

State of Punjab and Others

Vs

Dharam Pal and Others

Civil Appeals Nos. ... of 1996, With Slps (C) Nos. 12560-64, 17798-801, 19637-43, 21584-87 and 21990 of 1995

(Kuldip Singh, S. Saghir Ahmed JJ)

11.03.1996

ORDER

1. SLPs (C) Nos. 8281-88, 12560-64, 19637-43, 21584-85, 21586-87 and 21990 of 1995

1. Special leave granted.

2. The respondents, in the bunch appeals herein, were carrying on the business of sale of insecticides. The Agricultural Inspector took the samples of insecticides which were found to be misbranded. As a consequence, the licence of the respondents was cancelled. They challenged the order of cancellation by way of writ petitions before the High Court. A learned Single Judge of the High Court, following the judgment of this Court in *Kisan Beej Bhandar v. Chief Agricultural Officers* [1990 Supp SCC 111 : 1990 SCC (Cri) 623] allowed the writ petition. Letters patent appeals filed by the State of Punjab were dismissed by the Division Bench of the High Court.

3. We have heard learned counsel for the parties. We are of the view that the judgment of the learned Single Judge of the High Court is liable to be set aside on the short ground that without going into the facts in each of these cases, the High Court followed the judgment of this Court in *Kisan Beej Bhandar* case [1990 Supp SCC 111 : 1990 SCC (Cri) 623]. This Court in *Kisan Beej Bhandar* case [1990 Supp SCC 111 : 1990 SCC (Cri) 623] came to the conclusion that the sample in that case was taken from a container which was sealed by the authorised distributor/manufacturer and had not been tampered with and as such, the provisions of Sections 30(3) of the Insecticides Act, 1968 were attracted. It is thus obvious that before the provisions of Section 30(3) are attracted, the conditions laid down in the said section have to be satisfied. The learned Single Judge did not go into the facts of each case and there is nothing in the judgment to indicate whether the samples taken by the Inspector were from a sealed tin or not, which was provided by the authorised distributor or manufacturer.

4. We, therefore, set aside the judgments of the learned Single Judge and of the Division Bench of the High Court and remand the case back to the learned Single Judge for decision on merits in accordance with law. The appeals are allowed. No costs.

SLPs (C) Nos. 17798-17801 of 1995

5. Special leave granted.

6. For the reasons given in Civil Appeals Nos. ... of 1996 @ SLPs (C) Nos. 8281-88 of 1995, etc.,

these appeals are allowed and the matter remanded back to the learned Single Judge for decision on merits.