

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A.No. OF 2012

IN

WRIT PETITION (CIVIL) No.260 OF 2005

IN THE MATTER OF :-

Loksatta rep. by its President
Dr. Jaya Prakash Narayan

...Applicant /
Implead Petitioner

Versus

Aruna Roudrigues & Ors.,

...Respondents

I.A.No. OF 2012

IN

WRIT PETITION (CIVIL) No.260 OF 2005

IN THE MATTER OF :-

Loksatta rep. by its President
Dr. Jaya Prakash Narayan
S/o Late N.V. Rao
with its office at House No: 8-2-674B/2/9
Plot Number: 93 Happy Valley
Road No.13-A Banjara Hills
HYDERABAD – 500 034
Andhra Pradesh

...Applicant / implead petitioner

Versus

(1) Aruna Rodrigues
Bungalow No.69
MHOW CANTT – 453 441

2

Madhya Pradesh

Petitioner No.1 / Respondent No.1

(2) Devinder Sharma
G-3/F DDA Flats
Munirka
NEW DELHI – 110 067

Petitioner No.2 / Respondent No.2

(3) PV Satheesh
Deccan Development Society
101 Krishnan Residency
Road No.5, Begumpet
HYDERABAD 500 016
Andhra Pradesh

Petitioner No.3 / Respondent No.3

(4) Rajeev Buruah
14 Signals Vihar
MHOW – 453 441
Madhya Pradesh

Petitioner No.4 / Respondent No.4

(5) Union of India
Through its Secretary
Govt. of India
Ministry of Environment and Forests
Paryavaran Bhavan
CGO Complex, Lodhi Road
NEW DELHI – 110 003

Respondent No.1 / Respondent No.5

(6) Union of India
through its Secretary
Govt. of India
Ministry of Science and Technology
Block-II CGO Complex Lodhi Road
NEW DELHI – 110 003

Respondent No.2 / Respondent No.6

(7) Union of India
through its Secretary
Govt. of India
Ministry of Agriculture
Krishna Bhavan
NEW DELHI

Respondent No.3 / Respondent No.7

APPLICATION FOR IMPLEADMENT / INTERVENTION FILED ON
BEHALF OF APPLICANT / IMPLEAD PETITIONER UNDER ORDER XX
AND RULE 3 OF THE SUPREME COURT RULES, 1966

Loksatta rep. by its President
Dr. Jaya Prakash Narayan
S/o Late N.V. Rao
with its office at House No: 8-2-674B/2/9
Plot Number: 93 Happy Valley
Road No.13-A Banjara Hills
HYDERABAD – 500 034
Andhra Pradesh

...Applicant / implead petitioner

To

The Hon'ble Chief Justice of India

and his Companion Justices of

the Supreme Court of India

The humble application of the

Applicant / implead petitioner abovenamed :

MOST RESPECTFULLY SHOWETH :-

(1) The above application for impleadment / intervention is filed by the applicant / implead petitioner herein, seeking permission of this Hon'ble Court for their impleadment as party-respondent in Writ Petition (Civil) No.260 of 2005 and / or alternatively to permit them to act as intervener, in the interests of the farming community of this country.

(2) Relevant facts that are necessary for the purposes of permitting the applicant herein to implead themselves / to act as intervener are set-out hereunder :-

(i) Loksatta is a political party established to usher in a new political culture and *inter-alia*, a people-centric democratic polity based on liberty, self-governance, empowerment of citizens, rule of law and self correcting institutional mechanisms.

