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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 07.12.2022

Pronounced on: 24.01.2023

+ W.P.(C) 10776/2021 and C.M. Nos. 33250/2021 (interim relief),
33252/2021 (direction) & 12322/2022 (interim relief)

DHANUKA AGRITECH LTD.

..... Petitioner

Through: Mr. Rajeev K. Virmani, Senior
Advocate alongwith Mr. Ankit
Virmani, Mr. M. Chandra,
Ms. Deveshi Madan, Mr. Shaurya,
Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Kirtiman Singh, CGSC.
Mr. Arvind K. Nigam, Senior
Advocate alongwith Gaurav
Barathi, Mr. Kartik Bhagat, Mr.
Vishal Shrivastava, Advocates for
respondent No. 4.

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

J U D G M E N T

GAURANG KANTH, J

1. Present writ petition has been preferred under Article 226 of the Constitution of India, *inter alia*, assailing order dated 10.09.2021 (**“Impugned Order”**) passed by Respondent No. 2/Appellate Authority, rejecting appeal-cum-Revision Petition No. 12 of 2021 under the Insecticides Act, 1968 (**“the Act”**). The Petitioner had preferred the aforesaid appeal against the decision (**“impugned decision”**) of the Registration Committee (**“RC”**) taken at the 430th

W.P.(C) 10776/2021

Page 1 of 19

meeting held on 23.07.2021, as modified by Agenda item 1.0 of its 431st meeting held on 27.08.2021. Vide this impugned decision, registration certificate was granted to Respondent no.4 under Section 9(3) of the Act for import of Halosulfuron methyl technical 98% min. and for indigenous manufacture of formulation Halosulfuron methyl 75% WG.

FACTS RELEVANT FOR THE ADJUDICATION OF PRESENT MATTER

2. The Petitioner is a registered company, being granted registration under Section 9(3) of the Act for import of Halosulfuron methyl 75% WG formulation from M/s. Nissan Chemical Industries Ltd., Kowa-Hitotsubashi Building, 7-1, 3-Chome, Kanda-Nishiki-Cho, Chiyoda-Ku, Tokyo 101-0054, Japan. Registration Certificate dated 26.12.2014 has been issued to the Petitioner, and thereafter the Petitioner has been involved in selling the aforesaid formulation under the trade name “Sempra”.
3. Another player in the market is Respondent no.4, who was granted Research, Test and Trial Permit (“**RTT Permit**”) in 2011 to import sample of Halosulfuron methyl Technical 98% w/w min. from Fertiago, Singapore. It was granted for the purpose of generating data to be submitted in the future along with any applications for registration. In the year 2016, Respondent No.4 filed its application for the purpose of obtaining registration for import of aforesaid chemical. However, a different source of import i.e. Jiangsu, China was cited by Respondent no.4, even though previously Respondent No.4 had obtained the RTT Permit by mentioning Singapore as the source of import.

4. Application filed by Respondent No. 4 was considered by the RC under provision of Section 5 of the Act for scrutinizing the application. Brief history/minutes of various RC meetings scheduled for the same is as follows:

429 th meeting as held on 24.06.2021, 28.06.2021 and 30.06.2021	“Agenda item no. 6.1. - Consideration of an application of M/s Crystal Crop Protection Pvt. Ltd., for grant of registration for indigenous manufacture of Halosulfuron methyl 75% WG under section 9(3) FIM vs FI. RC deliberated the agenda and decided that the applicant may be asked for presentation in the next RC meeting to explain the difference in source of RTT permit and source of import of technical mentioned in Form-I”
430 th Meeting as held on 23.07.2021	“Agenda item 2.1 RC deliberated the agenda and after consideration of point number 5 of 369th RC and also point number 6 and 7, found that this case qualifies for registration u/s 9(3). Accordingly granted for registration for indigenous manufacture of Halosulfuron methyl 75% WG for control of Cyperus rotundus on Sugarcane; Cyperus rotundus. Cyperus iria on Maize and Cyperus rotundus, Cyperus iria on Bottle Gourd in the category FIM vs FI and for technical import of Halosulfuron methyl technical 98% w/w min. manufactured by M/s Jiangsu Agrochem Laboratory Co. Ltd., Minjiang Road, Hi-tech Zone of Changzhou, Jingsu, China through supplier M/s Hebei Bestar commerce and Trade Co. Ltd., No. 6-3-203, No. 66, Dianda Street Xinhua District Shijiazhuang, China with validity 11.10.2023.”

