IN THE HON'BLE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A NO._____OF 2023

IN

WRIT PETITION (CIVIL) NO. 1079 OF 2017

IN THE MATTER OF:

Kavitha Kuruganti & Ors PETITIONERS

VERSUS

Union of India & ORS. RESPONDENTS

SHORT ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONER

PAPER BOOK

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER: PRASHANT BHUSHAN

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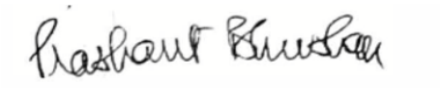
SHORT ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONER

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Filed By:



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Place: New Delhi

Dated: 24.03.2023

ADVOCATE FOR THE PETITIONER: PRASHANT BHUSHAN

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To,

The Hon'ble Chief Justice of India

And his companion justices of the

Hon'ble Supreme Court of India

NOTARY SHAHJAHAN DELHI Reg. No. 10698 Dt. Exp. 23/07/2024 GOVT. OF INDIA

The humble petition of the

above-named petitioner:

I, Kavitha Kuruganti, D/o Ramesh Kuruganti & Ganga Bhavani Kuruganti R/o 302, Santhome Apartments, 1st A Cross, Indira

Kavitha

Nagar, I stage, Bangalore-560038, currently in New Delhi, do hereby solemnly affirm and state on oath as under:

1. That I am Petitioner No. 1 in Writ Petition No 1079 /2017. The Petitioners seek regulation of Pesticides in India in a manner that enforces the right to health of farmers, farm workers as well as consumers, which has been read by this Hon'ble Court to be a fundamental right as part of the right to life under Article 21 of the Constitution.

2. That this Hon'ble Court vide Order Dated **23.01.2023 in Writ Petition(s)(Civil) No(s). 237/2017 and SLP(C) No. 29672/2017 and W.P.(C) No. 1079/2017 wherein it was stated that:**

> ***"I. Mr Vikramjit Banerjee, ASG appearing on behalf of the Union of India shall file an updated status report in respect of the regulatory measures which have been taken by the Government of India for effecting a ban on hazardous pesticides mentioned in the Writ Petition."***

3. That a Status Report filed on 4th February 2023 by the Union of India failed to inform the court or the Petitioners that they are in the process of issuing a separate draft ban order regarding 3 of the 27 pesticides which were sought to be banned with the draft order dated 18 May 2020.

4. That the Draft Ban Order dated 15.02.2023 seeks to ban only Dicofol, Dinocap and Methomyl and restrict usage of 8 pesticides. These three pesticides have been cherry picked from the list of 27 pesticides recommended for banning by the Registration Committee without reasoning why the 3

Kavitha

pesticides are being banned in the Draft Order dated 15.02.2023. The True Copy of the Draft Ban Order dated 15.02.2023 is attached as **ANNEXURE A-1.**

5. That the preamble to the Draft Ban Order dated 15.02.2023 categorically states that Central Government *"was satisfied that the use of twenty-seven insecticides as specified in the schedule to this Notification are likely to involve risk to human beings and animals as to render it expedient or necessary to take immediate action."*

6. That despite recognizing the harm caused by the 27 pesticides, the Government places no findings or reasoning on record why it has picked only 3 of the 27 pesticides recommended for banning by the Registration Committee in the draft Order of 2023 apart from stating that "*the Central Government, after considering the report of the Expert Committee and after consultation with the Registration Committee, set up under the Insecticides Act, 1968 (46 of 1968), is satisfied that the use of three insecticides involves health hazards and risk to human beings and animals due to non-availability of data on safety and efficacy" without providing any explanation about the others.*

7. That the Petitioner is unclear what is the status with regard to the Draft Order dated 18.05.2020 which sought to ban 27 pesticides considering that the Draft Ban Order of 15.02.2023 makes a reference to it without providing any reasoning why the findings of the Registration Committee are not being implemented in its entirety.

NOTARY SHAHJAHAN DELHI GOVT. OF INDIA

Kanika

8. That the aforementioned Draft Order is in violation of the Recommendations of the Registration Committee which recommended banning of 27 pesticides. Pertinently, the Committee came to the conclusion after its expert sub committee spoke to various stakeholders and conducted proper due diligence before recommending banning of 27 pesticides.

9. The Petitioner has submitted her objections to the Insecticide (Prohibition) Order 2023 with the Joint Secretary (Plant Protection) Ministry of Agriculture and Farmer's Welfare Government of India and the same is attached as **ANNEXURE A-2**.

10. That in recognition of the hazardous impact of pesticides on humans agriculture and animals, State governments have also been seeking a ban on such pesticides. It has recently come to the knowledge of the Petitioner that Tamil Nadu Government has issued an ordinance banning 6 hazardous pesticides for 60 days and seeks to permanently ban the use of these pesticides in Tamil Nadu. The article dated 13.03.2023 published in DTNext.in is attached as **ANNEXURE A-3.** The relevant extract is below:

> "After the notification by the State government to ban six hazardous pesticides for a period of 60 days and banning of use of 3 per cent Yellow Phosphorus for Insecticidal purposes permanently under the Insecticides Act in the State, the government passed an ordinance regarding the same as the decision to ban these has been upheld by the Governor of Tamil Nadu.