(ii) Ever since its formation about 15 years ago, Loksatta the civil society movement which preceded the formation of the Loksatta party is constantly engaged in waging vigorous struggles and launching various awareness programs to protect, preserve and promote the varied interests of various

sections of the society, in order to secure to them justice, social, political and economic. It had thus carved out a niche for itself among the polity. An endeavour was being made all-through to find out solutions to various problems being faced by cross sections of the society, including farmers. Recently, Loksatta had taken up the cause of the farming community ; had conducted an in depth study of farmers' problems in production and marketing ; extending of credit by bankers by grant of crop loans etc., and the availability of storage space and had submitted a detailed report to the Govt. of Andhra Pradesh making various suggestions. Loksatta's movement against illegal restrictions on paddy/rice trade between states attracted massive public support, and helped farmers secure a better price. Loksatta's intervention and advocacy led RBI constituting an expert group to study farmers' problems, and it also persuaded the government of India to allow export of agricultural commodities including rice and cotton. Thus, Loksatta is in the fore-front in espousing the cause of the farming community of the country.

In the year 2002, Loksatta filed a Public Interest Litigation – W.P.No.509 of 2002 before this Hon'ble Court,

under Art.32 of the Constitution of India successfully challenging the Representation of People [Third Amendment] Act, 2002, which sought to undo the dignity of this Hon'ble Court – in *Union of India Vs. Association of Democratic Reforms*, reported in (2002) 5 SCC 294, where this Hon'ble Court had upheld, the citizens right to know the antecedents of candidates contesting at an election. The judgment is reported in (2003) 4 SCC 399, in the matter of *People's Union for Civil Liberties (PUCL) vs. Union of India*. This is an instance to show that Loksatta stands and fights for justice to the common public.

- (iii) Agriculture constitutes the backbone of the Indian economy. It contributes around 16 per cent of the national income and provides livelihood to 55 per cent of Indian population. Further, agricultural products and manufactured goods based on farm products are an important contributor to exports and employment. The role of agriculture in the industrial development of the economy is no less important. Agricultural sector supplies raw materials to the agro-based industries like sugar, jute, cotton, ground-nut and oilseeds. Failure of agricultural crops spells a disaster for the Indian industries.

Agriculture also directly and indirectly provides a market for the industrial products. Directly, agricultural sector consumes industrial products like chemical fertilizers, pesticides, insecticides and small tools and equipments. Indirectly, the success in agricultural sector increases the purchasing capacity of the people to purchase industrial products. Thus, agriculture occupies a pivotal position in the Indian economy and a rapid development of the economy depends on a smooth and sustained growth in the agricultural sector.

(iv) Agriculture in India has a significant history. Today, India ranks second worldwide in farm output. Agriculture and allied sectors like forestry and fisheries accounted for 16.6% of the GDP in 2009, and about 55% of the total workforce. The economic contribution of agriculture to India's GDP is steadily declining with the country's broad-based economic growth. Still, agriculture is demographically the broadest economic sector and plays a significant role in the overall socio-economic fabric of India.

Over the decades, the poor, largely illiterate small farmers achieved remarkable success in food production and agriculture growth with the help of technology. Food grain

production was a meagre 50 million tonnes in the 1950s and India was dependent heavily on PL 480 import of grains from the US. Now our food grain production is a record 241 million tonnes in 2010-2011. This spectacular growth was possible because Dr Norman Borlaug and many Indian scientists strove hard to apply principles of genetics and produced hybrid and high yielding varieties which are draught or flood resistant.

In this situation, food security and agricultural productivity are the main agendas of the successive governments in power. There is a strong opinion among policymakers, scientists and farmers that biotechnology holds a lot of promise in achieving food security and that transgenic crops are a sustainable way forward.

- (v) Humans require adequate amounts of nutritionally balanced food for survival, proper growth, development and to combat disorders and diseases. Food and nutritional insecurity poses serious concerns for human health world-wide, especially in developing countries like India, due to continuous rise in population. Therefore, promoting the nutritional value of staple crops is a major consideration for food and nutritional security.

Conventional breeding practices, it is found, have not kept pace with the increasing demand for quality of food because of barriers and uncertainty over genomic changes. New technologies therefore need to be adopted for crop improvement. In the recent past, transgenic technology has proved to be greatly useful in serving the purpose of crop improvement with respect to increased nutritional quality and productivity. Modern biotechnologies are developing new ways of tackling old problems through application of plant molecular biology.