431 st meeting held on 27.08.2021	“ RC confirm the minutes of 430th RC meeting with some modification/corrections:- 1. Agenda item No. 2.1 :- Last para should be inserted as “An affidavit on NJSP should be submitted to support the requirement of an agreement between M/s Fertiagro Pvt Ltd., 30 Toh Guan Road, #07-06 ODC Districcentre, Singapore 608840 and M/s Jiangsu Agrochem Laboratory Co. ltd., Minjian Road, Hi-tech Zone of Changzhou, Jiangsu, China to establish the linkage for using the same technology and same manufacturing process as was used for supply of RTT sample.”
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5. A communication dated 16.07.2021 was made by the petitioner to the Ministry of Agriculture, Government of India whereby the petitioner expressed its concern regarding the registration application filed by Respondent no.4. It was stated in the communication that the application is not based solely on independent data generated by Respondent no.4 since source of import differs from that mentioned during grant of RTT permit. It was also expressed by the Petitioner that any adverse impact caused by Respondent no.4's untested product is likely to jeopardise the reputation of the molecule associated with the Petitioner and will cause financial and goodwill loss to them. Therefore, the Petitioner requested the addressee to reject the registration application of Respondent no.4 in public interest.
6. However, vide 430th meeting scheduled on 23.07.2021, registration was granted by RC to Respondent no.4 for indigenous manufacture of

Halosulfuron methyl 75% WG and technical import of Halosulfuron methyl technical 98% w/w min.

7. Aggrieved by the aforesaid registration, the Petitioner filed an Appeal-cum-revision petition before Respondent no.2/appellate authority under provision of Section 10 and 11 of the Act. It was alleged by the Petitioner that RC without verifying the claims made by Respondent no.4 as to original manufacturer of the sample imported, arbitrarily granted registration for import of Halosulfuron methyl Technical from a different source (Jiangsu, China). On the other hand, Respondent no.4 submitted that all the required data in each discipline viz Chemistry, Bio-efficacy, Toxicity, Packaging and Legal according to the guidelines of TI- new source. Respondent no.2 passed the impugned order dated 10.09.2021. Relevant portion of aforesaid order has been reproduced below:

“Further, as far as power of revision of central Government as envisaged in Section 11 of the Insecticides Act, in the instant case, appellant/ revisionist has not provided any documentary evidence to prove that decision of RC is perverse or mala fide and that respondents have not followed the guidelines issued by CIBRC or has not completed the process of registration with respect to submission of data for evaluation of safety and efficacy of the product in question. Therefore, I am of the view that, revision petition is not maintainable.

In view of the above, I further observe that according to the minutes of 430th RC meeting, Registration committee after reviewing all the facts and information as per guidelines, had fully satisfied itself with regard to the data submitted by the applicant before granting the approval for registration for import of Halosulfuron Technical 98% min from the said source. Thus, I am of the view that the decision given by the RC is justified and require no interference from this appellate authority.”

8. The Petitioner, being aggrieved by the impugned order, has approached this Court under Article 226 of the Constitution of India for setting aside the impugned decision and impugned order.