NOTARY SHANMUGAM DELHI Reg. No. 10655 GOVT. OF INDIA

Kavitha

The State is seeking the permission of the Union Government to ban the insecticides Monocrotophos, Profenophos, Acephate, Profenophos, Cypermethrin, Chlorpyriphos - Cypermethrin and Chlorpyriphos permanently."

11. That another Expert Committee was appointed on 08.01.2021 under the chairmanship of the T.P. Rajendran Ex Adg (PP) ICAR (Indian Council of Agricultural Research) which submitted its report on 06.09.2022. The Petitioner is unaware about its findings and recommendations as the Report of the Committee has not been provided by the Respondents to this Hon'ble court nor have these documents been placed in the public domain. Respondent No.2 may be called upon to place the same before this Hon'ble Court.

12. That despite recommendations of its own committees and statutory bodies, Respondent No.2 is stonewalling any attempts to ban pesticides, the same can be ascertained clearly through the table below:

TIMELINE OF EVENTS

DATE	EVENT
8/7/2013	Government of India constitutes the Anupam Varma Committee to review 66 pesticides
9/1/2015	Anupam Varma Committee gives its report – the review process run by the Committee included many pesticide industry representatives, and the

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Kavita

	submissions that they made
22/12/2015	Registration Committee under the Insecticides Act 1968 in its 361st meeting accepts the Anupam Varma Committee recommendations. The Committee asks for 27 pesticides to be reviewed in 2018
15/12/2016	GoI issues a Draft Ban Order with regard to certain pesticides, as per Anupam Varma Committee recommendations, almost one year after the RC accepted the recommendations
2017 - 2018	Government constitutes 2 other committees, adding to further delays, to look at public feedback on the draft ban order, even though pesticides industry stakeholders have already been consulted
8/8/2018	Government of India notifies the ban on 11 pesticides, and a phasing out order on 6 other pesticides
5/1/2019	Registration Committee sets up a Sub-Committee to review 27 pesticides which were supposed to have been reviewed in 2018 itself. Sub-Committee runs its review processes by involving pesticides industry representatives continuously.
18/12/2019	Registration Committee deliberates on the

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Kavitha

	analysis presented by the sub-committee
11/5/2020	Registration Committee accepts the sub-committee recommendation for a ban on all 27 pesticides, and submits its onward to MoA&FW for further action
14/5/2020	MoA&FW notifies a draft ban order on all 27 pesticides, providing 45 days for public feedback – it is reported that an "Expert Committee" was constituted to look into the objections and suggestions, but no information exists in the public domain or the regulators' website or Ministry website on what is the constitution of the Expert Committee, what were its Terms of Reference, how did it run its processes, what is its report, how can such a report be more thorough than a review done with pesticides industry involvement with detailed reports available in the regulators website etc.
21/7/2020	Rajasthan High Court stays the prohibition (as per the latest draft order) – it appears that the GoI did not appeal against such an interim order!
18/1/2023	Rajasthan High Court vacates the interim stay order
2/2/2023	Draft Prohibition Order is notified by Government of India on only 3 of the 27

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Kavitha

	pesticides, and with label claim changes on 8 other pesticides

13. That the Petitioners prays for the review of bannable pesticides mentioned in the IA No. 7665 of 2023 (filed by the Petitioner) which have not been reviewed by the Anupam Verma Committee in a time bound manner so that their impact on the human body and its use in agriculture can be assessed.

14. That the Petitioner prays that the order dated Draft Order dated 18.05.2020 which sought to ban 27 pesticides be implemented with immediate effect.

Kavita

DEPONENT

I identified the deponent who has signed/put in my presence.

VERIFICATION:

24 MAR 2023

I, the above deponent, state that the contents of the aforesaid affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

24 MAR 2023

Verified at New Delhi on this 23rd day of March, 2023.

NOTARY SHAHJAHAN DELHI Reg. No. 10693 Dt. Exp. 23/07/2024 GOVT. OF INDIA

Kavita

DEPONENT

CERTIFIED THAT THE DEPONENT ... Notary Public

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ANNEXURE A-1

रजिस्ट्री सं. डी.एल.- 33004/99 REGD. No. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-अ.-16022023-243654
CG-DL-E-16022023-243654

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
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(कृषि एवं किसान कल्याण विभाग)

अधिसूचना

नई दिल्ली, 2 फरवरी, 2023

का.आ. 701(अ).—जबकि, केंद्र सरकार ने पूर्ववर्ती कृषि मंत्रालय, कृषि एवं सहकारिता विभाग में भारत में पंजीकृत नियो-निकोटिनोइड कीटनाशकों के सतत उपयोग अथवा अन्यथा की जांच करने के लिए दिनांक 8 जुलाई, 2013 को एक विशेषज्ञ समिति का गठन किया था। को इस समिति के अधिदेश उन छियासठ कीटनाशकों की समीक्षा करने के लिए दिनांक 19 अगस्त, 2013 को आगे विस्तारित कर दिया था जो अन्य देशों में निषिद्ध अथवा सीमित अथवा अपवर्जित कर दिए गए है तथापि भारत में घरेलू उपयोग के लिए उनके पंजीकरण की प्रक्रिया जारी है। समिति ने विस्तृत जांच के बाद दिनांक 9 दिसंबर, 2015 को केंद्र सरकार के पास अपनी रिपोर्ट प्रस्तुत की थी; जिसे पंजीकरण समिति को भेज दिया गया था। पंजीकरण समिति ने केंद्र सरकार को अपनी सिफारिशें प्रस्तुत की हैं;

