

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY ORIGINAL CIVIL JURISDICTION
I.A. NO. _____/2008
IN
WRIT PETITION (CIVIL) NO. 115 OF 2004

IN THE MATTER OF:

Gene Campaign & Another. ... Petitioners

Versus

Union of India & Others. ... Respondents

WITH

I.A. No. /2008: Application for Impleadment

PAPER BOOK

FOR INDEX

(KINDLY SEE INSIDE)

FILED BY:
MS. ANITHA SHENOY, ADVOCATE FOR THE PETITIONERS

NEW DELHI
DATED: -09-2008

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public health. Not only the basic approval/permission is arbitrary, unreasonable and violative of Article 21 of the Constitution but also there is no ensured mechanism for monitoring of the trials so that the genetic material does not contaminate the environment. By this Application, the Petitioners are pointing out the callous and careless manner in which field trials are conducted by the private companies (MAHYCO in the present case) without the Ministry of Environment & Forests (MoEF)/Department of Bio-technology (DBT) discharging their obligations/responsibilities. The present scenario calls for an immediate moratorium till the entire machinery commencing from grant of approval to end-result are transparent, answering all the requirements of protection of environment and public health – each step being scientific, legal and completely protective of the nature and our country's bio-diversity.

3. That the GEAC had granted approval to MAHYCO for carrying out Multi Location Research Trials (MLRT) on certain terms and conditions. The DBT had communicated the terms and conditions of Multi Location Research Trials by the letter dated 23.7.2007. MAHYCO, according to the approval, was to generate bio-safety data during Rabi 2007. A true and correct copy of the letter dated 23.7.2007 is **Annexure A-1**.
4. That vide letter dated 28th August, 2008, MAHYCO had written to the Member Secretary, Review Committee on Genetic Manipulation (RCGM) regarding approval granted by the GEAC for conducting MLRT on Bt Rice hybrids and that the

generation of bio-safety data was to be done during Rabi 2007.

In the said letter, MAHYCO stated as follows: -

“Accordingly, we have conducted above mentioned Bt Rice MLRT at Village Saparong, Taluka Ratu, District Ranchi, Jharkhand with date of transplanting 29.3.2008 and we would like to inform you that this trial has been harvested on 11.8.2008 (126 DAT) due to rains and the final burning was taken on 15.8.2008.” (Emphasis supplied)

A true and correct copy of the letter dated 28.8.2008 by MAHYCO is **Annexure A-2.**

5. That staff of the Petitioner – Gene Campaign have visited Village Saparong, the last time on 9th September 2008 and have seen the trial site where Bt rice trials had been conducted. They have also interacted with the local farmers. The enclosed photographs were taken on 9th September 2008. The observations at the field site and information given by the farmers are as follows: -

Bt RICE TRIALS IN JHARKHAND

Village Saparong; Block Ratu; Dist Ranchi

Duration of Bt rice trial : 23 March to 11 August 2008

Rice hybrids belonging to Mahyco were planted in coded form. The numbers that Gene Campaign recorded from the cloth bags containing the harvested Bt rice seeds and which were lying in the farmer Ramzan Ansari's house, were 316, 108, BD108, 107, 310, BD 310, 111, BD 303, 308, BD 109, BD 306, 205, 303, 305, 206

The MAHYCO has been conducting field trials in Jharkhand, flouting every prescribed regulation and condition laid down for field trials of GM crops, which is as follows: -

I. Bt Rice hybrids belonging to Mahyco seed company were planted on approx 1 acre of upland (top fields). Planting was done on 29 March 2008, the crop was harvested on 11 August 2008. This is not the main paddy season in Jharkhand. The main paddy season is June to November.

There are almost no rice pests at this time, so it is not possible to test the efficacy of the Bt induced resistance to pests.

At the time of the trial only the Garma or Jethua paddy is planted.

II. Farmers had no idea what was planted in the Trial Field, they had never heard of Bt Rice or GM Rice. The company had told them nothing.

The Agriculture Department of the State had no information about the proposed Bt rice trials.

III. Farmers in Saporong told Gene Campaign staffers that Mahyco staff came to observe the trials and sprayed the crop (farmers did not know with what). If the spraying was done with pesticides, this amounts to manipulating the trials.

IV. No physical containment or isolation of the Trial Field was done. This is mandatory, to prevent mixing of seeds/grains from GM crop fields. No fencing, no netting of any kind was provided to separate the trial field to prevent mixture and contamination of other fields.

V. The Trial Field is located in the midst of the agricultural area and is surrounded by farmers' fields on all sides. The boundaries of neighboring fields are close together and it is impossible to prevent contamination of rice in other fields.

VI. People walked regularly through the trial fields to other fields, carrying material from the trial fields to the fields around.

VII. Since the trials were done on upland fields, the water flowed from there to lower fields, carrying soil, seeds etc to fields below, spreading the contamination.

