

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6462 of 2016

With

CIVIL APPLICATION NO. 1 of 2017

in

R/SPECIAL CIVIL APPLICATION NO. 6462 of 2016

With

R/LETTERS PATENT APPEAL NO. 404 of 2016

In

SPECIAL CIVIL APPLICATION NO. 6462 of 2016

With

CIVIL APPLICATION NO. 2 of 2016

in

R/LETTERS PATENT APPEAL NO. 404 of 2016

With

R/LETTERS PATENT APPEAL NO. 405 of 2016

In

SPECIAL CIVIL APPLICATION NO. 6462 of 2016

With

CIVIL APPLICATION NO. 2 of 2016

in

R/LETTERS PATENT APPEAL NO. 405 of 2016

With

R/LETTERS PATENT APPEAL NO. 622 of 2016

In

SPECIAL CIVIL APPLICATION NO. 6462 of 2016

With

R/SPECIAL CIVIL APPLICATION NO. 17662 of 2014

With

CIVIL APPLICATION NO. 1 of 2016

in

R/SPECIAL CIVIL APPLICATION NO. 17662 of 2014

With

R/SPECIAL CIVIL APPLICATION NO. 2530 of 2011

With

R/SPECIAL CIVIL APPLICATION NO. 7928 of 2011

FOR APPROVAL AND SIGNATURE:

HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY **sd/-**
and
HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI **sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	Yes
2	To be referred to the Reporter or not ?	Yes
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	Yes

CROP LIFE INDIA & ORS.
 Versus
 UNION OF INDIA & ORS.

Appearance:**SPECIAL CIVIL APPLICATION NO. 6462/2016**

Mr. P. Chidambaram, Sr. Advocate, Mr.Mihir Joshi, Sr.Advocate with Mr. Keyur Gandhi with Mr. Anuj Trivedi, Advocates, for Nanavati Associates for Petitioners
 Mr. Devang Vyas,. Assistant Solicitor General of India with Mr.Nikunt K. Raval, Advocate for Respondent No. 1 & 2
 Mr. S.N.Soparkar, Sr. Advocate with Mr. Vimal Patel & Mr. Dhaval Shah, Advocates, for Respondent No. 3
 Mr. Mihir Joshi. Sr. Advocate with Mr. M.N.Marfatia, Advocate for Respondent No. 4
 Ms. Manisha Lavkumar Shah. Sr. Advocate with Mr. Salil M. Thakore, Advocate for Respondent No 5
 Mr. P.C.Kavina, Sr. Advocate with Mr. Sunip Sen with Mr. P.P.Banaji, Advocate for Respondent No 6
 Mr. Arun Nehra. Advocate with Mr.San Kashyap, with Mr. Mukesh T. Mishra for Respondent No.7

SPECIAL CIVIL APPLICATION NO. 2530/2011

Ms. Manisha Lavkumar Shah, Sr. Advocate with Mr.Salil M.Thakore, Advocate for Petitioners
 Mr. Devang Vyas, Assistant Solicitor General of India for Resp. No. 1 & 2
 Mr. Mihir Joshi, Sr. Advocate with Mr. Keyur Gandhi, Advocate for Nanavati Associates for Resp. No. 3 to 8

SPECIAL CIVIL APPLICATION NO. 7928/2011

Ms. Manisha Lavkumar Shah, Sr.Advocate with Mr.Salil M.Thakore, Advocate for Petitioners
 Mr. Devang Vyas, Assistant Solicitor General of India for Resp. No. 1 & 2
 Mr. Mihir Joshi, Sr. Advocate with Mr. Keyur Gandhi, Advocate for Resp. No.3 to 8

SPECIAL CIVIL APPLICATION NO. 17662/2014.

Ms. Manisha Lavkumar Shah, Sr. Advocate Mr. Salil M. Thakore, Advocate for the petitioners
 Mr. Devang Vyas, Assistant Solicitor General of India for Resp. No. 1 & 2
 Mr. M.N. Marfatia, Advocate for the respondent No. 3

LETTERS PATENT APPEAL No. 622/2016

Mr. Sunip Sen, Advocate with Mr. P P. Banaji, Advocate for Appellants.

Mr. Mihir Joshi. Sr, Advocate with Mr. Keyur Gandhi, Advocate for Nanavati Associates for Respondents Nos. 3 to 8 & 10 to14

Mr. Devang Vyas, Asstt. Solicitor General of India with Mr. Nikunt Raval, Advocate for Union Of India - Respondents No. 1.

LETTERS PATENT APPEAL No.404/2016

Mr. S N. Soparkar. Sr. Advocate. With Mr. Dhaval Shah, Advocate for appellants

Mr. Mihir Joshi. Sr, Advocate with Mr. Keyur Gandhi, Advocate for Nanavati Associates for Respondents Nos. 3 to 8 & 10 to14.

Mr. Devang Vyas, Asstt. Solicitor General of India with Mr. P Y Divyeshvar, Advocate, for Union Of India Respondents No. 1.

Mr. Arun Nehra, Advocate with Mr. San Kashyap, with Mr. Mukesh T. Mishra, Advocate for Respondents No. 15.

LETTERS PATENT APPEAL No.405/2016

Ms. Manisha Lavkumar Shah, Sr. Advocate with Mr. Salil M. Thakore, Advocate for Appellants.

Mr. Mihir Joshi. Sr, Advocate with Mr. Keyur Gandhi, Advocate for Nanavati Associates for Respondents Nos. 3 to 8 & 10 to14

Mr. Devang Vyas, Asstt. Solicitor General of India with Mr. Nikunt Raval, Advocate for Union Of India - Respondents No. 1

Mr. Arun Nehra, Advocate with Mr. San Kashyap, Advocate with Mr. Mukesh T. Mishra, Sr. Advocate for Respondent No. 15.

**CORAM: HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY
and
HONOURABLE MR.JUSTICE VIPUL M. PANCHOLI**

Date : 17/10/2018

COMMON C.A.V. JUDGMENT

(PER : HONOURABLE THE CHIEF JUSTICE MR. R.SUBHASH REDDY)

1. In this group of cases, the issues are common for consideration on similar set of facts, as such, they were heard together and are being disposed of by this common judgment with consent of learned counsel for the respective parties. For the purpose of disposal, we draw the facts of Special Civil Application No.6462 of 2016.

2. Petition in Special Civil Application No.6462 of 2016

is filed under Article 226 of the Constitution of India wherein the petitioners have prayed that the guidelines issued by the 2nd respondent - Registration Committee constituted under the provisions of the Insecticides Act, 1968, published by way of Agenda Item No.3.2 read with Annexure-I to the Minutes of 359th Meeting dated 02.11.2015, produced as Annexure-A, be quashed and set aside. During the pendency of the petition, revised guidelines are issued which are also challenged in this petition. The prayers made in the petition read as under:

“(A) Your Lordships may be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction, quashing and setting aside, the impugned guidelines issued by the respondent No.2 and published by way of Agenda Item No.3.2 read with at Annexure-I to the Minutes of the 359th meeting dated 2nd November, 2015, annexed at Annexure-A herein;

(AA) Your Lordships may be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction, quashing and setting aside, the impugned guidelines dated Nil, issued by the respondent No.2 and annexed at Annexure-A/1 hereto;

(B) Pending admission, hearing and final disposal of the present petition, Your Lordships be pleased

to suspend the operation and implementation of the impugned guidelines issued by the respondent No.2 and published at Annexure-I top the Minutes of the 359th meeting dated 2nd November, 2015, annexed at Annexure-A herein;

(BB) Pending admission, hearing and final disposal of the present petition, Your Lordships be pleased to suspend the operation and implementation of the impugned guidelines issued by the respondent No.2 dated Nil an annexed at Annexure-A/1 hereto;

(C) Pending admission, hearing and final disposal of the present petition, Your Lordships be pleased to stay operation of all or any certificates of registration that may be issued by the respondent No.2 by adopting the impugned guidelines at Annexure-A herein;

(CC) Pending admission, hearing and final disposal of the present petition, Your Lordships be pleased to stay operation of all or any certificates of registration that may be issued by the respondent No.2 by adopting the impugned guidelines issued by the respondent No.2 dated Nil and annexed at Annexure-A/1 hereto;

(D) An ex-parte ad-interim relief in terms of prayers (B) and (C) above may kindly be granted."