और जबकि, विभाग ने पंजीकरण समिति की सिफारिशों के कार्यान्वयन से संबंधित अनुमोदन की सूचना देते हुए दिनांक 14 अक्टूबर, 2016 को आदेश जारी किया था;

और जबकि, उक्त विशेषज्ञ समिति ने इस अधिसूचना की अनुसूची में विनिर्दिष्ट सत्ताईस कीटनाशकों के उपयोग को जारी रखने की सिफारिश की थी और संस्तुत अध्ययन पूरा होने के बाद उसकी समीक्षा की जानी थी तब ऐसी स्थिति में पंजीकरण समिति द्वारा विचार किया गया और सिफारिशें सरकार को प्रस्तुत कीं गईं ;

और जबकि, केंद्र सरकार ने पंजीकरण समिति से परामर्श करने और संस्तुत अध्ययन, डेटा और सुरक्षामदो को प्रस्तुत करने की स्थिति से संबंधित में अपनी रिपोर्ट पर विधिवत विचार करने के बाद इस आशय के साथ संतोष व्यक्त

किया है कि इस अधिसूचना की अनुसूची में विनिर्दिष्ट सत्ताईस कीटनाशकों के उपयोग से मानवों और पशुओं में जोखिम उत्पन्न हो सकता है। इसलिए इस संबंध में तत्काल कार्रवाई करने हेतु अपेक्षित अथवा आवश्यक कार्यवाही की जाए;

और जबकि, केंद्र सरकार, कीटनाशक अधिनियम, 1968 (1968 का 46) की धारा 27 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उपखंड (ii) में दिनांक 18 मई, 2020 की अधिसूचना संख्या का.आ 1512(अ) के माध्यम से कीटनाशकों पर प्रतिबंध लगाने संबंधी आदेश, 2020 का मसौदा आदेश प्रकाशित किया और और उन सभी व्यक्तियों से आपत्तियां और सुझाव आमंत्रित किए जिनके प्रभावित होने की संभावना है, उस तारीख से पैंतालीस दिनों की अवधि समाप्त होने से पहले, जिस पर आधिकारिक राजपत्र की प्रतियां जिसमें उक्त अधिसूचना प्रकाशित की गई थी, जनता के लिए उपलब्ध कराई गई थी ;

और जबकि, उक्त राजपत्र अधिसूचना की प्रतियां जनता दिनांक 18 मई, 2020 को को उपलब्ध करा दी गई थीं;

और उक्त प्रारूप आदेश के संबंध में प्राप्त आपत्तियों या सुझावों को इस प्रयोजन के लिए गठित एक विशेषज्ञ समिति को संदर्भित किया गया था जिस पर उक्त विशेषज्ञ समिति द्वारा विधिवत विचार किया गया था;

और जबकि, केंद्र सरकार ने, विशेषज्ञ समिति की रिपोर्ट पर विचार करने के बाद और कीटनाशक अधिनियम, 1968 (1968 का 46) के तहत गठित पंजीकरण समिति के साथ परामर्श के बाद संतोष व्यक्त किया कि सुरक्षा और प्रभावकारिता पर डेटा की अनुपलब्धता के कारण तीन कीटनाशकों के उपयोग में मानवों और पशुओं के स्वास्थ्य के लिए खतरा और जोखिम शामिल है;

और जबकि, कीटनाशक निषिद्ध आदेश, 2020 के लिए उक्त मसौदा आदेश दिनांक 18 मई, 2020 की अधिसूचना संख्या का.आ. 1512(अ) द्वारा प्रकाशित, को देश के विभिन्न उच्च न्यायालयों में चुनौती दी गई थी। माननीय उच्च न्यायालय, राजस्थान ने मामले में अगले आदेश तक कीटनाशकों के निषेध से संबंधित अंतरिम आदेश दिनांक 21.07.2020 द्वारा उक्त नियमों के कार्यान्वयन पर रोक लगा दी थी।

और जबकि, तदुपरांत, राजस्थान के माननीय उच्च न्यायालय ने नारायण सिंह राठौर द्वारा दायर सिविल रिट याचिका संख्या 7474/2020 के मामले में दिनांक 18.01.2023 के एक आदेश के माध्यम से निर्देश जारी किया है कि दिनांक 21.07.2020 का अंतरिम आदेश निष्प्रभाव किया जाता है।

अब, इसलिए, वह मसौदा आदेश जिसे केंद्र सरकार कीटनाशक अधिनियम 1968 की धारा 36 की उपधारा (1) और धारा 28 के साथ पठित धारा 27 की उपधारा-I। द्वारा प्रदत्त शक्तियों का, जिसे केंद्र सरकार द्वारा प्रस्तावित किया गया है, का प्रयोग करते हुए संभावित रूप से प्रभावित सभी व्यक्तियों के सूचनार्थ इसे एतद्वारा प्रकाशित करने के साथ-साथ तदनुरूप इस आशय का नोटिस दिया जाता है कि इस तारिख से जिस पर इस आदेश में निहित भारत के राजपत्र की प्रतियां सार्वजनिक रूप से उपलब्ध कराई गईं हैं, 30 दिनों की अवधि के समापन के बाद उक्त समौदा आदेश पर विचार किया जाएगा।

