

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.25638 of 2018

ORDER :

Heard the counsel for petitioner, and the learned Government Pleader for Agriculture, for respondent.

2. This Writ Petition is filed for the following relief:

“to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in interfering with the sale and distribution of bio-products of petitioner-Company, viz., Biofit-Shet, Biofit-Stimrich, Biofit-Intact, Biofit-Wrap Up, Biofit-Bio-95, by issuing Memo No.PP.II(1)2085/2005 DT.21.01.2006 and the consequential letter No.PP.II(1)2085/2005 dt.21.01.2006 as being illegal, arbitrary, unconstitutional and without jurisdiction and further direct the respondent not to interfere with in any manner the 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...”

3. It is submitted by both the learned counsel for the petitioner and the Government Pleader for Agriculture that the issue raised in this writ petition is covered by the common order dt.10.07.2015 passed by this Court in W.P.No.25293 of 2014 and batch, as modified by the Division Bench of this Court in Writ Appeal Nos.1122 and 1136 of 2016 vide common judgment dt.03.11.2016, and the said judgments are placed on record.

4. Relevant portion of the aforesaid common judgment dt.03.11.2016 in Writ Appeal Nos.1122 and 1136 of 2016 is extracted as follows:

“While we are in complete agreement with the submission of Sri S.Niranjan Reddy, Learned Senior Counsel appearing on behalf of the respondent-writ petitioner, that there cannot be an omnibus categorization, 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 categorization 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 there under, 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.”

5. Following the aforesaid judgments and for the reasons stated therein, this Writ Petition is also disposed of in terms thereof. No order as to costs.

6. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24.07.2018

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