Transgenic technology has proved to be of immeasurable value in respect of cotton. India developed long – stapled cotton only in late 1970's. Cotton production increased significantly during the next decade. However, within a decade, by late 1980's , cotton in most parts of India ran into a crisis because of resistant pests like heliothis (boll worm). Farmers suffered severe losses, and even high application of pesticides could not save crops. Scores of farmers committed suicide as early as 1988. Years later, the gene that could resist heliothis was identified in a bacterium called bacillus Thuringen (BT), and through transgenic

technology the gene was introduced into cotton seeds. Thus BT Cotton became resistant to pest attack and it revolutionized cotton cultivation in India. It saved crops, enhanced yields, and dramatically reduced pesticide consumption. In fact transgenic technology proved to be a great boon to environment. Many NGOs and others fiercely opposed introduction of BT cotton in India, based on certain misapprehensions. However, after due diligence BT cotton seed was introduced and replicated in India. Within years, 95% of the cotton farmers in India voluntarily adopted BT cotton technology. India is now the second largest producer of cotton, and is a significant exporter. Cotton seed from BT cotton has been used over the past 10 to 12 years for cattle feed and oil production, with no deleterious effects whatsoever.

As is known, genetically engineered food is produced from plants etc. that have had their genetic code modified by the selective introduction DNA segments through the use of gene splicing. This process allows the organism to acquire a desirable trait such as pest protection, drought resistance or improved nutritional qualities. So far, most of our food

products have been developed using traditional genetic modification techniques through plant breeding. Present DNA techniques allow scientists to transfer desirable traits more rapidly, when using the traditional breeding methods. The newer genetic modification techniques thus enable scientists to develop traits that could not be introduced through customary plant breeding practices. Therefore, undeniably GM technology is an important tool in the fight against poverty and food security.

- (vi) Expert committees constituted by Government of India favoured introduction of more genetically modified crops in the country under proper strict regulatory supervision in view of the technology benefiting Indian agriculture. The scientific advisory council of Hon'ble Prime Minister headed by eminent scientist Sri C.N.R. Rao recommended revamping the existing regulatory structure and introducing the long pending biotechnology regulatory authority of India bill in Parliament. This bill will pave the way for creating an independent authority, which will carry out the scientific risk assessment for GM crops, following which the various states of the country can decide on the commercialisation of the produce. It is

noteworthy that various countries like the US, Canada, Brazil and China, all of whom are potential competitors to India in global agricultural markets, consider GM crops to be safe and good for environment. To cite an example of GM products, BT cotton, as explained above has found favour with the farmers of the country. The use of pesticides had been considerably reduced by more than 50%. With reduction pesticide application, the population of natural insect predators doubled, and they in turn reduced the pest load on cotton as well as other conventional crops. It is therefore realized that transgenic crops reduce insecticide use and promote population increase of natural enemies of pests. The deployment of Bt crops had enhanced economic benefits not only in Bt crop fields but also in the whole agricultural landscape.

- (vii) Scientific and technological innovation and fundamental understanding of nature are among the drivers of progress. The discovery of penicillin by Alexander Flemming in 1928 saved lives of countless people battling with bacterial infections. Today's advances in the treatment of human disease have been made possible by the discovery of DNA double-helix structure by Watson and Cricks in the year 1953.

Human insulin is now produced by transgenic compared to bovine insulin, this transgenic insulin does not develop resistance and is invaluable in saving lives of insulin dependant diabetics, especially type-I diabetes. Green revolution, a synonym for advances in agriculture and plant breeding has saved millions of people from starvation. Thus, bio-technologies would provide us with useful tools in agriculture. As with all new technologies, the potential risks and benefits must be identified and quantified on the basis of precautionary principle. Research programs and practices have to be developed to evaluate the risks and benefits to public health and environment.