VIII. The trials were supervised by just one local farmer who was appointed as caretaker. Nobody from the company came to supervise the harvest and disposal of the crop residue.

IX. Scientists of Birsa Agricultural University in Ranchi had refused to monitor the rice trials since they were not involved from the beginning of the trials but were asked to monitor the fields at a late stage. Senior scientists said that they were not informed about the details of how the trials were conducted.

Scientists said that there was no way of knowing whether Mahyco was spraying its trial fields with pesticides to show that pests were controlled in the Bt rice fields.

X. The harvested seed has not been secured in any way. The Mahyco staff had not taken it away until September 10, 2008. The harvested seed is kept in cloth bags in the caretaker's house. The straw has been fed to animals.

XI. In its letter to the DBT, Mahyco has stated that the rice trials have been harvested and everything post harvest has been burnt. This is a false statement. After the harvest, the crop/ field residue in the trial plot was not burnt. Photographs taken on 9th September, 2008 show that the trial field was not burnt. MAHYCO's falsehood demonstrates its utter disregard for the regulatory process and its unscrupulous and unethical conduct.

XII. Post harvest crop stumps have been left standing in the Trial Field. These have thrown up tillers and seed has already set in the tillers. These rogue Bt rice seeds will start the process of contaminating other rice crops in the region as they multiply in each crop cycle.

XIII. If the caretaker/farmer keeps the harvest of the paddy grown from the tillers arising from the Bt rice Trial Field, another source of contamination is ensured. The Bt rice may spread to normal fields and get mixed up with normal, non-Bt rice designated for the farmer's domestic use or for the market. This may endanger human health.

The Bt Rice has not undergone safety tests so no one knows whether it is safe to eat.

XIV. Nobody from the company had come back after 11th August, till 17th September, 2008 to either collect the harvested Bt seed or see the state of the field post-harvest.

XV. On 16th September, 2008, Gene Campaign had brought the above facts concerning MAHYCO's violations in the public domain. These details had also appeared in the Press. Immediately thereafter, on 17th September, 2008, MAHYCO sent its officials to Saporong to destroy the evidence of their violations. They ploughed the trial field where the crop residues had been left standing and tried to bury the remains of the trial crop that had thrown up tillers. Despite this effort to destroy evidence, some Bt rice clumps are still standing in the field with live, new tillers. These are potential sources of contamination. The staff of Gene Campaign took photographs of the subsequent act of MAHYCO on 19th September, 2008. This Hon'ble Court may compare the photographs, which were taken on 9th September with the photographs of 19th September, 2008 showing the attempt of MAHYCO to destroy the evidence of gross violations committed by them.

A true and correct copy of the letter dated 26.7.2008 from Birsa Agricultural University, Ranchi is **Annexure A-3**. True and correct copies of the photographs which were taken on 9.9.2008 are **Annexure A-4 (colly)** and photographs taken on 19.9.2008 are **Annexure A-5 (colly)**.

6. That MAHYCO has violated Rule 13(2) (c) of the Rules of 1989 by gross non-compliance of the conditions of approval, which will result in damage to environment and public health. In the light of MAHYCO's flouting of conditions laid down for conduct of field trials and its deliberate untruths/lies told to the Government's regulatory agency, this violation becomes extremely grave. The GEAC should, therefore, revoke all approvals which have been granted to MAHYCO.
7. That as mentioned above, the entire regulatory mechanism which has been provided in the Rules of 1989 suffers from serious lacunae and the said Rules are totally inadequate to protect the nature, environment and public health; the approvals are granted in an arbitrary manner without there being any guidelines, there is no scientific determination on the adverse effect of the approvals which are granted and there is no subsequent monitoring of the trials pursuant to the approvals. In view of these facts, the approvals/permissions which have been granted so far require a review and till then a moratorium should be granted.

PRAYER

The Petitioners, therefore, pray that in the facts and circumstances of the present case, this Hon'ble Court may be pleased to: -

1. Direct GEAC to revoke all the approvals granted to Maharashtra Hybrid Seeds Company Limited (MAHYCO) having its registered office at Resham Bhavan, 4th Floor, 78 Veer Nariman Road, Mumbai-400 020, Maharashtra;
2. Grant moratorium on all the approvals/public trials till a proper regulatory regime ensuring safety to nature, environment and public health is brought into force by the Government;

3. Direct a review of all the approvals/permissions granted by the Genetic Engineering Approval Committee (GEAC) as they have been granted without any statutory guidelines, scientific assessment of bio-safety etc, and, therefore, are arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution;
4. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Settled by:
Mr. Sanjay Parikh,
Advocate, Supreme Court

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(ANITHA SHENOY)
ADVOCATE FOR THE PETITIONERS

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1. Add Maharashtra Hybrid Seeds Company Limited (MAHYCO) having its registered office at Resham Bhavan, 4th Floor, 78 Veer Nariman Road, Mumbai-400 020, Maharashtra as a party;
2. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

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DATED: -09-2008