30 दिनों की उपरोक्त अवधि के समापन से पहले उक्त मसौदे के संबंध में किसी भी व्यक्ति से प्राप्त किसी आपत्ति अथवा सुझाव पर केंद्र सरकार द्वारा विचार किया जाएगा।

उक्त मसौदा आदेश के संबंध में किसी भी आपत्ति अथवा सुझाव को संयुक्त सचिव (पादप संरक्षण), कृषि एवं किसान कल्याण मंत्रालय, कृषि एवं किसान कल्याण विभाग, कृषि भवन नई दिल्ली-110001 को या jspp-dac@gov.in पर ई-मेल के माध्यम से अग्रेषित किया जा सकता है।

ड्राफ्ट आदेश

1. संक्षिप्त शीर्षक और प्रारंभ - (1) इस आदेश को कीटनाशक (निषेध) आदेश, 2023 कहा जा सकता है;

(2) यह राजपत्र में अपने अंतिम प्रकाशन की तारीख से लागू होगें।

2. कतिपय कीटनाशकों पर निषेध-

क. कोई भी व्यक्ति अनुसूची में दिए गए कीटनाशकों का आयात, निर्माण, बिक्री, परिवहन, वितरण और उपयोग नहीं करेगा।

ख. पंजीकरण समिति उक्त अनुसूची में विनिर्दिष्ट कीटनाशकों के लिए प्रदत्त पंजीकरण प्रमाणपत्र को वापस ले लेगी।

ग. यदि कोई व्यक्ति जिसके पास पंजीकरण प्रमाणन है, वह पंजीकरण समिति को प्रमाणपत्र वापिस करने में असमर्थ रहता है तो तीन माह की अवधि के भीतर खंड (2) में दिए गए विवरण के अनुसार उक्त अधिनियम में निहित प्रावधानों के तहत कार्रवाई की जाएगी।

घ. उक्त अधिनियम की धारा 9 के तहत प्रदत्त अनुसूची में किए गए विनिदेश के अनुसार कीटनाशकों से संबंधित पंजीकरण का प्रमाणपत्र को इस आदेश की प्रकाशन की तारीख से निरस्त माना जाएगा।

ङ. ड. राज्य सरकार उक्त अधिनियम और उससे संबंधित नियमावली के उपबंधों के तहत ऐसे कदम उठाएगी, जो संबंधित राज्यों द्वारा इस आदेश के निष्पादन के लिए आवश्यक समझे।

अनुसूची

[पैराग्राफ 2 देखें]

प्रतिबंधित कीटनाशकों की सूची

क्र.सं.	कीटनाशक का नाम	केंद्र सरकार का निर्णय
(1)	(2)	(3)
1.	डिकोफोल	इस आदेश के प्रकाशन की तारीख से पंजीकरण, आयात, विनिर्माण, निर्माण, परिवहन, बिक्री प्रतिबंधित है और इसके उपयोग पर पूरी तरह से प्रतिबंध लगा दिया गया है।
2.	डिनोकैप	इस आदेश के प्रकाशन की तारीख से पंजीकरण, आयात, विनिर्माण, निर्माण, परिवहन, बिक्री प्रतिबंधित है और इसके उपयोग पर पूरी तरह से प्रतिबंध लगा दिया गया है।
3.	मेथोमिल	इस आदेश के प्रकाशन की तारीख से पंजीकरण, आयात, विनिर्माण, निर्माण, परिवहन, बिक्री प्रतिबंधित है और इसके उपयोग पर पूरी तरह से प्रतिबंध लगा दिया गया है।

3. इसके आगे, केंद्र सरकार ने, विशेषज्ञ समिति की सिफारिश पर, अधिनियम की धारा 27 की उप-धारा (2) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, नीचे दी गई तालिका के कॉलम (2) में उल्लिखित निम्नलिखित कीटनाशकों के लेबल और पत्रक से नीचे दी गई तालिका के कॉलम (3) में उल्लिखित फसलों को हटाने का निर्णय लिया है, नामत:

(क) प्रत्येक कीटनाशी के सामने उल्लिखित फसलों के लिए निम्नलिखित कीटनाशकों के लेबल दावे को इस आदेश के प्रकाशन की तिथि से प्रभावी जैव-प्रभावकारिता और अवशिष्ट डेटा की अनुपलब्धता के कारण अनुमोदित उपयोग से हटा दिया जाएगा:

