

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWRIT PETITION (CIVIL) NO.213 OF 2011

DEMOCRATIC YOUTH FEDERATION OF INDIA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for directions, intervention, modification of Court's order dated 13.5.2011 and permission to file additional documents)

Date: 30/09/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s) Mr. Krishnan Venugopal, Sr. Adv.
Mr. Deepak Prakash, Adv.
Mr. Biju P. Raman, Adv.
Mr. Bineesh Karat, Adv.
Ms. Leena Nair, Adv.
Ms. Usha, Adv.
Mr. Vinod Divakar, Adv.
Ms. Meena C.R., Adv.

For Respondent(s) Mr. A. Mariarputham, AG.
For Sikkim: Ms. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.

For Andhra Pradesh: Ms. C.K. Sucharita, Adv.
Ms. Nirada Das, Adv.

Ms. Pinky Anand, Sr. Adv.
Mr. D.N. Goburdhan, Adv.
Mr. Prabal Bagchi, Adv.
Ms. Kartika Sharma, Adv.

For Kerala: Mr. Ramesh Babu M.R., Adv.

For Bihar: Mr. Gopal Singh, Adv.
Mr. Manish Kumar
Mr. Chandan Kumar, Adv.

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For Gujarat: Ms. Hemantika Wahi, Adv.
Mr. Ashwini Kumar, Adv.
Ms. Suveni Banerjee, Adv.

Mr. Gaurav Banerjee, ASG.
Mr. J.S. Attri, Adv.
Mr. T.M. Singh, Adv.
Ms. Asha G. Nair, Adv.
Mr. A. Deb Kumar, Adv.
Mr. D.S. Mahra, Adv.

For Manipur: Mr. Khwairakpam Nobin Singh, Adv.
Mr. Sapam Biswajit Meitei, Adv.

For Maharashtra: Mr. Shankar Chillarge, Addl. Govt. Adv.
Ms. Asha G. Nair, Adv. v.

**For Pesticides
Manufacturers and
Formulators Asso.
of India:** Mr. H.N. Salve, Sr. Adv.
Mr. Jehangir Mistry, Sr. Adv.
Mr. Jay Savla, Adv.
Ms. Meenakshi Ogra, Adv.
Ms. Renuka Sahu, Adv.

For Haryana: Mr. Manjit Singh, AAG.
Mr. Vivekta Singh, Adv.
Mr. Tarjit Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.

Mr. S.S. Ray, Adv.
Ms. Rakhi Ray, Adv.

For Rajasthan: Ms. Archana Pathak, Adv.
Mr. Milind Kumar, Adv.
Mr. Sahil Garg, Adv.

For Tamil Nadu: Mr. B. Balaji, Adv.

Ms. Prerna Mehta, Adv.

For Nagaland: Ms. K. Enatoli Sema, Adv.
Mr. Edward Belho, Adv.
Mr. Rokokieno Mor, Adv.
Mr. Balaji Srinivasan, Adv.
Mr. Athuimei R. Naga, Adv.
Mr. C.M. Kenedy, Adv.

For J&K: Mr. Sunil Fernandes, Adv.
Mr. Suhaas R. Joshi, Adv.
Ms. Astha Sharma, Adv.

For Mizoram: Mr. K.N. Madhusoodhanan, Adv.
For Chhattisgarh: Mr. Atul Jha, Adv.
Mr. D.K. Sinha, Adv.
For Jharkhand: Mr. S. Chandra Shekhar, Adv.
For Meghalaya: Mr. Ranjan Mukherjee, Adv.
For Goa: Ms. A. Subhashini, Adv.

UPON hearing counsel the Court made the following
O R D E R

We find from the Interim Report of the Expert Committee dated 24th August, 2011, that, as of date, the available export orders of Endosulfan with various manufacturers are to the tune of 1734 MT. As against that, the accumulated quantity of Endosulfan Tech. lying as accumulated stock with various manufacturers in India is 1090.596 MT.

Having heard learned counsel on both sides, we are of the view that 1090.596 MT of Endosulfan be permitted to be exported on conditions enumerated below to those Countries from whom export orders of Endosulfan have been received by the manufacturers in India so that the manufacturers are able to fulfill their contractual obligations and, to that extent, the alleged pollutant stands eliminated from this Country. However, we need to take steps and issue directions to prevent pollution along the way in the course of export of 1090.596 MT to countries, who are ready and willing to import endosulfan and who have placed orders with Indian manufacturers. Accordingly, the following directions are issued

...4/-

for export of 1090.596 MT of Endosulfan:

[a] Each Manufacturer-cum-Exporter shall obtain Certificate of Registration for export from the Competent Authority. Before actual export of the material, packaging has to be done by the manufacturer. This packaging will be done under Rule 35 of the Insecticides Rules, 1971, and other cognate Rules.

[b] The packaging will be done under the supervision of the jurisdictional Commissioner of Customs or any other higher/suitable officer to be nominated by him/her; higher officer from the Insecticides Board; and in the presence of an officer from the Regional Office of the Ministry of Environment and Forests.

[c] After proper packaging is done, as indicated above, the manufacturer(s) will transport the consignment to the concerned Port from where the material will be exported in accordance with the provisions of the Insecticides Act, 1968, and Insecticides Rules, 1971. We are informed that, generally, the product is carried in a tanker/container from the place of the manufacturer(s) to the Port. At the Port, the Customs Officer would check whether or not there is any tampering of the seal placed on the tanker/container.

[d] All conditions enumerated in the Interim Report of the Expert Committee dated 24th August, 2011, shall be complied with by the manufacturer(s). Conditions mentioned in the said Report dated 24th August, 2011, will form part of

the Registration Certificate for export.

All expenses incurred towards supervision, as directed by this Order, shall be reimbursed by the manufacturer(s).

We are informed that when this Court passed order on 13th May, 2011, the then existing Registration Certificates/Permits of the manufacturer(s) stood cancelled. Today, with this Order, we are directing restoration of those Registration Certificates/Permits, subject to the compliance of the conditions mentioned hereinabove, confined only to the export of Endosulfan to the tune of 1090.596 MT.

After completion of the export, each manufacturer(s) will inform the Registration Committee giving all requisite details of such exports.

Lastly, we make it clear that this Order is strictly confined to the manufactured quantity which has accumulated to the extent of 1090.596 MT and also make it clear that no manufacturer(s) shall manufacture Endosulfan in any form and, to that extent, earlier Order passed by this Court on 13th May, 2011, shall continue to operate.

Place the matter on 10th October, 2011, 'For Directions'.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar