

# SUPREME COURT OF INDIA

Pest Control (India) Ltd.

Vs.

Union of India (Uoi)

(S Agrawal and S R Babu JJ.)

17/10/1997

## ORDER

1. The petitioners in this writ petition filed under Article 32 of the Constitution of India are challenging the validity of the notification dated 20-9-1996 issued in exercise of the powers conferred under Section 27(2) of the Insecticides Act, 1968 (hereinafter referred to as "the Act") whereby the manufacture, import and use of Heptachlor and Chlordane has been prohibited with immediate effect. Heptachlor and Chlordane are insecticides specified in the Schedule to the Act. The case of the petitioners is that they had imported basic material, namely Heptachlor Tech. and Chlordane Tech. for manufacturing formulations known as Heptachlor 20-EC and Chlordane 20-EC and Chlordane 2%. In the context of Benzene Hexa chloride (BHC) this Court has examined the scope of the power to impose a prohibition under the provisions of Section 27 of the Act in Ashok (Dr) v. Union of India, It has been laid down that though it is not permissible to impose a prohibition in respect of an insecticide which is specified in the Schedule to the Act it is permissible for the Government to impose a prohibition in respect of a formulation made from an insecticide which is specified in the Schedule to the Act. For the reasons given in the said judgment, the notification dated 20-9-1996 has to be upheld insofar as it relates to prohibition against use of Heptachlor and Chlordane for manufacture of formulations from the said insecticides but the said prohibition cannot be upheld as regards the manufacture or import of the said insecticides.

2. Shri A.N. Haksar, the learned Senior Counsel appearing for the petitioners, has submitted that at present the petitioners are having an existing stock of Heptachlor Tech. 21,319.20 kgs. Chlordane Tech. 7438.80 kgs, Heptachlor 20-EC 2800 litres and Chlordane 20-EC 1200 litres. It is submitted

that the import of the basic insecticides, viz., Heptachlor Tech. and Chlordane Tech. was done before the impugned notification was issued and the formulations were also manufactured prior to the said notification and that the petitioners may be permitted to dispose of the same in this country. We, however, find that Heptachlor Tech. and Chlordane Tech. had been imported by the petitioners during the period 9-11-1995 to 27-9-1996 when the matter was pending consideration before the Committee in pursuance of the directions given by the Rajasthan High Court in its judgment dated 17-3-1993 in SB Civil Writ Petition No. 2805 of 1992. This would show that the petitioners had imported the basic insecticides knowing that the proposal for prohibiting the said insecticides was pending consideration. In these circumstances, we are unable to accept the contention of the learned counsel for the petitioners. The writ petition is disposed of as indicated above.