तालिका

क्र.सं.	कीटनाशक का नाम	अनुमोदित उपयोग से हटाई जाने वाली फसलों के नाम
(1)	(2)	(3)
1	काबोफ्यूरान	क्रॉप लेबल के साथ कार्बोफ्यूरान के तीन प्रतिशत एनकैप्सुलेटेड ग्रेन्युल (सीजी) को छोड़कर कार्बोफ्यूरान के अन्य सभी फॉर्मूलेशन का उपयोग रोका जा सकता है।
2	मालाथयॉन	ज्वार, मटर, सोयाबीन, अरंडी, सूरजमुखी, भिंडी, बैंगन, फूलगोभी, मूली, शलजम, टमाटर, सेब, आम और अंगूर।
3	मोनोक्रोटोफोस	मोनोक्रोटोफॉस पंद्रह प्रतिशत पानी में घुलनशील ग्रेन्युल (एसजी) को छोड़कर इस कीटनाशक के अन्य सभी फॉर्मूलेशन को संबंधित लेबल फसलों में उपयोग से रोका जा सकता है।

4	क्यूनलफोस	जूट, इलायची और ज्वार.
5	मैनकोजेब	अमरूद, ज्वार और टैपिओका।
6	अक्सीफलोरफेन	आलू और मूंगफली.
7	डिमेथोट	कच्चे खाद्य पदार्थों के रूप में उपयोग किए जाने वाले फलों और सब्जियों को हटाने का लेबल ।
8	क्लोरप्यरिफोस	बेर, साइट्रस और तंबाकू.

(ख) उपरोक्त उल्लिखित कीटनाशकों के संबंध में पंजीकरण का प्रमाण पत्र प्राप्त करने वाले सभी पंजीयक इस आदेश के प्रकाशन की तारीख से छह महीने के भीतर, जिसके विफल होने पर कीटनाशक अधिनियम, 1968 की धारा 14 के तहत लाइसेंस रद्द करने की कार्रवाई शुरू की जाएगी, सचिव, केंद्रीय कीटनाशक बोर्ड और पंजीकरण समिति, एनएच-IV फरीदाबाद,को उपर्युक्त फसलों पर लेबल दावों को हटाने के लिए लेबल और पत्रक के साथ अपना प्रमाण पत्र प्रस्तुत करेंगे ।

(ग) पंजीकरण के प्रमाण पत्र में गैर-पृष्ठांकन या सुधार को इस आदेश के प्रावधानों के उल्लंघन में पंजीकरण के ऐसे प्रमाणपत्रों पर संचालन की अनुमति या अनुमोदन के रूप में नहीं लिया जाएगा।

(घ) नियत तारीख तक पंजीकरण का प्रमाण पत्र प्रस्तुत नहीं किया गया है, इसे रद्द कर दिया गया माना जाएगा।

(ड़) राज्य सरकार अपने संबंधित राज्यों में इस तरह के कदम उठाएगी जो इस आदेश के प्रावधानों को पूरा करने के लिए उपयुक्त हो सकते हैं।

[फा. सं. 13035-15/2019-पीपी-I (वॉल्यूम i)]

आशीष कुमार श्रीवास्तव संयुक्त सचिव (पीपी)

MINISTRY OF AGRICULTURE AND FARMERS WELFARE

(Department of Agriculture and Farmers Welfare)

NOTIFICATION

New Delhi, the 2nd February, 2023

S.O. 701(E).—Whereas, the Central Government in the erstwhile Ministry of Agriculture, Department of Agriculture and Cooperation constituted an Expert Committee on 8th July, 2013 to examine the continued use or otherwise of neo-nicotinoid insecticides registered in India. The mandate of the Committee was further expanded on 19th August, 2013, to review sixty-six insecticides which were banned or restricted or withdrawn in other countries but continue to be registered for domestic use in India. The Committee after detailed examination submitted its report to the Central Government on the 9th December, 2015; which was referred to the Registration Committee. The Registration Committee submitted their recommendations to the Central Government;

And whereas, the Department issued order dated 14th October 2016, conveying the approval for implementation of the recommendations of the Registration Committee;

And whereas, the said Expert Committee had recommended continuing the use of the twenty seven insecticides as specified in the schedule to this notification and the same to be reviewed after completion of the recommended studies, this was considered by Registration Committee and submitted recommendations to the Government;

And whereas, the Central Government, after consultation with the Registration Committee and duly considering their report with regard to status of submission of recommended studies, data and safety concerns, was satisfied that the use of twenty seven insecticides as specified in the schedule to this Notification are likely to involve risk to human beings and animals as to render it expedient or necessary to take immediate action;

And whereas, the Central Government, in exercise of the powers conferred by sub-section (2) of section 27 of the Insecticides Act, 1968 (46 of 1968) published a draft Order for Banning of Insecticides *vide* notification number S.O. 1512(E), dated 18th May, 2020, in the Gazette of India, Extraordinary, Part-II, section-3, sub-section (ii)

and invited objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which the copies of the Official Gazette in which the said notification was published were made available to the public;

And whereas, copies of the said Gazette notification were made available to the public on the 18th May, 2020;

And whereas, the objections or suggestions received in respect of the said draft order were referred to an Expert Committee constituted for the purpose which were duly considered by the said Expert Committee;

And whereas, the Central Government, after considering the report of the Expert Committee and after consultation with the Registration Committee, set up under the Insecticides Act, 1968 (46 of 1968), is satisfied that the use of three insecticides involves health hazards and risk to human beings and animals due to non-availability of data on safety and efficacy;

And whereas, the said draft order for Banning of Insecticides Order, 2020 published vide notification number S.O. 1512(E), dated 18th May, 2020, was challenged in various High Courts of the country. The Hon'ble High court of Rajasthan had stayed the implementation of the said rules vide interim order dated 21.07.2020 relating to Prohibition of Insecticides till further order in the case.