SUBMISSIONS MADE ON BEHALF OF THE PETITIONER

9. Mr. Rajeev K. Virmani, learned senior counsel appearing for the Petitioner, has submitted before this Court that registration granted to Respondent no.4 is illegal and perverse as RC failed to conduct enquiry into the claims made by Respondent no.4. It is contended by the Petitioner that source of import as claimed by Respondent no.4 cannot be Jiangsu, China since official website of the Chinese Registration Authority, viz. Institute for the Control of Agrochemicals, Ministry of Agriculture, People's Republic of China ("ICAMA"), cogently reveals that Jiangsu Agrochem Laboratory Co. Ltd., China received registration for manufacture of Halosulfuron methyl Technical 98% w/w. min. only on 11.10.2018.
10. Further, it was alleged that Respondent no.4 failed to comply with the guidelines provided by the RC that in case the manufacturer was different from supplier, as is now being claimed, the details of both were required to be mentioned on the RTT Permit.
11. Learned counsel further drew attention of this Court towards the Statement of object as provided in the Act i.e. **"An Act to regulate the import, manufacture, sale, transport, distribution and use of insecticides with a view to prevent risk to human beings or animals, and for matters connected therewith."** It is submitted that RC's actions are in complete abdication of RC's statutory duty under Section 9(3) read with Section 5(1) of the Act Moreover, it is

W.P.(C) 10776/2021

Page 6 of 19

submitted by learned senior counsel that term “**Any person aggrieved**” as mentioned in Section 10 of the aforesaid Act must be interpreted widely in light of statement of object since it is meant for larger public interest. RC has permitted import of an insecticide from a purely untested source, which can jeopardise safety of humans and animals, and would also have adverse impact on the environment. RC’s acts and omissions are a classic example of arbitrariness and perversity in the conduct of a statutory body performing a public duty as well as a crucial function on which the health and safety of humans and animals are dependent.

12. Objections have been raised by the counsel with respect to RC’s 431st meeting wherein Respondent no.4 was directed to file an affidavit to support the requirement of an agreement between M/s Fertiagro Pvt. Ltd, Singapore and M/s Jiangsu Agrochem Laboratory Co. Ltd., Jiangsu, China to establish the linkage for using the same technology and same manufacturing process as was used for supply of RTT sample. It is contended that by simply directing Respondent no.4 to file a self-serving affidavit, RC has disregarded its obligation of verifying the claims and hastily proceeded to grant registration for import of said chemical.
13. Learned senior counsel further submitted that the Petitioner is the first registrant in India for import of the insecticide formulation from a source in Japan. The Petitioner is highly invested in the success of this insecticide. Also, if the product from this untested source turns out to be harmful, it would severely destroy hard-earned reputation of the Petitioner and cause grave irreparable injury to health of the

environment. In such circumstances, the Petitioner has sufficient *locus standi* to approach this Court through the present petition.

14. To buttress the arguments, learned senior counsel has relied upon judgments of Hon'ble Supreme Court of India in the case of ***Coal India Ltd. v. Ananta Saha, (2011) 5 SCC 142; Samir Agrawal v. CCI (Cab Aggregators Case), (2021) 3 SCC 136; Honnaiah T.H. v. State of Karnataka, 2022 SCC OnLine SC 1001.***

SUBMISSIONS MADE ON BEHALF OF RESPONDENT NO.4

15. *Per contra*, Mr. Arvind K. Nigam, learned senior counsel on behalf of Respondent No.4 and Mr. Kirtiman Singh on behalf Respondent Nos.1-3 submitted that the present petition is filled by the Petitioner with the ill-intention of perpetuating monopoly in the market by eliminating their rivals/competition. The present petition is not maintainable under Section 10 of the Act since Petitioner herein has no *locus standi* to invoke the writ jurisdiction of this Hon'ble Court, and petitioner is nothing more than a 'meddlesome interloper' aiming to obstruct registration process of Respondent no.4.
16. *Arguendo*, even if it is assumed that the said appeal-cum-revision is only an Appeal under section 10 of the Act, even then also the appeal of the Petitioner was not maintainable, as Section 10 of the Act provides for the "Appeal against non-registration or cancellation" only and not for the appeal against registration granted to any party. Petitioner cannot be a 'person aggrieved' as required by the statute for filing a revision petition as no right vested in the Petitioner has been affected by the registration.