3. The 1st petitioner is a Company registered under Section 25 of the Companies Act, 1956 and has total number

of 14 members, who are engaged in the activity of import, manufacture and sale of agro-chemicals which fall within the meaning of 'insecticide' defined under the provisions of the Insecticides Act, 1968. It is stated in the petition that petitioner No.1 – Association is, inter alia, engaged in promoting the interest of the members who are engaged in the activity of import, manufacture and sale of agro-chemicals. Petitioners No.3, 5, 7, 9, and 11 are also Companies incorporated under the Companies Act, 1956, having their own manufacturing units in different Districts of Gujarat and are also engaged in the business of import, manufacture and sale of agro-chemicals.

4. The Insecticides Act is brought into force in the year 1968 to regulate the import, manufacture, sale, transport, distribution and use of insecticides within a view to prevent risk to human beings or animals, and for matters connected therewith. Under Section 3(e) of the Act, 'insecticide' is defined, which means any substance specified in the Schedule or such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Board, by notification in the Official Gazette, include in the Schedule from time to time, or any preparation containing any one or more of such substances.

`Manufacture' is defined under Section 3(j) of the Act in relation to insecticides, and includes, any process or part of a process for making, altering, finishing, packing labelling, breaking up or otherwise treating or adopting any insecticide with a view to its sale, distribution or use but does not include the packing or breaking up of any insecticide in the ordinary course of retail business and any process by which a preparation containing an insecticide is formulated. The Central Government is empowered to constitute a Registration Committee under Section 5(1) of the Act for registration of insecticides after scrutinising their formulae and verifying claims made by the importer or the manufacturer, as the case may be, as regards their efficacy and safety to human beings and animals, and to perform such other functions as are assigned to it by or under the Act. Under Section 5(5) of the Act, the Registration Committee constituted by the Central Government shall regulate its own procedure and the conduct of business to be transacted by it. Section 9 deals with registration of insecticides, which is relevant for the purpose of disposal of this batch of cases. It reads as under:

“9. Registration of insecticides:

(1) Any person desiring to import or manufacture any insecticide may apply to the Registration

Committee for the registration of such insecticide and there shall be separate application for each such insecticide:

Provided that any person engaged in the business of import or manufacture of any insecticide immediately before the commencement of this section shall make an application to the Registration Committee within a period of (seventeen months) from the date of such commencement for the registration of any insecticide which he has been importing or manufacturing before that date:

[Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at any time thereafter on payment of a penalty of one hundred rupees for every month or part thereon after the expiry of such period for the registration of each such insecticide.]

(2) Every application under sub-section (1) shall be made in such form and contain such particulars as may be prescribed.

(3) On receipt of any such application for the registration of an insecticide, the Committee may, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or by the manufacturer, as the case

may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register (on such conditions as may be specified by it) and on payment of such fee as may be prescribed, the insecticide, allot a registration number thereto and issue a certificate of registration in token thereof within a period of twelve months from the date of receipt of the application :

Provided that the Committee may, if it is unable within the said period to arrive at a decision on the basis of the materials placed before it, extend the period by a further period of not exceeding six months:

Provided further that if the Committee is of opinion that the precautions claimed by the applicant as being sufficient to ensure safety to human beings or animals are not such as can be easily observed or that notwithstanding the observance of such precautions the use of the insecticide involves serious risk to human beings or animals it may refuse to register the insecticide.

[(3-A) In the case of applications received by it prior to the 31st day of March, 1975, notwithstanding the expiry of the period specified in sub-section (3) for disposal of such applications, it shall be lawful and shall be deemed always to have been lawful for the Registration Committee to dispose of such applications at any time after such

expiry but within a period of one year from the commencement of the Insecticides (Amendment) Act, 1977:

Provided that nothing contained in this sub-section shall be deemed to make any contravention before the commencement of the Insecticides (Amendment) Act, 1977, of a condition of a certificate of registration granted before such commencement, an offence punishable under this Act.

(3-B) Where the Registration Committee is of opinion that the insecticide is being introduced for the first time in India, it may, pending any enquiry, register it provisionally, for a period of two years on such conditions as may be specified by it.

(3-C) The Registration Committee may, having regard to the efficacy of the insecticide and its safety to human beings and animals, vary the conditions subject to which a certificate or registration has been granted and may for that purpose require the certificate holder by notice in writing to deliver up the certificate to it within such time as may be specified in the notice]

(4) Notwithstanding anything contained in this section, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engaged in the business of, import or manufacture thereof shall on application and on payment of

prescribed fee be allotted a registration number and granted a certificate of registration in respect thereof on the same conditions on which the insecticide was originally registered.”

Section 36 of the Act empowers the Central Government to make rules after consultation with the Central Insecticides Board constituted under Section 4 of the Act by publishing the same in the Official Gazette.

5. The guidelines which are subject-matter of challenge, as approved under Item No.3.2 read with Annexure-I to the Minutes of the 359th Meeting dated 02.11.2015, are known as “Guidelines for registration of Technical Indigenous Manufacture (TIM) where pesticides formulation is registered for import or indigenous manufacture without registering its Technical in India”. The guidelines which the petitioners are aggrieved at initially are produced at Annexure-I at Page-67 of the paper-book. The relevant portions of the guidelines for the purpose of decision in this cases read as under:

“4. In compliance with interim orders of the Hon'ble High Court of Gujarat, dated, 05.09.2013 in WP No. 2530 of 2011 & others, no technical grade pesticide in the formulation registered under the FI category shall be considered as 'deemed to be

registered'.

5. *In compliance with the orders of the Hon'ble High Court of Gujarat, dated, 28.3.2014 in MCA No. 2483 of 2013 and others, pre-registration verification of the chemical composition of the 'Technical' in the pesticide Formulation sought to be registered will be mandatory prior to grant of any such registration. As such, the applicant desirous of registration for 'Formulation for Import' will mandatorily be required to submit a sample of the technical grade material for evaluation in the Central Insecticides Laboratory (CIL), Faridabad.*

6. *The Registration Committee will frame and adopt Guidelines on similar lines for registration of 'Technical for Import' where 'Formulation Indigenous Manufacturer' has been registered without registering the 'Technical'.*

7. *All pending cases for registration of 'Technical for Indigenous Manufacture' in respect of already registered FIs will be subjected to the same procedures in accordance with the Guidelines for TIM vs FIs'."*

6. The Guidelines for Registration of Technical for Indigenous Manufacturing (TIM) have been framed and amended from time to time. Prior to the impugned guidelines originally challenged in the petition, there were guidelines issued in the year 2011. Thereafter, such guidelines were

revised in the year 2014.