- (viii) The advantages of frontier technologies cannot be denied to Indian farmers. Considering the arable land available ; the size of the country its economic strengths and its future potential to grow, the advancements in technology have to be adopted and harnessed to suit the local conditions. While India has only 2.5% global land mass, it has, at 160 million hectares, about 11% of the global arable land, apart from good rain fall, plentiful sunshine, and a long history of agricultural tradition. Properly leveraged, these strengths

would make India a global leader in agriculture. The farming community in India cannot therefore be denied the advances in agricultural technology that are being adopted by other leading countries of the world, including China. Required built-in safe-guards have to be brought in, in order to protect interests of the farmers and the economy of the country. Regulatory Authorities have therefore to be constituted with experts in the field to ensure that all the required safety measures are implemented. But that cannot be an excuse to delay or deny technology in a fast developing, highly competitive modern world.

- (ix) Interim report dated 7.10.2012 submitted by Technical Expert Committee constituted by this Hon'ble Court by order dated 10.5.2012 had recommended for imposing of a 10 years moratorium on the field trials of Bt transgenics in all food crops – which are used directly for human consumption.

The aforesaid interim report had not taken into proper consideration the benefits and advantages of the GM technology. In the whole debate on transgenic technologies, there is a confusion of two separate issues – technology and propensity of companies to perpetuate monopolies.

Technologies need to be welcomed and adopted to suit the needs of the country, subject to certain precautions and there is every need to protect the farmers from monopolistic tendencies of technology leaders. The committee was more apprehensive of the monopolies and business practices of parent companies, which are seen to be exploiting the farmers of India. Regulatory measures in this regard are quite essential but imposing a moratorium for a period of 10 years would prove seriously prejudicial to the farming community. Farmers would not only be deprived of the advantages of the technological advancements but would also be not able to compete in various aspects with their counter parts abroad. There will be tardy growth in the agricultural sector and the growth of agricultural economy would tend to be very slow. It is seen from the advances made by other countries and the research and experiments conducted that advantages outweigh the disadvantages and expert committee is not therefore correct in recommending the imposing of the moratorium for a period of 10 years. Denying the country vital and proven technologies because of monopolistic tendencies which tantamount to throwing the baby with the bath water, this Hon'ble Court should consider in the right perspective the

various attendant advantages of the technological advances, which need to be introduced in the agricultural sector.

It is estimated that Indian farming suffers losses up to Rs.1 lakh crore from pests and diseases annually, apart from natural calamities. In view of the successful story of Bt cotton, the apprehensions of the opponents of transgenic technologies are not well founded. Their apprehensions can be allayed by introduction and implementation of proper precautions to ensure safety and prevent monopolies. Looking to the future growth of India's population, the solution is to increase per hectare productivity which includes resistance to pests and deceases. Such a situation would be possible only with new technologies such as GM. In short, in the interests of the farming community of the country, GM crops are absolutely necessary.

(3) It is submitted, that it should not be construed that the applicant / implead petitioner is in anyway supporting any monopolies – foreign or Indian. The interest of the implead petitioner herein is the interest of the farming community and to secure to them various advantages of the technological developments that have been brought to the fore-front by various research

organizations around the world. The applicant firmly believes that unless advantages of technological developments are harnessed by the farming community of the country, the farming community would stand to lose in every aspect and the economy of the country too would suffer. The applicant had in the past fought against monopolistic tendencies of a multi – national company, Monsanto, by instituting Writ Petition No.5505 of 2006 in the High Court of Judicature of Andhra Pradesh at Hyderabad, by seeking a declaration that the trait value of Bt cotton seeds – involving Monsanto Technology should be reduced and should be sold at a level that was in vogue in peoples' Republic of China. Taking a cue from the contentions urged by the applicant in the said writ petition, Govt. of Andhra Pradesh had instituted a complaint before MRTP Commission, New Delhi in RTPA No.2/2006, which was disposed of on 8.12.2009, where under orders were passed reducing the price of Bt cotton seeds. The applicant, as is thus evident, is against monopolistic tendencies and practices by multi-national companies and is in favour of firm steps to curb monopolies. It is submitted, that interim report submitted by technical expert committee cannot be taken at face value, and should be closely scrutinized in order to arrive at a correct decision in the matter. Various scientific, technical, and economic aspects of great significance are involved

