

(2010) 02 MAD CK 0263

In the Madras High Court

Case No : Writ Petition No. 2442 of 2010 and M.P. No. 1 of 2010

Dr. K. Thiruthanikachalam Editor, Mooligai Neram (a Tamil
monthly)

APPELLANT

Vs

Union of India (UOI) and Genetic Engineering Approval
Committee

RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Citation : (2010) WritLR 241

Hon'ble Judges : H.L. Gokhale, C.J;K.K. Sasidharan, J

Bench : Division Bench

Advocate : M. Radhakrishnan, for the Appellant; M. Ravindran, Addl. Solicitor General of India assisted by J. Ravindran, Assistant Solicitor General of India for R1 and R2, for the Respondent

Judgement

H.L. Gokhale, C.J.—Heard Mr. M. Radhakrishnan, learned Counsel in support of this petition. Mr. M. Ravindran, learned Additional Solicitor General of India appears for the respondents.

2. The petitioner is a Journalist, who is running a magazine in Tamil. He has filed this petition for declaring that the approval granted by the second respondent - Genetic Engineering Approval Committee, dated 14th October 2009 regarding the release of Bt-Brinjal in India, is null and void.

3. This petition was heard yesterday when the learned Additional Solicitor General took time and today he has tendered to us the statement showing the "Decision on Commercialisation of Bt-Brinjal", dated 09th February 2010, issued by the Ministry of Environment and Forests under the signature of the Minister of State of the concerned Ministry. In paragraph 26 of this statement, it is stated as follows:

26. Based on all the information presented in the preceding paragraphs and when there is no clear consensus within the scientific community itself, when

there is so much opposition from the state governments, when responsible civil society organisations and eminent scientists have raised many serious questions that have not been answered satisfactorily, when the public sentiment is negative and when Bt-brinjal will be the very first genetically-modified vegetable to be introduced anywhere in the world and when there is no over-riding urgency to introduce it here,

It is my duty to adopt a cautious, precautionary principle-based approach and impose a moratorium on the release of Bt-brinjal, till such time independent scientific studies establish, to the satisfaction of both the public and professionals, the safety of the product from the point of view of its long-term impact on human health and environment, including the rich genetic wealth existing in brinjal in our country.

A moratorium implies rejection of this particular case of release for the time being; it does not, in any way, mean conditional acceptance. This should be clearly understood.

4. It is further stated in paragraph 30 of the said statement that the Government is desirous of engaging and interacting with all those scientists, institutions and civil society groups, who have submitted written representations to the Minister. The learned Additional Solicitor General states that the petitioner is also at liberty to make whatever representation he wants to make to the Ministry concerned.

5. In the statement in paragraph 24, it is further stated that a public interest litigation is pending in the Supreme Court on this very issue. That PIL is yet to be finally disposed of. The statement further states that the decision to be taken by the Government on the Bt-Brinjal issue, has to take note of this PIL, which has already been filed.

6. The relevant Rules, viz., The Manufacture, Use, Import, Export and Storage of Hazardous Micro-organisms and Genetically Engineered Organisms or Cells Rules, 1989, framed under the Environment (Protection) Act, 1986, were brought to our notice. It was submitted that against the decision of this Genetic Engineering Approval Committee, an appeal is available to the petitioner under Rule 19 of the said Rules before the Appellate Authority. The learned Additional Solicitor General has placed before us the name of the officer, viz., Shri. Viswanath Anand, IAS (Retired), a Retired Environment and Forests Secretary, who was appointed as the Appellate Authority on 24th July 2002. The petitioner is at liberty to file an appeal to the said Appellate Authority against the decision of the Committee, in case he is so interested.

7. The writ petition stands disposed of accordingly. Consequently, the connected miscellaneous petition is closed. There will be no order as to costs.