7. Under Section 9(3) of the Act, on receipt of any such application for the registration of an insecticide, the Committee, after such enquiry as it deems fit and after satisfying itself that the insecticide to which the application relates conforms to the claims made by the importer or the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register such insecticide on payment of fees as may be prescribed and issue a Certificate of Registration. As per Section 9(3B) of the Act, where the Registration Committee is of the opinion that the insecticide is being introduced for the first time in India, it may, pending any enquiry, register it provisionally for a period of two years on such conditions as may be specified. Section 9(4) of the Act provides that notwithstanding anything contained in Section 9, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engage in the business of, import or manufacture thereof, shall on application and on payment of prescribed fees, be allotted a registration number and granted a Certificate of Registration in respect thereof on the same conditions on which the insecticide was originally

registered. Such applications under Section 9(4) of the Act which are made for registration are called “me-too” registrations.

8. During the year 2011, when guidelines were notified by the Registration Committee for the purpose of registration, a batch of Special Civil Applications in Special Civil Application No.2530 of 2011, 7928 of 2011 and allied matters was filed by indigenous manufacturers. In the said Special Civil Applications, initially, interim order was passed. In the above said batch of cases, it was the case of the petitioners - indigenous manufacturers that the importers were permitted to import the formulations without any technical verification whereas the indigenous manufacturers were required to undergo rigorous test for the purpose of formulations as well as technical grade. In the said batch of petitions, it was also the grievance of the original petitioners that when the applications were made under Section 9(4) of the Act, such registrations were given effect to only after three years of registrations, as such, they were deprived of registrations immediately, like others, who are registered under Section 9(3) of the Act. In the said batch of cases, Civil Applications were filed on behalf of the importers of insecticides opposing the reliefs sought for in the petitions. On

these applications, learned Single Judge of this Court has passed orders on 05.09.2013. A copy of the order on the said petitions is placed on record. From a reading of the said order, it is clear that the applicants – importers have conceded and clarified that actual physical sample of technical grade/ material is also made available for testing even for import of formulations. While disposing the batch of Civil Applications in Special Civil Applications No.2530 of 2011, 7928 of 2011 and connected petitions, this Court has granted directions which read as under:

“(a) even in case of import of formulations the technical grade/material will be tested and actual physical sample of such technical grade of each consignment when it is imported will have to be provided by the importer which will be subjected to all the rigours of the tests applicable to the indigenous manufacturer like the examination of chemical composition, test with regard to bio-efficacy and human safety as well as its probable effect on the soil and human life;

(b) the guidelines may be made more transparent as well as more effective so as to provide equal treatment to the indigenous manufacturers as well as the importers who are importing such pesticides manufactured outside India.

(c) the procedure evolved by the Registration

Committee for grant of deemed registration cannot be sustained as discussed above and, therefore, no further deemed registration may be granted till the matters are finally heard or appropriate guidelines are issued by the Government of India.”

It is to be noted that said order is passed by way of an interim order while ordering final hearing of the matters expeditiously.

9. In compliance of the directions issued in the order dated 05.09.2013, when fresh guidelines were issued, some of the importers of insecticides again challenged the same and such challenge in petitions in Special Civil Application No.6874 of 2014 and allied matters has failed in view of the judgment and order dated 07.07.2014 since the batch of petitions was dismissed and Civil Applications filed by respondents No.3 to 35 in the said petitions for vacating interim relief were allowed. The very same guidelines were also challenged by indigenous manufacturers by filing Special Civil Applications No.9975 of 2014 and 10028 of 2014. Subsequently, on 24.11.2015, respondent No.2 – Registration Committee has framed new guidelines (impugned guidelines) by way of Minutes recorded in the 359th meeting. These further guidelines are issued during the pendency of the petition.

Even the said guidelines which are similar to the earlier guidelines are also challenged by way of amendment in this petition.

10. In the petition, it is the case of the petitioners that the impugned guidelines are wholly unscientific and suffer from non-application of mind, malice in law and such guidelines are framed with a view to favour indigenous manufacturers and the same is not only contrary to the established guidelines, but run contrary to the global standards of Food and Agriculture Organization, United States – World Health Organization (“FAO-WHO”). It is submitted that even the guidelines which are framed in purported implementation of the directions of this Court to make them more transparent and effective, in fact, dilute the standards prescribed and run contrary to the view expressed by this Court earlier. It is stated that, the aspect of safety to human beings and animals and bio-efficacy are the issues which the respondent – Union of India has to come out with more effective guidelines and mechanism. It is the case on behalf of the petitioners that no registration can be granted to first time technical registrant of the Technical without first establishing authenticated impurity profiling and its impact on toxic bio-efficacy and safety, by conducting tests and generating data

as required for a normal first time registrant of Technical as per 2011 guidelines. It is the case on behalf of the petitioners that while framing the impugned guidelines, the 2nd respondent is permitting registration of a technical grade without testing impurity profile and the same would cause grave risk to safety of human beings and animals. Thus, it is their case that by granting registration on relaxed guidelines, respondent No.2 has effectively given a back-door entry to manufacturers of technical grade which is really not registered and registration criteria of a first time registrant of a technical grade is treated as if it is a subsequent registration of an already registered technical grade. Such treatment is not envisaged by the Act and it amounts to creating a procedure which is not contemplated under the Act. It is also the case on behalf of the petitioners that the impugned guidelines have done away with the requirement of impurity data with regard to technical effect of stability, toxicity, safety and other associated aspects including technical grade of its registration etc.

11. Detailed affidavits-in-reply have been filed on behalf of the respondents to counter the claim of the petitioners.

12. We have heard Shri P.Chidambaram, learned Senior

Advocate, Shri Mihir Joshi, learned Senior Advocate, for the petitioners, Shri Devang Vyas, learned Assistant Solicitor General of India for respondents No.1 and 2, Shri S.N.Soparkar, learned Senior Advocate for respondent No.3, Shri M.N.Marfatia, learned advocate for respondent No.4, Mrs.Manisha Lavkumar Shah, learned Senior Advocate for respondent No.5, Shri P.C.Kavina, learned Senior Advocate for respondent No.6 and Shri Arun Nehra, learned advocate for respondent No.7 in this petition.

13. Learned Senior Advocate Shri P.Chidambaram, appearing for the petitioners has submitted that if the impugned guidelines are allowed to stand, it would tantamount to creating a new category of registration under Section 9 of the Act and the same would be nothing but a deemed registration by back-door method, what is prohibited earlier by this Court. Further, it is submitted that though the registering authority is empowered to evolve its mechanism by way of guidelines, the guidelines are framed at the instance of the Government and the Government has no such power under the Scheme of the Act and the Rules framed thereunder to interfere with the framing of guidelines. It is submitted that for grant of registration, five-batch analysis test which is being followed in several countries, as recommended by FAO-WHO and further

based on expert opinions on the subject, ought to be followed but such five-batch test is done away with, diluting the standards at the risk of lives of human beings and animals.

