

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.3360 OF 2020

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for the respondents.

2. The prayer sought in the writ petition is as under:

‘For the reasons stated in the affidavit filed in support of Writ Petition, it is prayed that this Hon’ble Court may be pleased to issue a Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd Respondent in interfering with manufacturing, sale and distribution of bio-products of petitioner-company, viz., Biophos, Biopotash, Humaphos, Nematonill, N-Max, Rootex, Super Zyme, Poushak+, Jeevan, Virakill, Semax(SP), Bio Stop, Fungitop, Biovin, Turmomax, Sporkill, Orgo-Pfotash, Humo Potash, Huma Grow, Phos Grow, Phos Max, Phos Min, Pot Max, Pot Min, Amino Grow, Sea Grow, Humi Magic, Minmax, Organo Max, Max Soil, Soil Magic, Drive Out, Sukex, Curlex, Catex, Flyer, Growmax, Super Shot, Erasafe Guard, Era Fungitrol, En-Max & Roo-tex, by issuing Memo No.PP.II(1)2085/2005, dated 21-01-2006 and Letter No.PP.II(1)2085/2005, dated 21-01-2006 as being illegal, arbitrary, unconstitutional and without and further direct the 2nd respondent not to interfere with in any manner in manufacturing, sale and distribution of bio-products including from the licensed premises of the dealers/stockists under the Insecticides Act, 1968 and the Fertilizers Control (Order) Act, 1985 and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. 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.

4. Relevant portion of the aforesaid common judgment, dated 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.Niranjana 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.”

5. Following the aforesaid judgment and for the reasons stated therein, this Writ Petition is also disposed of in terms thereof. Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

JUSTICE P.KESHA RAO

Date: 18.02.2020

PGS