



W.P.(MD).No.744 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.744 of 2024

and

W.M.P.(MD).Nos.751 and 754 of 2024

1.M/s. Shobikaa Impex Private Limited,
represented by its Authorised representative,
34, Sannathi Street,
Vennaiimalai Post,
Karur 639 006.

2.M.Sivasamy
Shareholder / Director of
M/s. Shobikaa Impex Private Limited,
No.34, Sannathi Street,
Vennaiimalai Post,
Karur 639 006.

... Petitioners

vs.

1.Union of India,
represented by the Agriculture Secretary,
Ministry of Agriculture and Farmers Welfare,
Central Secretariat,
New Delhi 110 001.

2.The Registration Committee,
Central Insecticides Board,
represented by its Secretary,
Directorate of Plant Protection,
Quarantine and Storage,
NH 4, Faridabad, 121 001.



W.P.(MD).No.744 of 2024

3.The Deputy Director of Agriculture,
Plant Protection,
State Licensing Authority,
Chennai,
State of Tamil Nadu.

4.Hindustan Insecticides Limited,
SCOPE Complex, Core-6,
2nd Floor, 7 Lodi Road,
New Delhi 110 003.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of “Minutes of the 452nd Registration Committee Meeting dated 05.12.2023” held under the aegis of second respondent and quash the same in respect of the decision taken in Agenda Item No.11.

For Petitioners	: Mrs.Chitra Sampath Senior counsel for Mr.S.Gokulan
For R1 and R2	: Mr.M.Karthikeya Venkitachalapathy Senior Panel counsel for Central Govt.
For R4	: Mr.SRA.Ramachandran Special Government Pleader



W.P.(MD).No.744 of 2024

ORDER

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This writ petition has been filed challenging the Minutes of the 452nd Registration Committee Meeting held on 05.12.2023, under the aegis of second respondent and to quash the same in respect of the decision taken in Agenda Item No.11.

2. The case of the petitioners is that the second petitioner is the shareholder and Managing Director of M/s. Shobikaa Impex Private Limited. It is reputed export oriented Company in the business of manufacturing of Long-lasting Insecticidal Mosquito Net (hereinafter referred to as LLIN) under the brand names Dura Net, Dura Net Plus and Green Net. The second petitioner is an industry leader in the manufacture of LLINs with a strategic investment in manufacturing LLINs providing employment to about 5000 workers directly and indirectly. The Dura Net and Dura Net Plus products of the petitioners are purchased by global NGOs such as the Global Fund, UNICEF, USAID, UNHCR, Against Malaria Foundation etc., in their efforts to control malaria in the developing countries where malaria related death and illness is high. He had to obtain prior permission from the Central Insecticides Board, the



W.P.(MD).No.744 of 2024

second respondent herein, before introducing, manufacturing and selling a new insecticide product in India. Section 9 of the Insecticides Act, 1968 and Insecticides Rules, 1971 provides for the rules and procedure for registration of the Insecticides. The Registration Committee of the Central Insecticides Board had formulated guidelines in its 315th Meeting dated 22.02.2011, for the approval of imported or indigenously manufactured pesticide in India for use in production of LLIN. The Deltamethrin (previously known as Decamethrin) is one of the insecticides listed as approved by the Department of Plant Protection, Quarantine and Storage. Deltamethrin 55 mg/m² (impregnated bed net) already stands approved as a formulation for import into India, as early as in 2010.

3. It is the further case of the petitioners that on 28.09.2020, he has submitted an application for obtaining Certificate of Registration for indigenous manufacture of LLINs impregnated with Deltamethrin 55mg/m² (impregnated bed net) through online mode, to the second respondent Central Insecticides Board. Based on an initial scrutiny, the application was resubmitted on 08.10.2020. This resubmitted application was again scrutinised and accepted via. Serial No.148864. On



W.P.(MD).No.744 of 2024

15.06.2021, he submitted clarifications regarding deficiency in the label, leaflet, FI registration and toxicity. On 06.12.2021, he also addressed the deficiency raised towards the bio-efficacy of the proposed insecticide. On 17.05.2022, he submitted samples and Reference Standard Material in sealed condition to Central Insecticides Laboratory for analysis, as per the normal procedure. He had submitted replies to the deficiency report raised and filed Form-I with detailed chemical composition, process of manufacture and details of the raw materials via online application process on 22.12.2022. The application was approved during 444th Registration Committee Meeting held on 16.01.2023. Consequently, the ministerial act of issuing the certificate was also completed and he obtained the Certificate of Registration for Deltamethrin impregnated bed net 55 mg/m². Pursuant to the same, he made a representation to the Tamil Nadu State Licensing Authority on 18.09.2023, for including this newly approved product as one additional product in its manufacturing license 589/2022, dated 23.11.2022. This was approved and the State Licensing Authority included the Deltamethrin based LLIN as an additional item in the manufacturing license granted to him and the same was communicated to him through letter dated 17.10.2023. He had already invested more than Rs.300 crores to this project. But shockingly,