14. In support of his arguments, Shri P.Chidambaram, learned Senior Counsel for the petitioners, has placed reliance on the following judgments:

(i) Cellular Operators Association of India and Others v. Telecom Regulatory of India and Others reported in (2016)7 SCC 703

(ii) Delhi Development Authority and Another v. Joint Action Committee, Allottee of SFS Flats And Another reported in (2008)2 SCC 672

(iii) R.B.Singh and others v. State of U.P. and others reported in 2003(6) AWC 5272 (LB)

(iv) Joint Action Committee of Air Line Pilots' Association of India (ALPAI) And Others v. Director General of Civil Aviation And Others reported in (2011)5 SCC 435

(v) M.C.Mehta v. Union of India And Others - (2002)4 SCC 356

15. On the other hand, it is the case of the respondents that the petitioners are competitors in the business and have absolutely no *locus-standi* to question the guidelines. It is submitted that in absence of violation of any statutory rights or fundamental rights of theirs, it cannot be said that they are aggrieved persons to challenge the impugned guidelines. It is contended by learned Senior Counsel appearing for the

respondents that only to create monopoly in business and to create hurdles for indigenous manufacturers by preventing registrations of insecticides, such attempts are being made by the petitioners. It is submitted that while registering the formulations, entire data is being supplied which includes Technical and when Technical is sought to be registered for indigenous manufacturers, same is being questioned by raising untenable grounds. It is submitted that Technical is embedded in the formulation which is registered. As such, it is always open to take the data of Technical for the purpose of registering the Technical for indigenous manufacturers. It is submitted that in absence of any effect on the petitioners because of such registration, they cannot challenge the guidelines only to prevent registrations of indigenous manufacturers who claim registrations for Technical. It is submitted that such a procedure is permissible under Section 9(4) of the Act and it cannot be said that the guidelines which are issued for such registrations, amount to creating new category, as sought to be projected by the petitioners. It is submitted that in earlier round of litigation, it is fairly submitted by the importers of formulations (viz. The petitioners herein) that when they apply for registration of formulation, it contains the entire data which is required for

Technical, as such, it is not open for them to plead otherwise in this batch of cases to seek invalidation of the guidelines impugned. In any event, it is submitted that the Registration Committee consists of experts and when the experts have examined and have framed guidelines, it is not for the Court to substitute its views with that of the expert's, on which basis the guidelines are framed.

16. It is further submitted that with regard to five-batch test, same is not mandatory and it is open for each country to adopt their own procedure and the standards notified by the FAO-WHO are only recommendatory. It is submitted that merely because five-batch test is not adopted, it cannot be said that there is a dilution in standards with regard to bio-efficacy and safety to human beings and animals.

17. Learned Assistant Solicitor General of India, in support of his arguments, has placed reliance on the judgment in the case of ***Centre for Public Interest Litigation v. Union of India And Others*** reported in **(2016)6 SCC 408**.

18. Shri S.N.Soparkar, learned Senior Advocate appearing for respondent No.3 in this petition, in support of his arguments has placed reliance on the following judgments:

(i) *Bajaj Hindustan Limited v. Sir Shadi Lal Enterprises*

Limited And Another reported in **(2011)1 SCC 640,**

(ii) M/s.Shri Sitaram Sugar Co. Ltd. and another v. Union of India and others reported in **AIR 1990 SC 1277,**

(iii) Tata Iron & Steel Co. Ltd. v. Union of India And Another reported in **(1996)9 SCC 709,**

(iv) M.P. Oil Extraction And Another v. State of M.P. And Others reported in **(1997)7 SCC 592, and**

(v) Delhi Development Authority and Another v. Joint Action Committee, Allottee of SFS Flats And Another reported in **(2008)2 SCC 672.**

19. In rejoinder, Shri P.Chidambaram, learned Senior Counsel appearing for the petitioners, to explain the *locus-standi* of the petitioners to challenge the impugned guidelines, has submitted that any dilution in standards for manufacture of insecticide may lead to banning of the drug itself, in which event the petitioners will be affected. In any event, it is submitted, since registration of Technical is sought to be made based on the data provided by the petitioners for registration of formulations, it cannot be said that the petitioners have no *locus-standi* to question the guidelines.

20. Before we consider the issues which arise for consideration, it is desirable to elaborate the meaning of Technical, formulation, as used in the Scheme of the Act and guidelines made thereunder. Technical grade insecticide is a substance mentioned in the Schedule to the Act in a

concentrated form. It is an active ingredient but at the same time, it is not pure 100% and also has impurities which are dependent on the manufacturing facility, raw-material, etc. The impurities associated with the Technical affect toxicity safety etc. The insecticide formulation is prepared by mixing Technical with other substances to make it usable for consumption. The formulations of different strengths with different properties can be prepared by using the Technical. The abbreviation TIM used is for Technical Indigenous Manufacture, TI is for Technical Import, FIM means Formulation Indigenous Manufacture, and FI stands for Formulation Import.

21. It is clear from the submissions made by learned counsels and material placed on record that 2nd respondent – Registration Committee, when it has framed guidelines for the purpose of evaluating an application for registration of insecticide under various sub-sections of Section 9 of the Act, contemplated permitting registration of FI without registering Technical and deeming of such Technical to be registered was challenged before this Court by some of the respondents in Special Civil Applications No.2530 of 2011 and 7928 of 2011. At first instance, interim orders were passed by this Court vide order dated 11.07.2013, restraining registration of

Formulations Import without registering Technical. When Civil Applications were filed for vacating the aforesaid order, again by way of an interim order dated 05.09.2013, after bi-parte hearing, while vacating the order dated 11.07.2013, permitting registration of formulations without registering Technical, it was directed that a sample of Technical be imported with every consignment of formulation. At the same time, directions were issued to the 2nd respondent – Registration Committee to frame transparent guidelines that are more effective so as to make equal treatment to the indigenous manufacturers as well as importers. In the said order, the alleged deemed registration was disapproved. In fact, it is to be noticed at this stage, such registration of Technical cannot be termed as “deemed registration”. But even though the guidelines contemplate registration of Technical simultaneously when the formulation is registered, the guidelines provide giving effect to such registration only after three years of registration of Technical. In earlier orders passed by this Court, such concept of registration was termed as “deemed registration” but in fact, it is not a deemed registration, it is a registration with a condition that it shall come into force on expiry of a period of three years from the date of issue.

22. Pursuant to directions issued in the order dated 05.09.2013, in Civil Application No.7969 of 2013 and Special Civil Application No.2530 of 2011 and allied matters, the 2nd respondent – Registration Committee, in its 344th Meeting, set up an Expert Committee under the Chairmanship of Dr.S.N.Sushil (Plan Protection Adviser and Permanent Member, Registration Committee) to review the guidelines. The Registration Committee, in its subsequent meeting held on 24.02.2014, decided to publish the recommendations made by Dr.Sushil Committee and comments of all stake holders were invited on the recommendations of the Expert Committee. Dr.Sushil Committee has observed that data for establishing chemical equivalence needs improvement. Further, it is recommended that chemical equivalence should be established by analysis of five recent batches which is popularly known as five-batch analysis. On application filed for modification of order dated 05.09.2013, this Court has further modified and held by order dated 28.03.2014 clarifying that once Technical grade / material has been supplied for the purpose of analysis and scrutiny prior to registration, the Technical grade/ material may not be insisted upon with each consignment and each consignment of formulation so imported may be verified and tested so that it matches with

the Technical grade/ material regarding specification and quality. The recommendations made by Dr.Sushil Committee were also further considered by the 2nd respondent – Registration Committee in its 347th meeting held on 11.04.2014, which suggested for a five-batch analysis and further laid down for fresh guidelines for registration with formulation without registering Technical and sent the guidelines for approval to the Government. When such guidelines were proposed, several persons, including the petitioners, approached this Court challenging the same by way of petitions in Special Civil Application No.6874 of 2014 and allied matters. Same were dismissed by this Court by judgment dated 07.07.2014. As much as certain sections of industry, including that of the respondents were objecting for five-batch analysis, the 2nd respondent – Registration Committee has conducted an Open House meeting on 13.05.2015. After discussions and considering the suggestions made in the Open House meeting on 13.05.2015, the Registration Committee, in its 356th Meeting dated 26.05.2015, has decided to keep in abeyance its earlier decision to implement five-batch analysis and decided to constitute another Committee under Dr.K.K.Sharma (Project Coordinator and Co-opted Member of Registration Committee)