And whereas, thereafter, Hon'ble High Court of Rajasthan, has issued direction through an order dated 18.01.2023 in the matter of S.B. Civil Writ Petition No. 7474/2020 filed by Narayan Singh Rathore, that the interim order dated 21.07.2020 is vacated.

Now therefore, the draft order, which the Central Government proposes to make, in exercise of the powers conferred by sub-section 2 of Section 27 read with section 28 and sub-section (1) of section 36 of the Insecticides Act, 1968 is hereby published for information of all persons likely to be affected thereby and notice is hereby given that the said draft order shall be taken into consideration after the expiry of a period of thirty days from the date on which the copies of the Gazette of India containing this order are made available to the public;

Any objection or suggestion which may be received from any person in respect of the said draft Order before the expiry of the aforesaid period of thirty days will be considered by the Central Government.

Any objection or suggestion in respect to the said draft order may be forwarded to the Joint Secretary (Plant Protection), Ministry of Agriculture and Farmers Welfare, Department of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi-110 001 or through email at jspp-dac@gov.in.

DRAFT ORDER

1. **Short title and commencement. -** (1) This order may be called the Insecticides (Prohibition) Order, 2023;

   (2) It shall come into force on the date of its final publication in the Official Gazette.

2. Prohibition of Certain Insecticides-

A. No person shall import, manufacture, sell, transport, distribute and use insecticides as provided in the Schedule.

B. The Registration Committee shall call back the certificate of registration granted for the insecticides as provided in the said Schedule.

C. If any person who holds the certificate of registration fails to return the certificate to the Registration Committee, referred to in clause (2), within a period of three months, action shall be taken under the provisions contained in the said Act.

D. The certificate of registration for the insecticides as provided in the Schedule granted under section 9 of the said Act shall be deemed to be cancelled from the date of publication of this order.

E. The State Government shall take all such steps under the provisions of the said Act and the rules framed thereunder, as it considers necessary for the execution of this order by the respective states.

The Schedule

[See paragraph 2]

List of Prohibited Insecticides

S. No.	Name of Insecticide	Decision of Central Government
(1)	(2)	(3)
1.	Dicofol	The registration, import, manufacture, formulation, transport, sale is prohibited and its use is completely banned from the date of publication of this order.
2.	Dinocap	The registration, import, manufacture, formulation, transport, sale is prohibited and its use is completely banned from the date of publication of this order.

3.	Methomyl	The registration, import, manufacture, formulation, transport, sale is prohibited and its use is completely banned from the date of publication of this order.

3. Further, the Central Government, on recommendations of the Expert Committee, in exercise of the power conferred by sub-section (2) of section 27 of the Act, has decided for omitting crops as mentioned in column (3) of the table below from the label and leaflets of the following insecticides mentioned in column (2) of the table below, namely:

(A) Label claim of the following insecticides for the crops mentioned against each insecticide shall be omitted from the approved use due to non-availability of bio-efficacy and residue data with effect from the date of publication of this order:

TABLE

S. No.	Name of Insecticide	Names of crops to be omitted from approved usage
(1)	(2)	(3)
1	Carbofuran	All other formulations of Carbofuran except Carbofuran three percent Encapsulated granule (CG) along with the crop labels may be stopped from use.
2	Malathion	Sorghum, Pea, Soybean, Castor, Sunflower, Bhindi, Brinjal, Cauliflower, Radish, Turnip, Tomato, Apple, Mango and Grape.
3	Monocrotophos	All other formulations of this pesticide except Monocrotophos fifteen percent Water soluble granules (SG) may be stopped from use in respective label crops.
4	Quinalphos	Jute, Cardamom and Sorghum.
5	Mancozeb	Guava, Jowar and Tapioca.
6	Oxyfluorfen	Potato and Groundnut.
7	Dimethoate	Label deletion of fruits and vegetables that are consumed as raw food items.
8	Chlorpyriphos	Ber, Citrus and Tobacco.

(B) All registrants granted certificate of registration in respect of the above mentioned insecticides shall submit their certificate along with label and leaflet for deletion of label claims on the above mentioned crops to the Secretary, Central Insecticides Board and registration Committee, NH-IV, Faridabad, within six months from date of publication of this Order, failing which action to revoke licenses under section 14 of the Insecticides Act, 1968 shall be initiated.

(C) Non-endorsement or correction in the certificate of registration will not be taken as permission or approval to operate upon such certificates of registration in contravention of the provisions of this Order.

(D) Certificate of registration not submitted by the due date shall be deemed to have been cancelled.

(E) The State Government shall take such steps in their respective States as they may deem fit for carrying out the provisions of this order.