17. It is further submitted by learned counsel for Respondent Nos.1-3 that application of Respondent no.4 was under the scrutiny of the RC between the period from 2016 to 2021. Every required information with respect to toxicology, packaging, bio-efficacy, chemistry etc. has been presented before the RC as and when called for. It is submitted that Respondent no. 3 being a Committee of Experts constituted under the Act only upon being satisfied with the data submitted by Respondent no.4 regarding the safety and efficacy of the said insecticides has granted registration certificate to Respondent no.4.
18. To cement their arguments, learned counsels have relied upon judgments and order delivered in *Uflex Ltd. v. Govt. of T.N., 2021 SCC OnLine SC 861; Syngenta India Ltd. v. Union of India, 2009 SCC OnLine Del 1724; Jasbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed, (1976) 1 SCC 671; and Gharda Chemicals Limited v. Joint secretary, Plant protection & Ors. W.P. (C) 11542/2018.*

LEGAL ANALYSIS

19. This Court has heard the submissions made by the parties and perused the documents placed on record with the assistance of the learned counsels for the parties. The original file pertaining to the grant of RC to Respondent No.4 was produced before this Court by the official Respondents and this Court carefully examined the said original file.
20. Main bone of contention in the present matter is the impugned decision taken by the RC vide Agenda Item No. 2.1 of its 430th Meeting vide which registration was granted to Respondent no.4 for import and manufacture of Halosulfuron methyl. The principal

question that falls to be determined is whether there exists any perversity in the impugned decision as taken by the RC.

21. Petitioner has adopted a constant position wherein it is contended that the impugned decision and the impugned order have been passed without application of mind, resulting in grant of registration to Respondent no.4 u/s 9(3) of the Act. It is the submission of the Petitioner that the source of import for which registration was being sought (Jiangsu, China) is completely different from the source from which the RTT sample was permitted to be imported (Fertiagro, Singapore). Learned senior counsel for the Petitioner further submits that the source of import cannot be Jiangsu, China as the official website of the Chinese Registration Authority, viz. ICAMA reveals that Jiangsu Agrochem Laboratory Co. Ltd., China received registration for manufacture of Halosulfuron methyl Technical 98% w/w. min. only on 11.10.2018.
22. Perusal of the record reveals that Jiangsu, China was the authorized manufacturer of Halosulfuron Methyl Technical 98 % min since 2011. In the year, 2011, Jiangsu, China had received a temporary registration of Halosulfuron Methyl Technical 98 % from ICAMA vide registration number LS2011031. The said registration of Jiangsu for Halosulfuron Methyl Technical 98 % min was subsequently granted permanent registration number by ICAMA in the year 2013 vide registration number PD20132005. Perusal of the record further reveals that an Agreement dated 08.12.2010 was executed between M/s Jiangsu Agrochem Laboratory Co. Ltd and M/s Fertiagro Pte Ltd. for supply of material. It was agreed between the parties that since

M/s Fertiagro Pte Ltd. had a good distribution network, and M/s Jiangsu Agrochem Laboratory Co. Ltd. being a manufacturer of agro-chemicals, the latter would supply the goods to M/s Fertiagro Pte Ltd. for further sale as its distributor / agent. It was agreed that M/s. Fertiagro Pte Ltd. may send the product to its customers for registration in respective territory and in case the product is registered in respective country, M/s Jiangsu Agrochem Laboratory Co. Ltd. shall continue to supply product through M/s Fertiagro Pte Ltd.

23. Learned senior counsel for the Petitioner further contended that Respondent no.4 failed to comply with the guidelines provided by the RC which mandates that in case the manufacturer was different from supplier, the details of both were required to be mentioned on the RTT Permit. Perusal of the file reveals that the new guidelines came into effect vide 329th RC Meeting held on 08.06.2012; whereas the RTT permit to Respondent No. 4 was issued in the year 2011. Hence Respondent No.4 applied for the RTT permit as per the old guidelines in which there was no such requirement. Further, perusal of the record reveals that the Registration Committee in its 369th Meeting held on 04.10.2016, vide Agenda Item No. 2.2 took a decision that '*no application with the data generated using unauthorized sample (without obtaining RTT permit) shall be accepted/processed on or after 01/01/2017. It was also decided that if any studies of any product under any category is undergoing with such samples, the same may be intimated to the APPA & Secretary (CIB&RC) by 30/11/2016 through email at cibsecy@nic.in. A Public Notice to this effect was also issued*'. Taking benefit of the said decision,

Respondent No.4 vide letter dated 03.11.2016 appraised the Secretary CIB & RC of the reason and change in the name of source import. Respondent No.4 further submitted a dossier with revised Form 1 dated 11.04.2016 in which Respondent No. 4 indicated the original manufacturer as M/s Jiangsu Agrochem Laboratory Co. Ltd.