to consider the methodology to be adopted for establishing chemical equivalence. Thereafter, the Department of Agriculture and Cooperation in the Government also addressed a letter to the 2nd respondent – Registration Committee approving the guidelines by the Competent Authority for registration of TIM where FI is registered without registering Technical for further necessary action. Thereafter, in the month of October, 2015, the Department of Agriculture and Cooperation addressed a letter to the Registration Committee issuing fresh guidelines for registration of TIM where FI is registered without registering Technical which resulted in impugned guidelines dated 02.11.2015, which provided for registration of TIM where FI/ FIM was already registered without registering Technical. The said category is termed as “TIM v/s. FI / FIM”. The Registration Committee further, in its 360th Meeting, accepted the recommendations made by Dr.K.K.Sharma Committee. It is also to be noticed that the 1st petitioner participated in the Committee headed by Dr.K.K.Sharma and yet, no dissent is lodged by it in the said meeting.

23. In this petition, mainly it is the case of the petitioners that the guidelines which are approved by the Registration Committee for registration of, inter alia, TIM where FI and FIM

was already registered without registering the Technical will amount to creating new category for registration of insecticide which is not contemplated under the Act. It is the case of the petitioners that chemical equivalence to be established with an unregistered Technical embedded in registered formulation thereby permitting confidential data of technical supply of formulation registrant and the same will amount to by-passing the provisions of Section 9(4) of the Act. It is also the case of the petitioners that such guidelines will amount to diluting the standards and the same will amount to diluting the safety and bio-efficacy of the insecticide. It is also the case of the petitioners that several important tests for testing samples of pesticides for grant of registration for indigenous manufactures of Technical where formulation imported has been registered without registration of Technical, have been done away with. Under the Scheme of the Insecticides Act, 1968, and the Rules framed thereunder, Section 9 of the Act deals with registration of an insecticide. As per Section 9(1) of the Act, any person desirous to import or manufacture any insecticide may apply to Registration Committee for registration of such insecticide and there shall be separate application for each insecticide. Under Section 9(3) of the Act, on receipt of any such application for registration of

insecticide, the Committee, after such inquiry as it deems fit and after satisfying itself that the insecticide to which the application relates, conforms to the claims made by the importer or by the manufacturer, as the case may be, as regards the efficacy of the insecticide and its safety to human beings and animals, register such insecticide by collecting necessary fees. Under section 9(4) of the Act, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture the insecticide or engage in the business of import or manufacture thereof shall on the application and on payment of prescribed fees also be entitled for registration and a Registration Certificate with the same conditions on which the insecticide was originally registered shall be issued. It is not in dispute that when the application for the registration of formulation is made, entire technical data also is to be furnished. It is relevant to notice that when the Pesticides Manufacturers and Formulators Association of India filed petition in Special Civil Application No.2530 of 2011, on behalf of respondents No.3 to 8 therein (i.e. present petitioners and petitioners of allied matters), an affidavit-in-reply is filed. In the said petition, the original petitioners had alleged that the Registration Committee is permitting registration of

formulations for import without requiring registration of technical material. The relevant portion of the said affidavit which runs against the claim made by the petitioners herein reads as under:

21. *The procedure for registration of formulation import under Section 9(3) as devised by the Registration Committee, which was in effect till November, 2010, is as follows:*

a) *As per the guidelines issued by the Registration Committee, import or manufacture of a technical grade or formulation mandates the registration of the same in accordance with Section 9(3) of the Act, which would require submission of the complete data requirement for both formulation as well as technical grade, as provided in the guidelines.*

b) *In the event that an importer sought only to register the formulation, the guidelines mandated the submission of two applications for registration, one for the technical material going into the formulation and the other for the formulation itself.*

c) *Whilst registering the formulation for import, the importer also had to comply with the data requirements, wherein detailed data with regard to Chemistry, Bio-efficacy, Toxicity and Packaging of the technical and formulation had to*

be submitted.

d) On receipt of the aforesaid two applications, the Registration Committee would examine the complete data on the formulation as well as the technical material and after being satisfied with the same, would issue a registration certificate for the formulation. The Registration Committee would simultaneously issue a registration for the technical material, however the same would come into effect on expiry of a period of three (3) years.

e) The Registration Committee takes approximately two years to assess the data of both the formulation as well as the technical material, before granting the registration certificate to an importer.

22. In view of the aforesaid, the allegation of the petitioners that the technical material is not registered or evaluated along with the registration of formulation is baseless and factually incorrect. The said averments of the petitioners create an erroneous impression that the registration of the technical material is given go-by while registering the formulation for import and hence the said exemption given by the Registration Committee, in turn, compromises the safety and needs of the agriculture sector, in as much as, the technical material would not be scrutinized or tested. In light of the aforesaid procedure, the said misleading

notion created by the petitioners is easily dispelled from the fact that the submission of the entire data of the technical material is required, even though its formulation is to be registered. It is submitted that in fact the statute does not contemplate registration of an insecticide which is not imported into India. However, the authorities have devised the above procedure under guidelines.....”

In the aforesaid paragraphs of the reply-affidavit filed in the earlier petitions, it is categorically stated by the petitioners herein that the entire data of technical material is being supplied for the registration of formulation. If such a requirement of Technical is required to be submitted by an application for registration of formulation, if any subsequent applicant applies for registration of technical insecticide, it is always open for the registering authority to consider such applicant's claim for registration by comparing data available with regard to Technical in the earlier applicant's registration for formulation. The data supplied is not a confidential one as claimed by the petitioners. Once data is supplied, it is a matter of record to the respondents. As such, present claim of the petitioners runs contrary to the earlier stand taken by them in the reply-affidavit filed in the petition in Special Civil

Application No.2530 of 2011. In that view of the matter, and having regard to the averments made on behalf of the Union of India and other contesting respondents, we are of the considered view that such guidelines which are impugned in the present petition permitting registration of Technical based on the embedded data of Technical, contained in the earlier formulation registrant's application, cannot be termed as new category, as sought to be projected by the petitioners.

24. Learned Senior Counsel Shri P.Chidambaram appearing for the petitioners has submitted that the impugned guidelines lack transparency as much as that after accepting Dr.Sushil Committee's recommendations, Open House meeting was conducted and thereafter the recommendations of Dr.K.K.Sharma's Committee were never placed to the public before such recommendations were accepted by the 2nd respondent – Registration Committee while issuing the guidelines. Learned Senior Counsel in support of his contention has placed reliance on judgment in the case of ***Cellular Operators Association of India and Others v. Telecom Regulatory of India and Others*** reported in ***(2016)7 SCC 703***.