in the matter and the technical expert committee could not have come to grips with the ramifications of the issues involved. It is therefore submitted that this Hon'ble Court, adopting the precautionary principle, should be very cautious in acting upon the said report and in considering the contentions of the petitioners herein, which are not well-founded and surely not in the interests of the farming community, the economy of the country and the public at large. The avowed interest of the applicant herein is therefore to bring to the kind notice of this Hon'ble Court the ramifications of the issues involved and the advantages the technological developments would bring to the fore, to the farming community. In a nut-shell, the following issues have to be considered by all concerned in arriving at a decision of the matter :-

Transgenic technologies are of vital importance to agriculture, medicine and industry in a fast growing major economy like India.

Business and regulation of monopolies and extortionary prices is altogether different, and must not be confused with the merits and safety of technology.

Independent regulatory authority to prevent abnormal pricing and fixing of reasonable prices is necessary- Fair return on investment to seed producers and developers, and affordable price to farmers- both must be ensured by independent regulatory authority- the Court may give such a direction to the government.

Regulatory agencies in bio-technology need to be constituted only with individuals who are known experts with global exposure in the field - A direction to that effect may given by the Hon'ble Court.

In order to prevent vested interest developing and to ensure keeping pace with changes in technology, the experts in regulatory agency should serve a fixed tenure - say - three years. No one should be allowed to continue for long term. - A direction to that effect may given by the Hon'ble Court.

Under Indian law holders of patents are allowed monopoly of technology for 20 years from the date of registration in India- not 20 years from the date of first patent anywhere in the world. - MNCs are

using this provision to register patents in India only after commercialisation of products. Law needs to be amended to reduce such monopolistic tendencies. Also companies may restore to small, insignificant, cosmetic changes in existing technologies and file them as new patents to get extended patent life of 20 years. Safeguards should be institutionalized by patent Authority. The Court may give such a direction to the government.

All other steps need to be taken to spread technology, and to prevent any company's monopoly.

Blanket moratorium on the ground that monopolies exist hurts Indian farmer, consumer and jeopardises food security. Such a moratorium only undermines India's growth and prosperity - It would be tantamount to cutting the nose to spite the face. - Monopolies should be regulated to ensure fairness to farmers. Interests of farmers and the nation should not be sacrificed by banning access to vital frontier technology.

The baby cannot be thrown with the bath water. The goal should be food security, nutrition of the nation, fair returns to farmers, harnessing nation's export potential, economic growth and prosperity.

55% India's population is dependent on agriculture for livelihood. Their share of nation's GDP is about 16% and is still declining – a simple arithmetic shows us that the per capita income of the farmer is less than 1/6th of the rest of the population. - The resultant rural poverty and agrarian distress are undermining economic growth and the social stability. More proven technologies, greater productivity and higher incomes are the felt necessities.

Monopolies is the real problem, stopping technology is the wrong remedy. Moratorium is a remedy worse than the disease.

GM crops are mostly effective in resisting pest attacks. Therefore ensure good yields and minimise pesticide application. Bt cotton is a classic example. Farmers committed suicide in large nos

in 1980s because of resistant heliothis uncontrolled by pesticides. Once Bt cotton was introduced, yields went up because of pest resistance and pesticide consumption came down. Thus GM crops are vital for reducing environmental pollution.

Often varieties are being developed which can withstand moisture stress and are draught resistant. 70% of Indian agriculture is monsoon dependent. GM seeds can transform dry land agriculture, increasing farmers income and providing food security. ICRISAT is developing draught resistant GM groundnut which will revolutionise oil seed farming and eliminate imports.