[F. No. 13035-15/2019-PP-I (vol i)]

ASHISH KUMAR SRIVASTAVA, Jt. Secy. (PP)

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Gmail

ANNEXURE A-2

Fwd: MoA&FW should ban 27 pesticides recommended for a ban, and as proposed in May 2020 draft order - Objection to the "Insecticides Prohibition Order 2023"

1 message

Fri. Mar 24, 2023 at 2:09 PM

02-Mar-2023 7:03:55 pm Kavitha Kuruganti <kavitakuruganti@gmail.com>:

Please find below our objections to the draft prohibition order on only 3 pesticides, notified by the Ministry of Agriculture & Farmers' Welfare. Thank you.

---------- Forwarded message ---------
From: **Kavitha Kuruganti** <kavitakuruganti@gmail.com>
Date: Thu, 2 Mar 2023 at 19:02
Subject: MoA&FW should ban 27 pesticides recommended for a ban, and as proposed in May 2020 draft order - Objection to the "Insecticides Prohibition Order 2023"
To: <jspp-dac@gov.in>

To: 2nd March 2023

The Joint Secretary (Plant Protection),

Ministry of Agriculture & Farmers' Welfare,

Department of Agriculture & Farmers' Welfare,

Krishi Bhawan, New Delhi 110001

Email: jspp-dac@gov.in

Dear Madam/Sir,

Sub: Objection to the Insecticides (Prohibition) Order 2023, for not outright banning all the reviewed 27 bannable pesticides, as per recommendation of Registration Committee, and as proposed in the draft order of 14th May 2020 "Banning of Insecticides Order, 2020" – Ministry being unscientific and inconsistent, and risking human health and environment – Reg.

Greetings! This is to place on record our strong objection to the proposal to prohibit only 3 pesticides, viz., Dicofol, Dinocap and Methomyl and only omission of certain crops from the label claim related to approved usage for 8 more pesticides viz., Carbofuran, Malathion, Monocrotophos, Quinalphos, Mancozeb, Oxyflourfen, Dimethoate and Chlorpyriphos. This is as per the notification No. S.O.701(E) dated 2nd February 2023 which contained the draft order called "Insecticides (Prohibition) Order 2023". What the Ministry is proposing is both unscientific and against public interest. It is inconsistent with the processes run, with various delay tactics, on the matter so far.

1. We present the sequence of events/developments so far in the Annexure to this letter, and that itself speaks volumes about the unscientificity and delays related to the processes being run by the Ministry.

2. The fact that objections and suggestions received in respect of the draft order of 14th May 2020 were sent to an Expert Committee is itself questionable since the Registration Committee and its sub-committee have by that time ostensibly run processes which already consulted stakeholders in the matter. No details of the said Expert Committee, its constitution, its terms of reference and its report are available in the public domain. It is also unbelievable that such an Expert Committee could have created anything more detailed than the material already available on the regulatory website here on each of these deadly 27 pesticides: Compliance with the Hon'ble Delhi High Court Order in W.P. (C) 4242 of 2020 dated 23.07.2020 these reports are uploaded (uploaded on 01.08.2020) | Directorate of Plant Protection, Quarantine & Storage | GOI (ppqs.gov.in).

3. Further, the Registration Committee's report with a ban recommendation on the 27 pesticides, which the Government of India accepted as per the May 14th 2020 draft order, is a strong proof of why each one of these pesticides should have been banned in India long ago. rc_recommendation_on_27_pesticides_0.pdf (ppqs.gov.in).

4. Against such a background, it defies any logic that the Government of India would dilute its own black and white admission in a notification; the said notification of 14th May 2020, No. S.O.1512(E) clearly states that "the Central Government, after consultation with the Registration Committee and duly considering their report with regard to status of submission of recommended studies, data and safety concerns, *is* ***satisfied that the use of twenty seven insecticides as specified in the schedule to this notification are likely to involve risk to human being and animals as to render it expedient or necessary to take immediate action***". In fact, state governments have also been seeking a ban on such pesticides.

5. 21 of these 27 pesticides are classified as "Highly Hazardous Pesticides". 17 are Deemed to be Registered, which means that they were in use when Insecticides Act 1968 came into force and these DRPs have actually not been proven to be safe by any ex-ante risk assessment. 3 of these pesticides are WHO Class Ib pesticides and 13 are Class II pesticides in terms of their acute toxicity. 3 of these 27 pesticides are Endocrine Disrupting, as per EU classification. 3 are reproductive toxicants, once again as per EU. 6 are probable/likely carcinogens as per US EPA while 1 is a probable carcinogen as per WHO. 11 of these pesticides are eco-toxic. It is another matter that in India there exist other Calss Ia and Ib pesticides also!

6. The pesticides industry which has a profiteering motive in continuing with these deadly toxins argues that no harmful effects of these pesticides have come to light! Apart from known published literature, the acute poisoning cases in Maharashtra, Tamil Nadu and Telangana in resulting in deaths and hospitalisations of farmers and farm workers have acephate, monocrotophos, quinalphos, mancozeb, carbendazim, deltamethrin etc. implicated. Malathion, Chlorpyrifos and monocrotophos have also been implicated in wildlife poisonings, going by reports in the public domain. Implicated in export consignment rejections are residues of carbendazim, chlorpyrifos, monocrotophos, thiophanate-methyl etc., once again as per reports in the public domain. What other harmful effects is one waiting for?

