

**Before the Hon'ble National Green Tribunal (Southern
Zone), Chennai**

Original Application No. 112 of 2022

In the Matter of:

Saraswati Excel Matriculation School Applicant

Vs

The Member Secretary, TNPCB, Chennai and Ors Respondents

**Reply on behalf of Respondent No. 9 (Central Insecticide Board &
Registration Committee) :-**

Regulatory regime of the Insecticides Act, 1968

1. It is submitted that the Insecticides are inherently toxic substances, therefore, they are required to be regulated. Most countries in the world have systems for regulation of pesticides. In India, import, manufacture, transport, distribution, sale and use of insecticides are regulated under a comprehensive legislation, namely, the Insecticides Act, 1968 (Act) with a view to prevent risk to human beings, animals and matters connected therewith. In order to facilitate implementation of provisions of the Act, a set of rules has been framed, known as the Insecticides Rules, 1971 (the Rules). In this context it is necessary to apprise the Hon'ble Court about the regulatory regime of Insecticides Act, 1968 and Rules, 1971 (the Act).


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2. The Ministry of Agriculture and Farmer's Welfare, Department of Agriculture and Cooperation, administers, the Insecticide Act 1968 and Rules framed there under (the Act):

The Act extends to the whole of India. As per the provisions of section 3 (e) the term "insecticide" has been defined as under:

Section 3 (e) -

"Insecticide" means

- i. *Any substance specified in the Schedule; or*
- ii. *Such other substance (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official gazette, include in the Schedule from time to time; or*
- iii. *Any preparation containing any one or more of such substance*

Accordingly, pesticides/insecticides are the substances which are either specified in the schedule to the act or may be included by the applicant.

3. It is submitted that as per provisions enshrined under section 9 of the Act, any person desirous of importing or manufacturing an insecticide has to mandatorily obtain a registration from the Registration Committee (RC), constituted under Section 5 of the Act at Centre Government Level. The RC is responsible for satisfying itself with the safety and efficacy of the insecticide before granting registration. As per Section 5(5) of the Act, RC is also empowered to regulate its own procedure and conduct of the business


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to be transacted by it. It is also empowered to verify the claims made by the applicants.

4. It is submitted that under the provisions of the Act, a constitution of Central Insecticide Board has been made u/s 4 which reads as under:

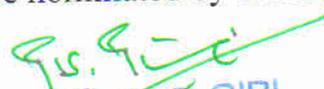
The Central Insecticides Board (CIB) (Section 4)

1. The Central Government shall, as soon as may be, constitute a Board to be called the Central Insecticides Board to advise the Central Government and State Governments on technical matters arising out of administration of this Act and to carry out the other function assigned to the board by or under this Act.
2. The matters on which Board may advise under sub-section (1) shall include matters relating to:
 - a. the risk to human beings or animals involved in the use of insecticides and the safety measures necessary to prevent such risk;
 - b. the manufacture, sale, storage, transport and distribution of insecticides with a view to ensure safety to human beings or animals.
3. The board shall consist to the following members, namely:
 - i. the Director-General of Health Service, ex officio, who shall be the Chairman;
 - ii. the Drugs Controller, India, ex officio;
 - iii. the Plant Protection Adviser to the Government of India, ex officio;
 - iv. the Director of storage and inspection, ministry of food, Agriculture,

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- Community Development and Co-operation (Department of Food) ex officio ;
- v. the Chief Advisor of Factories, ex officio;
- vi. The Director, National Institute of Communicable Diseases, ex officio;
- vii. the Director-General, Indian Council of Agricultural Research, ex officio;
- viii. the Director-General, Indian Council of Medical Research, ex officio;
- ix. the Director, Zoological Survey of India, ex officio;
- x. the Director-General, Indian Standards Institution, ex officio;
- xi. the Director-General of shipping or, in his absence, the deputy Director-General of shipping, Ministry of Transport and Shipping, ex officio;
- xii. the Joint-Director, Traffic (General), Ministry of Railways (Railway Board), ex officio;
- xiii. the Secretary, Central Committee for Food Standards, ex officio;
- xiii.a. the Animal Husbandry Commissioner, Department of Agriculture, ex officio;
- xiii.b. the Joint Commissioner (Fisheries), Department of Agriculture, ex officio;
- xiii.c. the Deputy Inspector-General of Forests (Wild life), Department of Agriculture, ex officio;
- xiii.d. the Industrial Adviser (Chemicals), Directorate-General of Technical Development, ex officio;
- xiv. one person to represent the Ministry of Petroleum and Chemicals, to be nominated by the Central Government;
- xv. one Pharmacologist to be nominated by the Central Government;
- xvi. one Medical Toxicologist to be nominated by Central Government;


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- xvii. one person who shall be in charge of the department dealing with public health in a state, to be nominated by the Central Government;
- xviii. two person who shall be Directors of Agriculture in States, to be nominated by the Central Government;
- xix. four persons, one of whom shall be expert in industrial health and occupational hazards, to be nominated by the Central Government;
- xx. one person to represent the Council of Scientific and Industrial Research, to be nominated by the Central Government;
- xxi. one ecologist to be nominated by the Central Government.