25. On the other hand, it is the case of the respondents that

in view of certain objections to five-batch analysis method for establishing chemical equivalence claiming that the same would jeopardies the growth of Indian industry and small-scale industry, an Open House meeting was called by the Registration Committee and thereafter, it was decided to keep in abeyance the decision to implement the five-batch analysis and in view of such objections, another Committee headed by Shri K.K.Sharma, (Project Coordinator and Co-opted Member of Registration Committee) to consider the methodology to be adopted for establishing chemical equivalence, was constituted. It is submitted that one of the petitioners was also in the Committee headed by Dr.K.K.Sharma and no dissent is recorded in the Minutes of the meeting headed by Dr.K.K.Sharma, which ultimately resulted in impugned guidelines. In view of the fact that after recommendations made by Dr.Sushil Committee and in view of objections from certain sections of industry, an Open House meeting was called and suggestions for five-batch analysis was kept in abeyance. It is also submitted by learned Senior Counsel appearing on behalf of the respondents that at no point of time, the recommendation of five-batch analysis was in practice in India earlier. The petitioner is a party to the Committee but has not dissented in the meeting and when the

impugned guidelines are issued, it is sought to be projected that the said guidelines lack transparency. Having regard to the procedure followed by the 2nd respondent at various stages and the guidelines framed, we are not in agreement with the submissions made by learned Senior Counsel Shri P.Chidambaram to accept his plea that the impugned guidelines are not transparent, as ordered to be framed by this Court in the earlier interim order dated 05.09.2013 passed by learned Single Judge in Civil Application No.7969 of 2013 and Special Civil Application No.2530 of 2011 and allied matters.

26. It is also the case of the petitioners that the guidelines are in the nature of policy and if such guidelines are arbitrary and run contrary to the provisions of the statute, they are required to be set aside by this Court in exercise of power of judicial review under Article 226 of the Constitution of India. It is their case that such guidelines, amounting to creating a new category which is not there in the Act, ought to be held contrary to the statute itself. It is also the case of the petitioners that as the said guidelines which were strictly implemented earlier, compromise on the safety and bio-efficacy standards and may risk the the lives of human beings or animals, ought to be held illegal and arbitrary. It is further

the case of the petitioners that the said guidelines are wholly unscientific and suffer from non-application of mind and are framed with a view to favour indigenous manufacturers and are contrary to the established guidelines not only of respondent No.2 but also the global standards of FAO-WHO, as such, they are to be declared as arbitrary and illegal.

27. On the other hand, it is the case of the respondents that the impugned guidelines are not open to challenge on the ground that the tests which are required for registration of technical are omitted in the new guidelines for TIM v. FI category when registration is to be granted for technical indigenous manufacturer, where formulation import has been registered without registration of Technical. The registrations which are in the form of “me – too” registrations under Section 9(4) of the Act, expressly recommend that when similar Technical is registered under the same category, relaxation in submission of data regarding chemistry, bio-efficacy, toxicity and packaging is statutorily given to the subsequent registrant.

28. It is the case on behalf of the petitioners in their reply-affidavit filed in the petition in Special Civil Application No.2530 of 2011 that when an application is filed for the

purpose of registration of formulation, entire data is submitted along with the same. In that view of the matter and having regard to the case of the petitioners as stated by themselves in their reply-affidavit filed in the earlier petitions, it cannot be said that either standards are lowered or it amounts to creation of new category as pleaded by the petitioners. It is true that even policies, guidelines are not beyond the pale of judicial review in appropriate cases, but at the same time, it is well-settled by authoritative pronouncements of the Hon'ble Supreme Court that, a policy decision or guidelines can be subjected to judicial review on limited grounds, namely, if it is unconstitutional, if it is *de-hors* the provisions of the Act and regulations, if the delegatee has acted beyond its power of delegation or if the executive policy is contrary to statutory or larger public policy.

29. In this regard, Shri P.Chidambaram, learned Senior Counsel for the petitioners, has placed reliance in the case of ***Delhi Development Authority and Another v. Joint Action Committee, Allottee of SFS Flats And Another*** reported in ***(2008)2 SCC 672*** and also on the Division Bench judgment in the case of ***R.B.Singh and others v. State of U.P. and others*** reported in ***2003(6) AWC 5272 (LB)*** in support of his plea that the impugned guidelines run contrary

to the statute itself and they are also framed arbitrarily. Paragraphs 64 and 65 of the judgment in the case of **Delhi Development Authority and Another v. Joint Action Committee, Allottee of SFS Flats And Another** reported in **(2008)2 SCC 672** read as under:

“64. An executive order termed as a policy decision is not beyond the pale of judicial review. Whereas the superior Courts may not interfere with the nitty-gritty of the policy, or substitute one by the other but it will not be correct to contend that the Court shall like its judicial hands off, when a plea is raised that the impugned decision is a policy decision. Interference therewith on the part of the superior Court would not be without jurisdiction as it is subject to judicial review.

65. Broadly, a policy decision is subject to judicial review on the following grounds :

- (a) if it is unconstitutional;*
- (b) if it is de hors the provisions of the Act and the Regulations;*
- (c) if the delegatee has acted beyond its power of delegation;*
- (d) if the executive policy is contrary to the statutory or a larger policy.”*

In the case of **R.B.Singh and others v. State of**

U.P. and others reported in **2003(6) AWC 5272 (LB)** the Division Bench of Allahabad High Court at Lucknow Bench held as under:

“29. Much has been said by the learned Advocate General that the impugned decision is a policy decision and as such, this Court is not competent to interfere in the policy decision and say that the Government ought to have taken the decision as suggested by the Court. We, therefore, deem it appropriate to refer the meaning of the word “Policy” and “Public Policy” as defined in various Dictionaries.

... ..

40. No doubt, it is true that the courts, in exercise of their power of judicial review, do not ordinarily interfere with the policy decisions of the executive unless the policy can be faulted on ground of mala fide, unreasonableness, arbitrariness or unfairness. It is well within the domain of the State to change its policy from time to time looking to the public interest and the changed circumstances but what we want to canvass is that all policy decisions are the actions of the State but all State actions are not the policy decisions.”

30. Per contra, it is the case of learned Senior Counsel and

learned Assistant Solicitor General of India appearing on behalf of the respective respondents that the impugned guidelines do not create any new category as pleaded and under Section 5(5) of the Act, Registration Committee is empowered to regulate its own procedure and to conduct business to be transacted by it and having regard to the nature of guidelines which are taken as a policy decision, same cannot be a subject-matter of judicial review. It is submitted that having regard to the procedure followed by respondents, neither any provision of the statute nor any constitutional provision is violated and further, it cannot be said that such guidelines are arbitrary. It is the case of the respondents that the petitioners, only for their commercial interest and to prevent registrations of legitimate applications of indigenous manufacturers, have challenged the impugned guidelines.

31. Shri Devang Vyas, learned Assistant Solicitor General of India in support of his argument that the impugned guidelines are policy decisions and in absence of making out any case that such guidelines are arbitrary or mala fide, no interference is called out, has placed reliance on the judgment in the case of **Centre For Public Interest Litigation v. Union of India And Others** reported in **(2016)6 SCC 408**. Paragraphs 21

and 27 of the judgment read as under:

“21. Such a policy decision, when not found to be arbitrary or based on irrelevant considerations or mala fide or against any statutory provisions, does not call for any interference by the Courts in exercise of power of judicial review. This principle of law is ingrained in stone which is stated and restated time and again by this Court on numerous occasions. In Jal Mahal Resorts (P) Ltd. v. K.P. Sharma, the Court underlined the principle in the following manner: (SCC pp.861-62, paras 137-38)

137. From this, it is clear that although the courts are expected very often to enter into the technical and administrative aspects of the matter, it has its own limitations and in consonance with the theory and principle of separation of powers, reliance at least to some extent to the decisions of the State authorities, specially if it is based on the opinion of the experts reflected from the project report prepared by the technocrats, accepted by the entire hierarchy of the State administration, acknowledged, accepted and approved by one Government after the other, will have to be given due credence and weightage. In spite of this if the court chooses to overrule the correctness of such administrative decision and merits of the view of the entire body including the administrative, technical and financial experts by taking note of hair splitting submissions at the instance of a PIL petitioner without any evidence in support thereof, the PIL petitioners shall have to be put to strict proof and cannot be allowed to function as an extraordinary and extra-judicial ombudsmen questioning the entire exercise undertaken by

an extensive body which include administrators, technocrats and financial experts. In our considered view, this might lead to a friction if not collision among the three organs of the State and would affect the principle of governance ingrained in the theory of separation of powers. In fact, this Court in M.P. Oil Extraction v. State of M.P., (1997) 7 SCC 592 at p. 611 has unequivocally observed that:

“41.The power of judicial review of the executive and legislative action must be kept within the bounds of constitutional scheme so that there may not be any occasion to entertain misgivings about the role of judiciary in outstepping its limit by unwarranted judicial activism being very often talked of in these days. The democratic set-up to which the polity is so deeply committed cannot function properly unless each of the three organs appreciate the need for mutual respect and supremacy in their respective fields.