24. This Court has examined the minutes of 430th meeting of the RC wherein the RC has recorded the history of the dossiers and other relevant data submitted by Respondent no.4. The relevant portions of the said RC Meeting, reads, *inter alia*, as follows:

“Presentation by M/s Crystal Crop Protection Pvt. Ltd., for grant of registration for indigenous manufacture of Halosulfuron methyl 75% WG u/s 9(3) FIM vs FI and for technical import of Halosulfuron methyl technical 98% w/w min. u/s 9(3).

The presentation was made by the applicant and submitted the following details:-

1. *That they have procured RTT permit for import of Halosulfuron-Methyl Technical from M/s Fertiagro Ptv Ltd., 30 Toh Guan Road, #07-06 ODC Districcentre, Singapore 608 840. Subsequently, the technical Grade Sample was imported from M/s Fertiagro Pvt. Ltd. The data for all the disciplines was generated using the said sample. They also informed that technical grade material supplied to them by M/s Fertiagro was actually manufactured by M/s Jiangsu Agrochem Laboratory Co. ltd., Minjian Road, Hi-tech Zone of Changzhou, Jiangsu, China with whom they had an exclusive business agreement for manufacturing and supply of the product.*
2. *Submitted all the required data in each discipline according to the guidelines of TI –New Source.*
3. *Filed an appeal before the Hon'ble Appellate Authority vide appeal no. 15 & 12 of 2020 and after hearing case the Appellate authority noted that all scientific facts and complete data according to the existing guidelines of TI-New Source have been given and passed the order vide F. No. 13031/12/2020/PP-I dated 02/12/2020.*
4. *Appellate authority was also satisfied, and hence directed the RC to duly consider the application of Technical of the*

Product HALOSULFURON TECH 98% Min for import from another new source.

5. *Further informed that Registration Committee in its 369th Meeting held on 04.10.2016, vide Agenda Item No. 2.2 taken decision that "The committee further decided that no application with the data generated using unauthorized sample (without obtaining RTT permit) shall be accepted/processed on or after 01/01/2017. It was also decided that if any studies of any product under any category is undergoing with such samples, the same may be intimated to the APPA & Secretary (CIB&RC) by 30/11/2016 through email at cibsecy@nic.in. A Public Notice to this effect was also issued".*
6. *Applicant appraised that they submitted a letter to Secretary CIB&RC on 03/11/2016 (within the deadline indicated) informing the reason and change in the name of source import.*
7. *It was also noticed that applicant submitted the dossier with revised Form 1 dated 11.4.2016 received in CIBRC Secretariat on 22.4.2016 where the applicant indicated original manufacturer Jiangsu Agrochem Lab Co. Ltd.*

RC deliberated the agenda and after consideration of point number 5 of 369th RC and also point number 6 and 7, found that this case qualifies for registration u/s 9(3). Accordingly granted for registration for indigenous manufacture of Halosulfuron methyl 75% WG for control of Cyperus rotundus on Sugarcane; Cyperus rotundus . Cyperus iria on Maize and Cyperus rotundus, Cyperus iria on Bottle Gourd in the category FIM vs FI and for technical import of Halosulfuron methyl technical 98% w/w min. manufactured by M/s Jiangsu Agrochem Laboratory Co. Ltd., Minjiang Road, Hi-tech Zone of Changzhou, Jingsu, China through supplier M/s Hebei Bestar commerce and Trade Co. Ltd., No. 6-3-203, No. 66, Dianda Street Xinhua District Shijiazhuang, China with validity 11.10.2023. "

25. Apart from that, Respondent no.4 has submitted before the RC time and again such documentary evidences to establish link between the M/s Fertiagro, Singapore and M/s Jiangsu Agrochem Laboratory, China.

