HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION NO: 22140 OF 2020

Between:

M/s. Nakul Agritech India Private Limited, Rep. by its Managing Partner, A. Umesh Kumar, S/o. A. Gurumurthy, aged-25 years R/o.D.No. 2-2-186/17/F/1, B.K. Nagar, Bagh Amberpet, 25 years, R/o. D.No. Hyderabad - 500 013, Telangana State. Factory and Office at.2-4-123/46, Swaroopnagar, Uppal (V and T), Hyderabad -500 039, Medchal-Malkajgiri District, Telangana State.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Agriculture and Co-operation Dept.,Secretariat, Hyderabad
2. The Commissioner and Director of Agriculture, State of Telangana, Opp. L.B. Stadium, Basheerbagh, Hyderabad, Telangana State.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High 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-Firm, viz., Shine Plus, N-Gyme, N-777, N-Spot, Paddy Care, N-Max Plus, Gerilla, Arjun, All-Round, Impartment, Improvement, Cotton Fair, Flash, 3 Stars, Vajram, Uthej, Shanmukh, Yodha, Surgical, Multistar, Sanjivani, Arrow, Chemmak, All Out, Clean Up, All Clear, Power Zyme, Finisher, Gladiator, Punch-Power, Punch, Secure, Humi Plus, Litany, Aspen, Attack, NeePower, Rise and Amino Gold, by issuing Memo No. PP.I1(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.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd respondent not to interfere with manufacturing, sale and distribution of bio¬products of petitioner-Firm, viz., Shine Plus, N-Gyme, N-777, N-Spot, Paddy Care, N-Max Plus, Gerilla, Arjun, All-Round, Impartment, Improvement, Cotton Fair, Flash, 3 Stars, Vajram, Uthej, Shanmukh, Yodha, Surgical, Multistar, Sanjivani, Arrow, Chemmak, All Out, Clean Up, All Clear, Power Zyme, Finisher, Gladiator, Punch-Power, Punch, Secure, Humi Plus, Litany, Aspen, Attack, Nee Power, Rise & Amino Gold, including from the licensed premises of the dealers, stockists, under the Insecticides Act, 1968 and the Fertilizers Control (order) Act, 1985, pending disposal of the above Writ petition.

Counsel for the Petitioner: M/S. B. V. APARNA LAKSHMI

Counsel for the Respondents: GP FOR AGRICULTURE

The Court made the following:ORDER

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No.22140 of 2020

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Agriculture appearing for the respondents.

It is submitted by learned counsel for the petitioner that the subject matter of this writ petition is squarely covered by the common order passed by this Court in W.P.No.25293 of 2014 and batch, dated 10.07.2015 as modified by the Division Bench in W.A.Nos.1122 and 1136 of 2016, dated 03.11.2016.

Following the above orders, this Writ Petition is disposed of in terms of the said orders. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

SD/- K.SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Agriculture and Co-operation Dept., State of Telangana, Secretariat, Hyderabad
2. The Commissioner and Director of Agriculture, State of Telangana, Opp. L.B. Stadium, Basheerbagh, Hyderabad, Telangana State.
3. One CC to M/s. B. V. Aparna Lakshmi, Advocate [OPUC]
4. Two CCs to GP for Agriculture, High Court for the State of Telangana. [OUT]
5. Two CD Copies.

(along with a copy of order dated 03/11/2016 in WA.No. 1122 and 1136 of 2016.)

PM

HIGH COURT

DATED:07/12/2020

ORDER

WP.No.22140 of 2020



Disposing of the WP
Without costs.

SSV
7 copies
11/12/2020

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal Nos.1122 and 1136 of 2016

COMMON JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

While elaborate submissions are made both by the Learned Government Pleader for Agriculture appearing on behalf of the appellants and Sri S.Niranjan Reddy, Learned Senior Counsel appearing on behalf of the respondent-writ petitioners, both of them would agree that the questions which necessitate examination are (i) whether, by way of the proceedings impugned in the Writ Petition, the appellants can prohibit sale of bio-products in shops licensed to stock and sell insecticides; (ii) whether the authorities are empowered to classify all bio-products as insecticides; and (iii) whether the guidelines, stipulated in the order under appeal, would preclude the authorities from exercising their powers under the Insecticides Act, 1968 ("the Act" for short) and the Rules made thereunder.

As has been rightly held by the Learned Single Judge, the fundamental right to carry on business under Article 19(1)(g) of the Constitution of India can only be restricted in accordance with Article 19(6) thereof. While the Act requires a licence to be obtained for storing and selling insecticides, no provision, either in the Act or the Rules made thereunder, has been brought to our notice which prohibit a licensee from selling other products, in addition to insecticides, in the very same premises. The impugned memo, whereby dealers were prohibited from stocking, exhibiting and selling bio-products not covered under the Act, from the premises for which a license has been granted under the Act and

the Rules, is not authorised either by any of the provisions of the Act or the Rules made thereunder.

The fact, however, remains that though the guidelines, in the order under appeal, have been stipulated in the larger public interest of protecting farmers, some of the conditions prescribed therein appear to run contrary to the provisions of the Act. As the Learned Government Pleader for Agriculture has rightly pointed out Clause 6 of the guidelines, which requires a report from the concerned laboratory to be obtained not later than a week from the date of collection of the sample, does appear to fall foul of the time limit of one month specified in Section 21(1)(d) of the Act. Likewise Clause 7, which requires credible information to form the basis of collection of a sample, may well be construed as restricting the power, conferred under Section 21(1)(d) of the Act, on the Insecticide Inspector to withhold stocks if he has reason to believe that insecticides are being distributed, sold or used in contravention of the provisions of the Act and the Rules made thereunder.

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 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.

RAMESH RANGANATHAN, ACJ

A.SHANKAR NARAYANA, J

Date:03.11.2016
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