(4) It is submitted, that this application is made bonafide, in good faith and in the interests of the farming community and consequently with an intent to promote, preserve and protect their interests. In preferring this application for impleadment / intervention, the applicant / implead petitioner is not guided by any other considerations, except serving public interest.

(5) In the circumstances, it is therefore just and expedient in the ends of justice, to permit the applicant / implead petitioner

herein to implead themselves as party-respondent in Writ Petition (Civil) No.260 of 2005 and / or alternatively to permit them to act as intervener, in the interests of the farming community of this country, entitling them to make required submissions in accordance with law and to file necessary material / documents in support of their contentions.

PRAYER

It is, therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to :-

- (a) permit the applicant / implead petitioner herein to implead themselves as party-respondent in Writ Petition (Civil) No.260 of 2005 and / or alternatively to permit them to act as intervener, in the interests of the farming community of this country, entitling them to make required submissions in accordance with law and to file necessary material / documents in support of their contentions. ;

AND

- (b) pass any other or further order or orders as are deemed fit and proper in the circumstances of this case.

AND FOR THIS ACT OF KINDNESS THE PETITION AS IN DUTY
BOUND SHALL EVER PRAY.

Settled By :-

Sri P.P. Rao
Senior Advocate
Supreme Court of India

Drawn By :

G V R Choudary
Advocate
Supreme Court of India

Filed By :

(K. Shivraj Choudhuri)
Advocate for applicant /
Implead petitioner / Intervener

NEW DELHI
Drawn On : 6.11.2012
Filed On : 7.11.2012

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A.No. OF 2012

IN

WRIT PETITION (CIVIL) No.260 OF 2005

IN THE MATTER OF :-

Loksatta rep. by its President
Dr. N. Jaya Prakash Narayan

...Applicant /
Implead Petitioner

Versus

Aruna Roudrigues & Ors.,

...Respondents

AFFIDAVIT FILED ON BEHALF OF IMPLEAD PETITIONER HEREIN

I, Dr. N. Jaya Prakash Narayan, S/o Late N.V. Rao, aged 56 years, President, Loksatta with its office at House No: 8-2-674B/2/9, Plot Number : 93 Happy Valley, Road No.13-A, Banjara Hills, Hyderabad – 500 034, Andhra Pradesh, do hereby solemnly affirm and state as follows :

(1) I am the President of the applicant / implead petitioner and presently member of the Andhra Pradesh Legislative Assembly. I got acquainted with the facts, records and circumstances of this case. In terms of Bye-Laws of the applicant, I am entitled to represent the applicant herein and therefore competent to swear to this affidavit.

(2) I further state and declare that the annexures filed along with accompanying application for impleadment / intervention on behalf of implead petitioner / intervener are true copies of their respective originals.

(3) I further state and declare that the averments of facts contained in the application filed for impleadment / intervention on behalf of implead petitioner / intervener in the above writ petition are true to my knowledge, information and belief and no part of it is false and nothing material has been concealed therefrom.

[Dr. N. Jaya Prakash Narayan]
Deponent

I submit that the averments of facts stated herein above are true to my knowledge, information and belief and no part of it is false and nothing material has been concealed there from.

Verified at Hyderabad, on this the 6th day of November, 2012.

[Dr. N. Jaya Prakash Narayan]
Deponent

Advocate

SECTION : PIL

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

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...Petitioners /
Respondents

(2) Union of India & Ors.,

...Respondents /
Respondents

With

I.A.No. of 2012

APPLICATION FOR IMPLEADMENT / INTERVENTION FILED

ON BEHALF OF APPLICANT / IMPLEAD PETITIONER /

INTERVENER

I N D E X

(Please see inside)

**ADVOCATE FOR APPLICANT / IMPLEAD
PETITIONER / INTERVENER : K. SHIVRAJ CHOUDHURI**

I N D E X

<u>S. No.</u>	<u>PARTICULARS OF DOCUMENTS</u>	<u>PAGES</u>
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