4. The person nominated under clauses (xiv) to (xxi) inclusive, of sub-section (3) shall, unless their seats become vacant earlier by resignation, death or otherwise, hold office for three years from the date of their nominations but shall be eligible for re-nominations:

Provided that the person nominated under clauses (xvii) and (xviii) shall hold office only for so long as they hold the appointments by virtue of which their nominations were made.

5. No act or proceeding of the Board, the Registration Committee or any Committee appointed under section 6; shall be called in question on the ground merely of the existence any vacancy in, or any defect in the constitution of, the Board, the Registration Committee or such committee, as the case may be.

Functions of Board as under (Rule 3) are as under :-

The Board shall, in addition to the functions assigned to it by the Act, carry out the following functions, namely:

- a. advise the Central Government on the manufacture of insecticides under the Industries (Development and Regulation) Act, 1951 (65 of 1951);


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- b. specify the uses of the classification of insecticides on the basis of their toxicity as well as their being suitable for aerial application;
- c. advise tolerance limits for insecticides, residues and an establishment of minimum intervals between the application of insecticides and harvest in respect of various commodities;
- d. specify the shelf-life of insecticides;
- e. suggest colourisation, including colouring matter which may be mixed with concentrates of insecticides, particularly those of highly toxic nature;
- f. carry out such other functions as are supplemental, incidental or consequential to any of the functions conferred by the Act or these rules.

5. Registration Committee (RC) (Section 5)

- (1) The Central Government shall constitute a Registration Committee consisting of a Chairman, and not more than five persons who shall be member of the Board (including the Drugs Controller, India and the Plant Protection Advisor to the Government of India)
- i. to register insecticide after scrutinizing their formulae and verifying claims made by the importer or the manufacturer , as the case may be, as regards their efficacy and safety to human beings and animals; and
 - ii. to perform such other functions as are assigned to it by or under this Act.
- (2) Where the Chairman is not a member of the Board, his term of office and other conditions of service shall be such as may be determined by the Central Government.


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- (3) Subject to the provisions of sub-section (2), a member of the Registration Committee shall hold office for so long as he is a member of the Board.
- (4) The committee may also co-opt such number of experts and for such purpose of period as it may deem fit, but any expert so co-opted shall have no right to vote.
- (5) Registration committee shall regulate its own procedure and the conduct of the business to be transacted by it.

Functions of the Registration Committee (Rule 4) are as under:-

The Registration Committee shall, in addition to the functions assigned to it by the Act, perform the following functions namely :

- a. specify the precautions to be taken against poisoning through the use or handling of insecticides;
- b. carry out such other incidental or consequential matters necessary for carrying out the functions assigned to it under the Act or these rules.

6. Central Insecticides Laboratory (Section -16)

It is submitted that under the provisions of the Act, a constitution of Central Insecticide Lab has been made u/s 16 which reads as under:

The Central Government may, by notification in the Official Gazette, establish a Central Insecticides Laboratory under the control of Director to be appointed by the Central Government to carry out the functions entrusted to it by or under this Act;

Provided that if the Central Government so directs by a notification in the Official


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Gazette, the functions of the Central Insecticides Laboratory shall, to such extent as may be specified in the notification, be carried out at any such institution as may be specified therein and thereupon the functions of the Director of the Central Insecticides Laboratory shall to the extent so specified, be exercised by the head of the institution.

Functions of the CIL (Rule 5) are as under:-

- a. to analyse such samples of insecticides sent to it under the Act by any officer or authority authorized by the Central or State Governments and submission of certificates of analysis to the concerned authority;
- b. to analyse samples of materials for insecticide residues under the provisions of the Act;
- c. to carry out such investigations as may be necessary for the purpose of ensuring the conditions of registration of insecticides;
- d. to determine the efficacy and toxicity of insecticides;
- e. to carry out such other functions as may be interested to it by the Central Government or by a State Government with the permission of the Central Government and after consultation with the Board.

7. Insecticide Analysts (Section 19)

The Central Government or a State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such technical and other qualifications as may be prescribed to be Insecticide Analysts for such areas and in respect of such insecticides or class of insecticides as may be specified in this notification:


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Provided that no person who has any financial interest in the manufacture, import or sale of any insecticide, shall be so appointed.