26. This Court also finds that the RC vide item No. 1.0 of its 431st meeting dated 27.08.2021 directed Respondent no.4 to submit an affidavit to support the requirement of an agreement between Fertiagro and Jiangsu to establish the linkage for using the same technology and same manufacturing process as was used for supply of RTT sample. In view of the same, Respondent no. 4 submitted the requisite affidavit before the RC along with relevant documents which includes a letter dated 10.08.2021 from M/s Jiangsu Agrochem Laboratory Company Ltd. The said Letter, reads, *inter alia*, as follows:

- “1. *We. JIANGSU AGROCHEM LABORATORY CO. LTD. ADD: Minjiang Road. Hi-teeh Zone of Changzhou, Jiangsu, China, hereby confirm the following:*
2. *Jiangsu Agrochem Laboratory Co., Ltd, established in Apr 1999, located in National High-tech Industrial Development Zone of Changzhou, Jiangsu Province, is the Provincial Engineering Center as well as Provincial Hi-tech Enterprise approved by the Provincial Council of Science and Technology. It's been listed as development base of herbicides with high efficiency by Ministry of Science and Technology of P.R.C.*
3. *We further confirm that we hold valid registration of Halosulfuron Methyl Technical min issued by INSTITUTE OF THE CONTROL OF AGROCHEMICALS,' Ministry of Agriculture (ICAMA) having registration reference number PD20132005. We had received this registration first time in the year 2013. We had received a temporary registration from ICAMA in 2011 vide registration number LS20110312. A copy of the same is also enclosed and can be found on ICAMA website.*
4. *We further confirm that we are the only manufacturer who has a valid ICAMA for Halosulfuron Methyl Technical in China.*

5. *We also confirm that we are the only legal manufacturer of Halosulfuron Methyl Technical 98% min in China. Our latest manufacturing license number is 0086 issued by Department of Agriculture and Rural Development of Jiangsu Province dated 03 April 2018. We are producing this product in China since the year 2011.*
6. *We also confirm that we had provided technical grade sample to M/s, Fertiagro Pte, Singapore between 2010-2014. The purpose of the sample was to support registration in India for our customer M/s. Crystal Crop Protection Ltd (Earlier known as Crystal Crop Protection Pvt. Ltd.). We later sent tech grade samples to Crystal directly also for registration related purposes.”*

27. Upon perusal of these documents, it is amply conveyed that RC had sufficient material before it to satisfy itself with respect to the claims made by Respondent no.4.

28. At this point, it is relevant to refer to the provision under Section 9(3) of the Act. It is reproduced as follows:

“(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register [on such conditions as may be specified by it] and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a period of twelve months from the date of receipt of the application:

Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed before it, extend the period by a further period not exceeding six months:

Provided further that if the Committee is of opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such

precautions the use of the insecticide involves serious risk to human beings or animals, it may refuse to register the insecticide.”

29. On the bare perusal of the aforesaid provision, it is cogent that liberty/discretion has been granted to the RC to conduct its affair or enquiry as it deems fit for ascertaining the claims of the applicant.
30. While examining the decision of an expert quasi-judicial body under Article 226 of the Constitution of India, the High Court is concerned only to the limited extent whether the said authority has applied its mind and satisfied itself with help of relevant data, so that no room is left for arbitrariness. This Court is convinced that RC indeed took all the possible steps to check the veracity of the registration application and mindfully granted registration under the statute.
31. The Petitioner has not brought on record any documentary evidence to prove that the decision of RC suffers from irregularity or that it has proceeded arbitrarily while satisfying itself with respect to efficacy and safety of the product in question. RC is a body of experts comprising of experts from various fields. RC comprises of authority such as Drugs Controller of India and the Plant Protection Advisor to the Government of India etc. The Court cannot interfere with the decisions taken by the RC by exercising power of judicial review unless and until it suffers from patent irregularity. Same observations were made by co-ordinate Bench of this Court in ***Crop Care Federation of India and Anr v. UOI & Ors. in W.P. (C) 8117/2019 decided on 29.07.2019.***
32. As far as maintainability of the appeal under Section 10 of the Act is concerned, it is explicitly provided in the provision that only a ‘person

aggrieved' can prefer an appeal against the decision of the RC. The present case is squarely covered by the order passed by the coordinate Bench of this court in ***Gharda Chemicals (supra)*** wherein the petitioner who happened to be a competitor of the Respondent, filed a writ petition against the grant of registration to the Respondent under the Act. Relevant portion of the aforesaid order is as follow:

