

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.4705 & 4827 OF 2018

DATED :15.02.2018

W.P.No.4705 of 2018

Between :

SK Bio Extracts & Applications Pvt. Ltd.,
D.No.76/97/449/A4, Near Hanuman Weigh Bridge,
Nagendra Nagar, Ballary Road,
Kurnool, Kurnool District, A.P.,
Having its registered office at Hyderabad
Rep., by its Managing Director,
Dr.J.V.Ramana Rao, S/o.J.Suranna,
Aged about 48 yrs, R/o.D.No.8-2-414,
Road No.4, Near Mount Kailash Apartment,
Hyderabad – 34.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Prl.Secretary, Agriculture Department,
Secretariat Buildings, Velagapudi, Amaravati & another.

.. Respondents

W.P.No.4827 of 2018

Between :

SK Biotech, D.No.76-97-449-A3,
Nagendra Nagar, Kurnool,
Kurnool District,
Having its registered office at Hyderabad
Rep., by its Partner Mr.Srinivas Kulkarni,
S/o.Late Ranga Rao Kulkarni, Aged about 50 yrs,
R/o.Flat No.302, Sri Srinivasa Kalyan Apartment,
Street No.1, MJ Colony, Moula Ali,
Hyderabad – 500 040.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Prl.Secretary, Agriculture Department,
Secretariat Buildings, Velagapudi, Amaravati & another.

.. Respondents

This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.4705 & 4827 OF 2018

COMMON ORDER :

These writ petitions are filed to declare the action of the respondents in interfering with the manufacturing, sale and supply of bio-products of petitioners'-company, in pursuance of Memo No.PP.I (1) 2085/2005, dated 21.01.2006 and consequential letter No.PP.II(1)2085/2005, dated 21.01.2006 as illegal, arbitrary, unconstitutional and without jurisdiction and further direct the respondents not to interfere with the petitioners' business of manufacture, sale and distribution of bio-products including from the licensed premises of its dealers/stockists under the Insecticides Act, 1968 and the Fertilizers (Control) Order Act, 1985.

2. When the matters are taken up, learned counsel for the petitioners as well as learned Assistant Government Pleader, submits that the subject matter of these writ petitions is covered by the decision of Division Bench of this Court in W.A.Nos.1122 and 1136 of 2016 dated 03.11.2016. The Division Bench observed as under :

“While we are in complete agreement with the submission of Sri S.Niranjana Reddy, Learned Senior Counsel appearing on behalf of the respondent-writ petitioner, that there cannot be an omnibus categorisation, of all bio-products as insecticides, for the purpose of taking action under the Act, the grounds on which the Insecticide Inspector has reason to believe, that insecticides are being sold in contravention of the provisions of the Act and the Rules, would depend upon the facts of each case, and cannot be circumscribed by way of guidelines issued by this Court. The guidelines prescribed, in the order under appeal, can only supplement and not supplant the law, and would remain in force only till appropriate legislation-either plenary or subordinate -is made in this regard. Suffice it, while making it clear that there cannot be an omnibus

categorisation of all bio-products as insecticides for taking action against the dealers of those goods, to also make it clear that the guidelines, prescribed in the order under appeal, shall be in addition to, and not in derogation of, the powers conferred on the concerned authorities under the Act and the Rules. We may not be understood to have expressed any opinion on whether or not any of these bio-products are insecticides, as these are matters which the authorities concerned are required to examine in accordance with the provisions of the Act, the Rules made thereunder, and the guidelines stipulated in the order under appeal.

The order under appeal is modified to the extent indicated hereinabove, and the Writ Appeals are disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.”

3. Following the said judgment, and in terms thereof, these writ petitions are also disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

15th February, 2018
Rds

P.NAVEEN RAO,J