W.P.(MD).No.744 of 2024

the agenda for 452nd Registration Committee Meeting held on 05.12.2023 in Agenda Item 11.1 included an alleged complaint on issue of registration of LLIN to him. He was not aware of the same and no copy of such complaint was served on him. Subsequently, the agenda of the meeting notes refers to a communication dated 25.11.2023 on LLIN trial reports and its verification from Indian Council of Medical Research (ICMR) and alleges certain inadvertent anomaly in the scrutiny of the petitioners application. Based on the reports, Registration Committee appears to have passed an order to put his Certificate of Registration on hold and given effect to until the reports are examined. The second respondent had unilaterally decided to hold the Registration Certificate to be put on hold without seeking any explanation from the petitioners. Challenging the same, the present writ petition has been filed.

4. The respondents 1 and 2 filed a counter stating that the present writ petition has been filed challenging the decision of the second respondent (Registration Committee) taken in its 452nd Meeting at Agenda Item No.11.1, wherein the approval granted to the petitioners to manufacture deltamethrin impregnated bed net 55 mg per meter square has been put on hold. In this regard, it is stated that against the impugned



W.P.(MD).No.744 of 2024

decision there exists an efficacious and statutory remedy of filing an appeal under Section 10 of the Insecticides Act, 1968 and / or a revision under Section 11 of the Insecticides Act, 1968, before the Central Government. Therefore, the present writ petition is not maintainable. Further, the issue in question was further placed before the Registration Committee in its 453rd Meeting at Agenda Item No.10.9 held on 16.01.2024, wherein the RC decided as under:

“Follow up action on agenda item No.11.1 complaint on the issues of the registration of LLIN under FIM vs FIT u/s 9(3)

RC perused the agenda in detail and observed that in terms of its decision in its 444th (vide agenda item no.6.13) held on 16.01.2023 and 452nd RC meeting (vide agenda item no.11.1) held on 05.12.2023, the matter was looked into by the Secretariat of CIB & RC. RC further observed that as indicated in the report of the Committee constituted under ICMR, there is an apparent non-adherence to ICMR guidelines for data generation of Long Lasting Insecticidal Net (LLIN) which may have an impact on human health and safety and which ought to have been followed to by M/s. Shobika Impex Pvt. Ltd., RC is of the view that the matter needs detailed scientific and technical examination and deliberations. RC is of the further view that before taking a final decision, an opportunity may be granted to M/s. Shobika Impex Pvt. Ltd. for presenting their



W.P.(MD).No.744 of 2024

case, in this instant matter. RC accordingly directs the Secretariat of CIB & RC to provide the requisite material that formed the basis of its 452nd meeting decision and invite M/s.Shobika Impex Ltd for a presentation in this regard in the upcoming RC meeting.”

5. According to the respondents, the petitioners will be heard before arriving at a final decision in this matter and they have not passed any final orders and till the final decision is taken, they would abide by the order being passed by this Court.

6. The learned counsel appearing for the petitioners would submit that they are challenging the jurisdiction of the Registration Committee on the ground that there is no provision to cancel or review the said decision taken by the authority concerned and the interim order may be continued till the decision is taken.

7. On going through the averments made in the affidavit as well the counter, it is clear that the petitioners were given permission to manufacture deltamethrin impregnated bet net 55 mg per meter square and now the registration has been put on hold by the authorities without



W.P.(MD).No.744 of 2024

hearing the parties, based on the complaint. When the papers are not served on the petitioners, they were shocked to see the impugned order, wherein the approval granted to the petitioners has been put on hold. The authorities can do so only after hearing the parties and without hearing the petitioners, they could not pass the said impugned order. Hence, the interim order passed by this Court earlier to continue and the petitioners will be given an opportunity of hearing before they are going to take a final decision. The petitioners are at liberty to raise all the legal grounds available to them and if the final order is adverse to the petitioners interest, they can challenge the same. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

01.02.2024

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To

1. The Agriculture Secretary,
Union of India,
Ministry of Agriculture and Farmers Welfare,
Central Secretariat,
New Delhi 110 001.



W.P.(MD).No.744 of 2024

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- 2.The Registration Committee,
Central Insecticides Board,
represented by its Secretary,
Directorate of Plant Protection,
Quarantine and Storage,
NH 4, Faridabad, 121 001.
- 3.The Deputy Director of Agriculture,
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State Licensing Authority,
Chennai,
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W.P.(MD).No.744 of 2024

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W.P.(MD).No.744 of 2024

01.02.2024