

# **SUPREME COURT OF INDIA**

Democratic Youth Federation of India

Vs.

Union of India (UOI)

W.P. (C) No. 213 of 2011

(S.H. Kapadia, C.J.I., K.S. Radhakrishnan and Swatanter Kumar JJ.)

30.09.2011

## **ORDER**

1. We find from the Interim Report of the Expert Committee dated 24th August, 2011, that, as of date, the available export orders of Endosulfan with various manufacturers are to the tune of 1734 MT. As against that, the accumulated quantity of Endosulfan Tech. lying as accumulated stock with various manufacturers in India is 1090.596 MT.

2. Having heard Learned Counsel on both sides, we are of the view that 1090.596 MT of Endosulfan be permitted to be exported on conditions enumerated below to those Countries from whom export orders of Endosulfan have been received by the manufacturers in India so that the manufacturers are able to fulfill their contractual obligations and, to that extent, the alleged pollutant stands eliminated from this Country. However, we need to take steps and issue directions to prevent pollution along the way in the course of export of 1090.596 MT to countries, who are ready and willing to import endosulfan and who have placed orders with Indian manufacturers. Accordingly, the following directions are issued for export of 1090.596 MT of Endosulfan:

(a) Each Manufacturer-cum-Exporter shall obtain Certificate of Registration for export from the Competent Authority. Before actual export of the material, packaging has to be done by the manufacturer. This packaging will be done under Rule 35 of the Insecticides Rules, 1971, and other cognate Rules.

(b) The packaging will be done under the supervision of the jurisdictional Commissioner of Customs or any other higher/suitable officer to be nominated by him/her; higher officer from the Insecticides Board; and in the presence of an officer from the Regional Office of the Ministry of Environment and Forests.

(c) After proper packaging is done, as indicated above, the manufacturer(s) will transport the consignment to the concerned Port from where the material will be exported in accordance with the provisions of the Insecticides Act, 1968, and Insecticides Rules, 1971. We are informed that, generally, the product is carried in a tanker/ container from the place of the manufacturer(s) to the Port. At the Port, the Customs Officer would check whether or not there is any-tampering of the seal placed on the tanker/container.

(d) All conditions enumerated in the Interim Report of the Expert Committee dated 24th August, 2011, shall be complied with by the manufacturer(s). Conditions mentioned in the said Report dated 24th August, 2011, will form part of the Registration Certificate for export.

3. All expenses incurred towards supervision, as directed by this Order, shall be reimbursed by the manufacturer(s).

4. We are informed that when this Court passed order on 13th May, 2011, the then existing Registration Certificates/Permits of the manufacturer(s) stood cancelled. Today, with this Order, we are directing restoration of those Registration Certificates/Permits, subject to the compliance of the conditions mentioned hereinabove, confined only to the export of Endosulfan to the tune of 1090.596 MT.

5. After completion of the export, each manufacturer(s) will inform the Registration Committee giving all requisite details of such exports.

6. Lastly, we make it clear that this Order is strictly confined to the manufactured quantity which has accumulated to the extent of 1090.596 MT and also make it clear that no manufacture(s) shall manufacture Endosulfan in any form and, to that extent, earlier Order passed by this Court on 13th May, 2011, shall continue to operate.

7. Place the matter on 10th October, 2011, 'For Directions'.