8. Insecticide Inspectors(Section 20)

1. The Central Government or a State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such technical and other qualifications as may be prescribed to be Insecticides Inspectors for such area as may be specified in the notification:

Provided that any person who does not possess the required qualifications may be so appointed only for the purposes of clauses (a) and (d) of sub-section (1) of section 21.

Provided further that no person who has any financial interest in the manufacture, import or sale of any insecticide shall be so appointed.

2. Every Insecticide Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal code (45 of 1860), and shall be officially subordinate to such authority as the Government appointing him may specify in this behalf.

9. It is submitted that as already stated herein above the Registration Committee (RC) constituted u/s 5 of the Act, a statutory highly technical body comprising of highly technical eminent scientists from different fields grants registration. The RC registers insecticides after scrutinizing formulae, verifying claims of efficacy and safety to human beings and animals, specifying the precautions against

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poisoning and any other function incidental to these matters. To assess efficacy of the insecticides and their safety to human beings and animals, the RC has evolved exhaustive guidelines / data requirements which *inter-alia* includes data on acute and long term effect of pesticides, its reproductive toxicity, genotoxicity, neurotoxicity, teratogenic (effect on developing foetus or embryo) and carcinogenic potential, its effects on environment which also include toxicity to birds, fish, honey bees, its residues in air, water, soil, residue in crops and their edible produce on which the insecticides are intended to be used etc., besides the efficacy trials for its applicability in the country. The onus lies with the importers / manufacturers to generate data relating to the insecticides for which registration is sought. The data thus submitted to the RC is evaluated and registrations are granted only when RC is satisfied about the efficacy and safety of the product under the conditions of use in the country. Whenever the RC is not satisfied about the safety and efficacy of the products, the registrations are refused for such insecticides.

10. As stated herein above the RC grants registration to an insecticide for use in the country only after complete satisfaction w.r.t. data submitted before it on scientific parameters as stated above. Accordingly, RC prescribed conditions, use pattern, instructions etc. on the certificate/label/leaflets accompanying the package of the insecticide product. If a pesticide is used in accordance with directions as prescribed on the label and leaflet, it does not cause any risk.
11. It is humbly submitted that the Insecticides Act, 1968 in its present format is the two tier system wherein the grant of registration rests with the Central Govt. and look after by the Registration Committee further Central Insecticides Board at Central Govt. level is to advice the Central Government and State Governments both on insecticides related issues as stated above, whereas the manufacture, sale, distribution, stock etc is in the purview of the State Department of Agriculture. For this purpose, there is provision of licensing authority at state level, responsible for each and every aspects relating to manufacture, stock, distribution and sale etc.

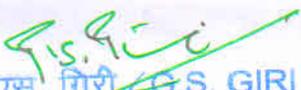

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12.

With highest regards to the observations made by the Hon'ble Tribunal in its order dated 4.11.2022 it is humbly submitted that the pesticides referred in the notification dated 08.08.2018 are completely banned and it also mentions as under

- (1) No person shall manufacture , import , formulate , transport, sell, use any pesticide specified under column (2) of the schedule to this order from the date specified under column (3) thereof.
- (2) The Registration Committee shall call back the certificate of registration granted for the pesticides specified in said schedule.
- (3) If any person, who holds the certificate of registration fails to return the certificate to the Registration Committee, referred to in sub-paragraph (2), within a period of three months, action shall be taken under the provisions contained in the said Act.
- (4) The certificate of registration for the pesticides specified in the Schedule granted under section 9 of the said Act shall be deemed to be cancelled from the date under Column (3) of the said Schedule.
- (5) Every State Government shall take such steps under the said Act and the rules made there under, as it considers necessary , for the implementation of this Order in the State.

Therefore any person shall not manufacture the banned pesticides in terms of the notification dated 08.08.2018 and the subject substance Phorate mentioned at Sl no 15 of the notification is also completely banned with effect from 31.12.2020 and its manufacture or use etc. in any form is per-se illegal and the same may cause unforeseen hazards which shall defeat the very objective of the Insecticides Act, 1968 which is the prevention of risk to human beings, animals and the environment at large.


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Prayer

In view of the position explained here in above it is humbly submitted that appropriate directions may kindly be issued by this Hon'ble Tribunal.

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IN THE NATIONAL GREEN TRIBUNAL

O.A. 112 OF 2022

Saraswathi Excel Matriculation School
rep. by its Correspondent
M.Rajasekaran

... Petitioner

Vs

The Member Secretary Tamil nadu
Pollution Control Board
and 8 others

... Respondents

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