“10. This Court is unable to accept that the petitioner has any vested right to insist that respondent nos 4 and 5’s applications be considered as per any particular guidelines, and the same requires to be protected by this court by issuing a writ under Article 226 of the Constitution of India. Concededly, the applications filed by the petitioner for registration of insecticides has been processed and the petitioner now seeks to challenge the processing of applications of its competitors (respondent nos. 4 and 5). Plainly, the provisions of Article 226 cannot be permitted to be used for settling business rivalries, which appears to be the object of the present petition.

11. In Nagar Rice & Flour Mills vs. N Teekappa Gowda & Bros AIR 1971 SC 246, the Supreme Court held that a rice mill owner had no locus standi to challenge setting up of a new rice mill by another, under Article 226, even if the same was in contravention of section 8(3)(c) of the Rice Milling Industry (Regulation) Act, 1958. The Court reasoned that no right vested in such an applicant was infringed. This decision was also followed by the Supreme Court in a later decision in Mithilesh garg v Union of India: 1992 (1) SCC 168, wherein the court repelled the challenge of existing stage carriage operators to the decision of the Regional Transport Authority to issue permits to new operators.

12. In Simbhaoli Sugar Mills and another v Union of India & Others: 1992(22) DRJ 594 a Division Bench of this court rejected the challenge to a press note containing guidelines for issuance of licences for setting up new and expansion of existing sugar factories. In terms of the said guidelines, licence to set up a new unit could be granted subject to certain conditions, one of them being that there was no sugar mill within a radius of fifteen kilometres and the

applicant was not required to furnish any certificate/clearance regarding cane availability or potential for development of cane. The petitioner before the court was an existing manufacturer and had challenged the issue of licence to another unit (respondent no. 5 therein) processed under the guidelines. The court held that the petitioner had “no locus standi to invoke the special jurisdiction under Article 226 of the Constitution of India” and rejected the petition.”

33. It is a well-settled principle that Article 226 of the Constitution cannot become a means to chase down a business rival by pinpointing procedural deficiency in decision making process. This extraordinary power can only be invoked when there appears a glaring error and arbitrariness in decision making process of the body. Competition between enterprises cannot be a cause of action in any case. The Hon’ble Supreme Court touched upon the issue of *locus standi* in ***Jasbhai Motibhai Desai case (supra)***:

“47. Thus, in substance, the appellant's stand is that the setting up of a rival cinema house in the town will adversely affect his monopolistic commercial interest, causing pecuniary harm and loss of business from competition. Such harm or loss is not wrongful in the eye of law, because it does not result in injury to a legal right or a legally protected interest, the business competition causing it being a lawful activity. Juridically, harm of this description is called damnum sine injuria, the term injuria being here used in its true sense of an act contrary to law. [Salmond on Jurisprudence, 12th Edn. by Fitzgerald, p. 357, para 85] The reason why the law suffers a person knowingly to inflict harm of this description on another, without holding him accountable for it, is that such harm done to an individual is a gain to society at large.

48. In the light of the above discussion, it is demonstrably clear that the appellant has not been denied or deprived of a legal right. He has not sustained injury to any legally protected interest. In fact, the impugned order does not operate as a decision against him, much less does it wrongfully affect his

title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. He has no legal peg for a justiciable claim to hang on. Therefore he is not a "person aggrieved" and has no locus standi to challenge the grant of the no-objection certificate."

34. In the light of aforesaid discussion, this Court holds that the RC has well-satisfied itself with regard to the bio-efficacy data and other relevant documents provided by Respondent no. 4 to support its case for registration under the Act.
35. This Court finds no infirmity or perversity in the impugned order. No interference with the decision and order impugned in this petition is warranted at the instance of the petitioner.
36. The petition is, accordingly, dismissed. The pending applications stand disposed of.

JANUARY 24, 2023
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GAURANG KANTH, J.

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