
(2005) 06 RAJ CK 0001

In the Rajasthan High Court

Case No : Miscellaneous Application No. 62 of 2005

Manju Surana (Mrs.)

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-06-2005

Acts Referred:

Citation : (2005) 4 RLW 2747 : (2005) 4 WLC 633

Hon'ble Judges : Shiv Kumar Sharma, J;K.S. Rathore, J

Bench : Division Bench

Advocate : Bajrang Lal Sharma, S.R. Bajwa, Manish Sharma, Lokesh Atrey, Paras Kuhad and Amit Sibbal, for the Appellant; Niraj Sharma, for the Respondent

Judgement

Shiv Kumar Sharma, J.—In the writ petitions No. 3105/2003, 4742/2003, 5867/2003 and 4741/2003 it was averred that carbonated drinks manufactured by Pepsi Co. and Coca-Cola are contaminated, laced with pesticides and contain suspended impurities, which are dangerous to human life. A ban on their sale and use by the public at large was sought. While disposing of the writ petitions vide order dated October 8, 2004, this Court directed the respondent companies Pepsi Co. and Coca Cola, and all other manufacturers of carbonated beverages and soft drinks, to disclose the composition and contents of the products, including the presence of any of the pesticides and chemicals, on the bottle, package or container, as the case may be. On the Special Leave Petitions preferred by the companies the Hon''ble Supreme Court on December 6, 2004 granted liberty to the companies to seek clarification of exactly what kind of disclosure, this Court required them to make. In terms of the order of Hon''ble Supreme Court, the instant applications seeking clarification have been filed.

2. Intervener M/s. Sunrise Beverages Pvt. Ltd. also filed an application seeking directions and clarification to address the issue as to what kind of disclosure would be best further to the public interest in informed choice.

3. The applicants placed their submissions encompassing the following broad

heads:

(i) Genesis of the issue following the report of the Center for science and Environment dated August 5, 2003, constituted of the Joint Parliamentary Committee, steps taken by the Ministry of Health, Union of India pursuant to the report of the JPC.

(ii) On the science and safety.

(iii) Material developments post the judgment dated October 8, 2004 and "Right to information" in the context of the judgment.

(iv) Implication of the order on the obligation of the Government of India qua World Trade Organisation under the Agreement for Technical Barriers to Trade.

(v) Current regulatory requirements for declaration on carbonated beverages.

(vi) The barriers in implementation of the direction in the judgment dated October 8, 2004, and

(vii) Why and what type of clarification is required?

4. As already noticed the Hon''ble Apex Court granted liberty to the applicants to seek clarification of exactly what kind of disclosure this Court requires the applicants to make, therefore, to this limited extent we propose to deal with the submissions of the learned Counsel for the applicants.

5. Before proceeding further we deem it appropriate to incorporate following observations made in the High Court's judgment dated October 8, 2004:

"... If a Carbonated beverage or soft drink is not free from pesticides and chemicals, the commoner must be told that it contains pesticides or chemicals and the extent of their presence must be specified on the product. The sale of the product should not be allowed without disclosing the composition of the product and the presence, if any, of insecticide, pesticide and chemicals...."

6. Learned Counsel for the applicants canvassed before us that it is currently impossible to have any accurate way of measuring the pesticide residue level in finished soft drinks because the amount in question are so small that modern science can barely detect these miniscule residue levels. It is actually seeking to find one centimeter in 10,000 kms. The level of pesticide residue in soft drinks is well within all PFA, EU, WHO and USFDA applicable standards.

7. It is next contended that presence of pesticide residues is not a manufacture related issue. Occurrence of residues can be best controlled by Good Agricultural Practices. There are no validated analytical protocol anywhere in the world to analyze Complex matrix viz. Carbonated soft drinks. There is a need to first carry out a nation wide study to examine the presence of pesticide residue in food chain and the extent thereof.

8. In the course of arguments we were taken through various research works

related to pesticides residues and the provisions of Prevention of Food Adulteration Act, 1954 and Prevention of Food Adulteration Fifth Amendment Rules, 2003.

9. Since we have only to clarify as to what kind of disclosure is required, it is not necessary for us to travel through the voluminous literature placed for our perusal. In the public interest we require the applicants to declare on Soft Drink bottles, package or container either of these two declarations- "Soft drink does not contain pesticide residues" OR "Soft drink is safe. The level of pesticide residue is well within all applicable standards."

10. We grant two months time to the applicants to ensure compliance of this order. The applications stand disposed of.