

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH**

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.38579 of 2017

DATE: 27.11.2017

Between:

All India Kisan Sobha having its offices at 4 Windsor Place, New
Delhi and one another

....petitioner

A n d

Union of India, Ministry of Environment, Forests & Climate Change,
Prithvi Wing and six others

....Respondents

HON'BLE SRI JUSTICE S.V. BHATT**WRIT PETITION No.38579 of 2017****ORDER:**

Heard Mr.M.V.Pratap, Sri K. Lakshman (Assistant Solicitor General) for respondents 1 & 2, Government Pleader for Agriculture for respondents 3 to 5, Sri Vedula Venkata Raman, learned senior counsel for R6 and Sri C. V. Mohan Reddy, learned senior counsel for R7.

2. On 16.11.2017, this Court ordered personal notice to respondents 1 to 3 and 5 to 7. The 4th respondent is represented by the Government Pleader for agriculture.

3. The respondents are all represented by counsel.

4. The petitioner prays for **Mandamus** declaring the inaction of respondents, particularly, respondent Nos. 1 to 5 in taking steps under Sections 3 & 4 of the Biological Diversity Act, 2002 (for short "the Act") basing on the petitioner's representation dated 4.10.2017, as illegal arbitrary and unconstitutional.

5. The operative portion of the representation dated 4.10.2017 reads thus:

"It is pertinent and relevant to mention herein that the same parties Mahyco and Monsanto are the accused in a criminal petition CC No. 579/2012 filed by the National Biological Diversity Authority,

Chennai & others before the Hon'ble Judicial Magistrate First Class (JFCM), Dharwad, Karnataka for violating Section 3 and 4 of the Biological Diversity Act, in case of Brinjal, which is punishable under Section 55 of the said Act. It is submitted that even this pending criminal complaint also did not deter them from committing similar offences under Sections 3 & 4 of the Biological Diversity Act by obtaining and using the Indian cotton biological resource for conducting trials of Bt cotton with RRF trait and transferring the results of the said trials to Monsanto.

We, therefore, request you to take cognizance of the above offences of Mahyco and Monsanto under Section 3 & 4 of the Biological Diversity Act and initiate criminal action against them under section 55 of the Biological Diversity Act.”

6. Mr. M.V. Pratap, places reliance on Sections 3, 4, 55 and 61 of the Act and contends that keeping in view the infraction brought to the notice of respondent Nos. 1 & 2, timely decision to prevent direct or indirect impact of any of the activities complained in the representation is mandatory and finally if the representation bears a few allegations warranting further action. Such action is required to be expeditiously initiated and proceeded in accordance with law. He profaces his submission by contending that the scope of present writ petition is to either warming respondents or sensitize the respondents of their responsibilities and duties under the Act.

7. First respondent requests time to file counter and Assistant Government Pleader representing respondent No. 4 refers to written

instructions received by the office of Government Pleader, Agriculture, submits that the omissions which are the subject matter of representation dated 4.10.2017 have already been brought to the notice of the Central and State Governments. The Assistant Government Pleader refers to PMO directives vide LR No. 4706832/PMO/2017-ES.2 and also the Government Orders issued by 4th respondent, states that the complaint canvassed by the petitioner is receiving the required attention by all the authorities vested with the jurisdiction.

8. Sri Vedula Venkata Ramana and Sri C.V. Mohan Reddy appearing for respondents 6 and 7 submit that the representation since has been made to respondents 1 to 5, and respondents 6 & 7, do not have objection for examining the representation in accordance with law.

9. The submissions of all the counsel are placed on record.

10. Having regard to the above and also the necessity to look into the representation and decide, I am satisfied and the Writ Petition can be ordered as follows:

(a) The petitioner is given liberty to resubmit representation dated 4.10.2017 by enclosing a copy of this order to respondents 1 to 5 within one week from today.

(b) Respondents 1 to 5 are directed to look into the representation, also the directives of PMO already issued in this behalf and the G.O.Rt.Nos. 630 & 636, dated 17.10.2017, take a decision and proceed in accordance with law within a further period of four weeks from the date of receipt of representation. No order as to costs. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 27.11.2017
Note:CC three days
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S.V. BHATT, J