138. However, we hasten to add and do not wish to be misunderstood so as to infer that howsoever gross or abusive may be an administrative action or a decision which is writ large on a particular activity at the instance of the State or any other authority connected with it, the Court should remain a passive, inactive and a silent spectator. What is sought to be emphasised is that there has to be a boundary line or the proverbial “Laxman Rekha” while examining the correctness of an administrative decision taken by the State or a central authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution. If such equilibrium in the matter of governance gets disturbed, development is bound to be slowed down and disturbed specially in an age of economic liberalisation wherein global players are also involved as per policy decision.

...

...

...

27. *The raison d'etre of discretionary power is that it promotes decision maker to respond appropriately to the demands of particular situation. When the decision making is policy based judicial approach to interfere with such decision making becomes narrower. In such cases, in the first instance, it is to be examined as to whether policy in question is contrary to any statutory provisions or is discriminatory/arbitrary or based on irrelevant considerations. If the particular policy satisfies these parameters and is held to be valid, then the only question to be examined is as to whether the decision in question is in conformity with the said policy."*

32. Learned Senior Counsel Shri S.N.Soparkar appearing for private respondent No.3, submitting that the guidelines are technical in nature, based on the experts' opinion, are not to be interfered with ordinarily unless it is proved demonstrably that they are in violation of the statutory provision or constitutional provision, placed reliance in the case of ***Bajaj Hindustan Limited v. Sir Shadi Lal Enterprises Limited And Another*** reported in **(2011)1 SCC 640**. Paragraphs 39 and 40 of the judgment read as under:

"39. We should not be understood to have meant

that the judiciary should never interfere with administrative decisions. However, such interference should be only within narrow limits e.g. when there is clear violation of the statute or a constitutional provision, or there is arbitrariness in the Wednesbury sense. It is the administrators and legislators who are entitled to frame policies and take such administrative decisions as they think necessary in the public interest. The Court should not ordinarily interfere with policy decisions, unless clearly illegal.

40. Economic and fiscal regulatory measures are a field where Judges should encroach upon very warily as Judges are not experts in these matters. The impugned policy parameters were fixed by experts in the Central Government, and it is not ordinarily open to this Court to sit in appeal over the decisions of these experts. We have not been shown any violation of law in the impugned notification or press note.”

33. Learned Senior Counsel Shri S.N.Soparkar also placed reliance on the judgment in the case of **Tata Iron & Steel Co. Ltd. v. Union of India And Another** reported in **(1996)9 SCC 709**. In the aforesaid judgment, the Hon'ble Supreme Court has held that where legal issues are intertwined with those involving determination of policy and

plethora of technical issues in such situations, Courts of law have to be wary and must exercise the jurisdiction with circumspection and must not transgress into the realm of policy-making unless the policy is inconsistent with the Constitution and the laws. Paragraphs 67 and 68 of the judgment read as under:

“67. The decision of the Committee and the consequent order of the Central Government have been assailed by the learned counsel for TISCO on a number of technical grounds. Many of these have already been dealt with by the Committee.

68. At his juncture, we think it fit to make a few observations about our general approach to the entire case. This is a case of the type where legal issues are intertwined with those involving determination of policy and a plethora of technical issues. In such a situation, courts of law have to be very wary and must exercise their jurisdiction with circumspection for they must not transgress into the realm of policy-making, unless the policy is inconsistent with the Constitution and the laws. In the present matter, in its impugned judgment, the High Court had directed the Central Government to set up a Committee to analyse the entire gamut of issues thrown up by the present controversy. The Central Government had consequently constituted a Committee comprising high level functionaries drawn from various Governmental/Institutional

agencies who were equipped to deal with the entire range of technical and long term consideration involved. This Committee, in reaching its decision, consulted a number of policy documents and approached the issue from a holistic perspective. We have sought to give our opinion on the legal issues that arise for our consideration. From the scheme of the Act it is clear that the Central Government is vested with discretion to determine the policy regarding the grant or renewal of leases. On matters affecting policy and those that require technical expertise, we have shown deference to, and followed the recommendations of, the Committee which is more qualified to address these issues."

34. In a given set of circumstances whether the policy/guidelines are contrary to the statute, whether they are arbitrary, whether such guidelines/ policy decision so taken run contrary to the Scheme of the statute and constitutional provisions, is a matter to be examined with reference to the facts of each case. In the case on hand, as we have already held that the guidelines which have been framed which enable registration of Technical based on the embedded data of Technical in the formulation registration already made, will not amount to creating a new category, it cannot be said that

the said guidelines issued by the 2nd respondent run contrary to the statutory provisions under the Insecticides Act, 1968, and the Rules framed thereunder. It is clear from the very affidavit-in-reply filed by the petitioners themselves in the earlier petition filed by the indigenous manufacturers in Special Civil Application 2530 of 2011, that while making application for registration of formulation, entire data which is required for Technical is also submitted. As such, in the event of a subsequent application made by an applicant for registration of Technical, such a request for registration of insecticide will be considered based on the embedded data of Technical and such cannot be said to be either arbitrary or illegal. It is also not in violation of any constitutional rights of the petitioners, as rightly argued by learned Senior Counsel for the respondents that except for their commercial interest and to prevent registrations of legitimate applications of indigenous manufacturers the petitioners have challenged the impugned guidelines. We are also of the view that the petitioners are not directly affected parties by the guidelines framed by the respondents. Whether they have *locus-standi* or not, whether they are aggrieved persons or not, we shall deal it later, but at the same time, except the right guaranteed under Article 19(1)(g) and Article 14 of the Constitution, no

other right is claimed. As we are of the view that the impugned guidelines do not violate the rights of the petitioners guaranteed under Article 19(1)(g) of the Constitution of India nor the said guidelines can be termed as arbitrary so as to test from the point of arbitrariness under Article 14 of the Constitution of India, the guidelines are not liable to be interfered with. There are several judgments which are cited as referred above on behalf of the respondents. As stated in the case of ***Tata Iron & Steel Co. Ltd. v. Union of India And Another*** reported in **(1996)9 SCC 709**, the present is a case where legal issues are intertwined with those involving determination of policy coupled with plethora of technical issues. The Registration Committee consists of experts and further, guidelines are framed based on the opinions expressed by experts on the subject. In that view of the matter, as we are of the view that neither such guidelines run contrary to the constitutional scheme or the provisions of the statute nor the same are arbitrary, no case is made out by the petitioners warranting interference by this Court in the writ petition under Article 226 of the Constitution of India.

