, Haryana and Director, Agriculture Punjab, in respective States seeking permission for selling its products in the States concerned giving particulars of the products being manufactured or imported for sale. The brand name and the contents of the products shall be supplied. Before granting permission, the Competent Authority in the State shall be entitled to get the samples tested in lab and in case it is found that the products being manufactured by any person seeking to sell the same does not fall within the terms 'insecticides' or 'fertilizer', the necessary permission shall be granted.

The samples are to be tested from any Government of India Laboratory or any laboratory in agriculture University in the respective States. The product is also required to be tested regarding its efficacy and safety for human and animals. The Chief Agriculture Officers in their respective districts shall be entitled to draw samples of the products being sold as bio-products as substitute for 'insecticides' or 'fertilizer' in two states for the purpose of testing to find out as to whether there is

any violation of the provisions of the Act or the Order or any other law, order or instructions applicable.

In case any of the manufacturer, importer or sellers violates either provisions of the Act or the Order or any other law, order or instructions in the process of manufacture and sale of the products, the State shall be at liberty to take appropriate action against the defaulter.

As far as State of Haryana is concerned, earlier permissions were granted to some of the manufacturers for selling their products, in those cases any order passed withdrawing those permissions without alleging violation of either the provisions of the Act or the Order or any other instructions shall be deemed to have been set aside. In case the manufacturers which to sell any other product, may be with a different brand name which earlier was not mentioned in the application filed, they will have to seek further permission for that product. The cases where permission had not earlier been sought or granted, the parties concerned are at liberty to file applications.”

Ordered accordingly.

If the competent authority feels that the product mentioned above and sold by the appellant deserves to be saved to permit sale in Haryana, it may do so but with a caution that the State shall ascertain independently that the benefits of the product claimed by the manufacturers of the product are indeed genuine so that gullible farmers are not duped by misbranding.

Costs determined shall be paid.

(MAHESH GROVER)
JUDGE

9.5.2016
dss

(LISA GILL)
JUDGE