7. The pesticides industry cannot claim that the decision to ban 27 pesticides is either abrupt or unilateral. DRPs have been in use in India from before the Insecticides Act 1968 came into existence, and the industry had seven decades in which to take up rigorous, independent, long term and comprehensive safety testing, which has not been done for all the pesticides in question despite repeated prodding from the regulators. The RB Singh Committee of 1999, CD Mayee Committee of 2005 and Anupam Varma Committee of 2015 have all asked for such studies. It is also important to note that pesticides industry representatives have been very much integral to the review processes that have been undertaken and there is nothing unilateral from the government.

8. Alternatives exist for farmers for each of these deadly chemicals that ought to be banned immediately. Certain ICAR bodies like IIFSR in Modipuram have already published package of practices for various crops. In fact, by adoption of alternative post-modern

pest management practices, farmers are likely to benefit both health-wise, and economics-wise.

9. The industry argues that a ban in another country is not necessarily applicable to India since our conditions are different here. However, it is ironical that under "Mutual Acceptance of Data" and harmonisation of regulation, for registration purposes, data from elsewhere is accepted here. This is a reflection of the lack of consistency and scientificity by industry and regulators, and an abandonment of the very mandate for regulation.

Given all the above, we demand that the Ministry of Agriculture and Farmers' Welfare immediately ban all the 27 pesticides that have been proposed for a ban in May 2020, which itself is a much-delayed decision.

Sincerely,

Kavitha Kuruganti

Co-Convenor of ASHA

Lead petitioner in SC PIL WP (Civil) 1079 of 2017

TIMELINE OF EVENTS

8/7/2013	Government of India constitutes the Anupam Varma Committee to review 66 pesticides
9/11/2015	Anupam Varma Committee gives its report – the review process run by the Committee included many pesticide industry representatives, and the submissions that they made
22/12/2015	Registration Committee under the Insecticides Act 1968 in its 361st meeting accepts the Anupam Varma Committee recommendations. The Committee asks for 27 pesticides to be reviewed in 2018
15/12/2016	GoI issues a Draft Ban Order with regard to certain pesticides, as per Anupam Varma Committee recommendations, almost one year after the RC accepted the recommendations
2017 - 2018	Government constitutes 2 other committees, adding to further delays, to look at public feedback on the draft ban order, even though pesticides industry stakeholders have already been consulted
8/8/2018	Government of India notifies the ban on 11 pesticides, and a phasing out order on 6 other pesticides
5/11/2019	Registration Committee sets up a Sub-Committee to review 27 pesticides which were supposed to have been reviewed in 2018 itself. Sub-Committee runs its review processes by involving pesticides industry representatives continuously.
18/12/2019	Registration Committee deliberates on the analysis presented by the sub-committee
11/5/2020	Registration Committee accepts the sub-committee recommendation for a ban on all 27 pesticides, and submits its onward to MoA&FW for further action
14/5/2020	MoA&FW notifies a draft ban order on all 27 pesticides, providing 45 days for public feedback – it is reported that an "Expert Committee" was constituted to look into the objections and suggestions, but no information exists in the public domain or the regulators' website or Ministry website on what is the constitution of the Expert Committee, what were its Terms of Reference, how did it run its processes, what is its report, how can such a report be more thorough than a review done with pesticides industry involvement with detailed reports available in the regulators website etc.

21/7/2020	Rajasthan High Court stays the prohibition (as per the latest draft order) – it appears that the GoI did not appeal against such an interim order!
18/1/2023	Rajasthan High Court vacates the interim stay order
2/2/2023	Draft Prohibition Order is notified by Government of India on only 3 of the 27 pesticides, and with label claim changes on 8 other pesticides

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KAVITHA KURUGANTI
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ANNEXURE A-3

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TN govt passes ordinance to ban 6 pesticides

Dt Next Bureau

2–3 minutes

Representative imagePixabay

CHENNAI: After the notification by the State government to ban six hazardous pesticides for a period of 60 days and banning of use of 3 per cent Yellow Phosphorus for Insecticidal purposes permanently under the Insecticides Act in the State, the government passed an ordinance regarding the same as the decision to ban these has been upheld by the Governor of Tamil Nadu.

The State is seeking the permission of the Union Government to ban the insecticides Monocrotophos, Profenophos, Acephate, Profenophos, Cypermethrin, Chlorpyriphos - Cypermethrin and Chlorpyriphos permanently.

It was found upon investigation that three per cent Yellow Phosphorus is not a registered insecticide and thus, remains against the rules and regulations of the Insecticides Act.

The specified insecticides are highly toxic or moderately toxic but have a highly toxic effect due to use for blending in an unauthorised manner. The use of these insecticides or their

combinations is likely to involve risk to human beings or animals.

Earlier, the research report submitted by the Tamil Nadu Agricultural University, Coimbatore and the high-level committee constituted to examine the possibility of banning hazardous insecticides had recommended to prohibit the specified insecticides.

Considering the same, the Governor of Tamil Nadu hereby prohibited the sale, distribution or use of specified insecticides for a period of sixty days from March 1, which is when this notification was published in the Tamil Nadu Goverment Gazette.

As per a study by National Health Mission, Chennai, it was indicated that 3 per cent Yellow Phosphorus which is being used as Rodenticide is the major cause of suicidal death across the State. Thus, the State Health Department had decided to ban it permanently.