

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 21624 of 2019

ORDER:

This Writ Petition is filed for the following relief:

“.....to issue an appropriate writ, order or direction more particularly one in nature of Writ of Mandamus declaring the action of the respondent No.2 in interfering with the manufacturing, sale and supply of the petitioner's bio-products like THUNDER BOLT, NUCLEAR, PULSE, LOGIQ, OCTOPUS, CHIEF MINISTER, LAND MARK, SPY, BLACK BELT, FALCON, CHARVIK, BLUE STAR, SAHOO, SATTA, JAAGO, YOU RAJ, ANDROID, THE BOSS, LION KING, INSPIRE, BRETHE, MISSION, FIRE BRAND, FIRE FIGHTER, FIRE BIRD, FIRE BULL, BLACK PANTHER, VIRAAAT-IND, RAPTOR, GUTS, FAST TRACK, FIRE FIGHTER, TORNADO, SUPER HERO, BIG BOSS, NEURON, NINJA, BLOCK BUSTER, PREMIERE, COURAGE, CHERUP, TOSS CENTURY, AMAZON, DOSTH, HYPER SONIC, X-PERT, KING FISHER, CLASSY, HOLLY WOOD, PUNCH, JIMMY, STUNT MASTER, JAFFA, GURKA, KRYPTON, GOLDEN EAGLE, SP, F-1, HACKER, COMMANDO, ROVER, T-20, KICK, BIG BROTHER, DEFEND, DRAGGER, KICK PUNCH, PUNCH ATTACK MITEZ, SMITE, END ALL, KLEEN GREEN, MITI GREEN, MITE-X, FULL STOPPER, PRE STOP, TRUST, LIFE GARD, ONE STOP, SHELL, COUNTDOWN, ABSOLUTE, BIO SURE, FULL TIME, EXPLORER, GREEN COP, TRUST MATE, BULL GUARD, RIGHT STOP, GROWPLUS, VITAMIN PLUS, PLANTEX GOLD, BITCOIN, HUMI GRREN, HUMI POWER, HUMUS PLUS, ERO GOLD, MICRO GOLD, GREEN PHITE, FERRARI GOLD, HIGH GROW, MAX GROW, PURE CROP, BIO MAX, FIX MAX, NUTRILITE, NUTRI TREND BLACK-PLATINUM, FLORA MAX, ROOTEX, ROOT BOOST, BIO BOOST SHREYASH, PHOENIX, SILICA, ECO SMART, NEEM KING, BIOTA XPERT, MANTRA, BLACK PLATINUM, FUSIONS PRIDE, HI GROW, GROW WELL, SUPER GROW, MAX SECURE, V-STOPPER, CROP GOLD, REDEEMER and OPTIMIZER which contains Amino Acid and Sea-Weed Extract by issuing Memo No.PP.II(I) 2085/2005 dated 21/01/2006 and the consequential letter No.PP.II(1)2085/2005 dated 21/01/2006 as illegal, arbitrary unconstitutional and without jurisdiction and further direct respondent No. 2 not to interfere with in any manner with the Bio-products of the petitioner including from the licensed premises of its dealers/stockists

under the Insecticides Act, 1968 and the Fertilizers Control (Order) Act, 1985”

It is submitted by the learned counsel for the petitioner as well as the learned Government Pleader for Agriculture appearing for the respondents that the issue in the present Writ Petition is squarely covered by the common order, dated 10.07.2015 passed by this Court in Writ Petition 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, dated 03.11.2016.

Relevant portion of the aforesaid common judgment, dated 03.11.2016 in Writ Appeal Nos.1122 and 1136 of 2016 is as under:

“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 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.”

Following the aforesaid judgments and for the reasons stated therein, this Writ Petition is also disposed of in terms thereof.

Miscellaneous petitions, if any, pending in this writ petition shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:27.09.2019

kdI