35. Another facet of the argument of the learned Senior Counsel for the petitioners is that by impugned guidelines, the respondents have diluted the standards in chemical formulae

which is dangerous to safety of mankind and animals and for the efficacy of insecticide in the event of applying such standards for the Technical indigenous manufactures seeking registration of insecticide. It is the case of the petitioners that by impugned guidelines for indigenous manufacturers for Technical for the first time in India, without even calling for data, that is, inviting claims on the crucial safety and efficacy parameters and without subjecting such Technical to five-batch analysis test which is recommended by organizations like FAO-WHO, registration is sought to be granted. Learned counsels have placed reference to the recommendations made by Dr.Sushil Committee which suggested for implementation of five-batch analysis and which also suggested improvement in the existing data requirements for chemical equivalence. It is submitted that when 2nd respondent – Registration Committee once accepted the recommendations of Dr.Sushil Committee which, inter alia, suggested five recent batch analysis as per FAO-WHO guidelines, there was no reason to do away with such rigorous tests which are required to maintain standards of insecticides.

36. On the other hand, it is the case of the respondents that after recommendations were made by Dr.Sushil Committee for

adopting five-batch analysis for Technical for Import (TI), Technical for indigenous manufacture (TIM), Formulation for import (FI) and Formulation for indigenous manufacture (FIM) categories, accepted by Registration Committee in its 347th Meeting held on 11.04.2014, there were representations by various parties which resulted in Open House meeting held with the industry on 13.05.2015. Thereafter, having regard to the suggestions and representations made, 2nd respondent – Registration Committee discussed the said issue in its 356th meeting held on 26.05.2015 and decided to keep its previous decision in abeyance. Thereafter, Dr. K.K.Sharma Committee was constituted and after the said Committee completed deliberations on 01.10.2015, the impugned guidelines were issued on 02.11.2015. It is the case of the respondents that in 360th Meeting held on 11.12.2015, the second respondent – Registration Committee accepted the recommendations of Dr.K.K.Sharma Committee and decided that existing system of drawing in process sample be followed. It is also the case of the respondents that, till date, five-batch analysis system has not been followed by Registration Committee for any category of insecticide in India. It is further submission of the learned Senior Counsels appearing for the respondents that the guidelines which are framed by FAO-WHO for adopting five-

batch analysis, are only advisory in nature and not binding on any country. It is stated that such guidelines are considered by countries while framing their respective guidelines, however, adoption of each and every requirement of such guidelines, per se, is neither mandatory nor imperative. Learned Senior Counsel for the petitioners also relied on the opinions expressed by Dr.D.Kanoongo and Dr.P.Balakrishnan. In this regard, learned counsel for the respondents have stated that Dr.D.Kanoongo was an expert in Medical Toxicology in the Secretariat of CIB & RC, Directorate of Plan Protection, Quarantine and Storage and also a member on Medical Toxicology in Registration Committee till his superannuation in 2011. Thereafter, post-retirement, he worked in CIB & RC as a consultant. It is the case of the respondents that Dr.D.Kanoongo was part of the decision making process wherein some registrations were granted on the basis of single-batch analysis - drawal of in-process-sample. At that time, no objection was raised nor insisted by him for five-batch analysis, as is sought to be opined now.

37. It is to be noticed that the Registration Committee which is constituted under Section 5 of the Act, consists of Chairman and not more than five persons, including Drug Controller of India and Plan Protection Adviser, Government of India. All the

members of the Committee are subject experts. It is true that general guidelines which are issued by FAO-WHO suggested five-batch analysis test. Learned Senior Counsel for the petitioners also placed on record, material to show such practice is adopted by other countries. It is true that initially, the Committee which is constituted, i.e. Dr. Sushil Committee, recommended for adopting such tests, but thereafter, when representations were received, Open House meeting was conducted by 2nd respondent – Registration Committee and it was decided to keep the earlier decision (of Dr.Sushil Committee) in abeyance and further to refer the issue to Dr.Sharma Committee and ultimately, the 2nd respondent – Registration Committee which consisted of subject experts, has accepted the recommendation of Dr.Sharma Committee. It cannot be disputed that the guidelines of FAO-WHO are general and recommendatory in nature, so are the opinions expressed by Dr.D.Kanoongo and Dr.P.Balakrishnan. Whether such general guidelines and opinions are required to be mandatorily introduced in a particular country or not depends on the assessment made by the subject experts comprising the statutory committee after due deliberation and consideration of all aspects. It is also the case of the respondents that at no point of time, such five-batch analysis

was adopted in India for registration of any insecticide. In that view of the matter, which standards are to be adopted is for the Registration Committee to decide which consists of experts on the subject, but merely because some recommendations or opinions are not accepted in toto by the Registration Committee, is no ground to interfere with such guidelines in exercise of judicial review in this petition filed under Article 226 of the Constitution of India. It is fairly well settled that decisions on such issues are to be taken by the experts and normally this Court is slow in interfering with such decisions unless they are demonstrably proved to be contrary to statute or constitutional provisions or it is established that the same are arbitrary and illegal.

38. Having regard to the fact that subsequent applicant's registration of formulation is based on the data which is already available with the Registration Committee, it cannot be said that the such data for subsequent registration is either compromised or diluted so as to accept the case of the petitioners. Under the Scheme of the Insecticides Act, 1968, there is no confidentiality on the data supplied by the earlier applicant for registration of formulation. The grounds of data protection and confidentiality sought to be applied by the petitioners is misconceived. In this regard, useful reference

can be made to the Division bench judgment of Delhi High Court in the case of ***Syngenta India Ltd. v. Union of India through Department of Agriculture and Cooperation & Ors.*** reported in **2009 SCC OnLine Delhi 2368**. Further, in the judgment in the case of ***Bajaj Hindustan Limited v. Sir Shadi Lal Enterprises Limited And Another*** reported in **(2011)1 SCC 640**, the relevant extract of which is already quoted above, the Hon'ble Supreme Court has examined the scope of interference by way of judicial review in policy decisions which are taken best on the opinion of the experts. In the aforesaid judgment, Hon'ble Supreme Court has held that such administrative decisions are not to be interfered with ordinarily and the scope of interference in such matters is in narrow limits, viz. where there is a violation of statutory or constitutional provision or there is arbitrariness in the Wednesbury sense.

39. The decisions in ***M/s.Shri Sitaram Sugar Co. Ltd. and another v. Union of India and others*** reported in **AIR 1990 SC 1277**, ***Tata Iron & Steel Co. Ltd. v. Union of India And Another*** reported in **(1996)9 SCC 709**, ***M.P. Oil Extraction And Another v. State of M.P. And Others*** reported in **(1997)7 SCC 592**, and ***Delhi Development Authority and Another v. Joint Action Committee,***

Allottee of SFS Flats And Another reported in **(2008)2 SCC 672** also support the case of the respondents.

40. In view of the above discussion, it cannot be said that either the standards are diluted, affecting the efficacy and safety to human beings and animals, in the impugned guidelines which are framed for registration of insecticides.

41. On behalf of the petitioners, it is further submitted that 2nd respondent is an authority under the Scheme of the Act to regulate its own procedure for the purpose of registering insecticide, however, the Registration Committee has not acted independently and has acted at the behest and on directions of the Central Government. Learned Senior Counsel Shri P.Chidambaram, in support of his argument on the above issue, has placed reliance on the judgment in the case of **Joint Action Committee of Air Line Pilots' Association of India (ALPAI) And Others v. Director General of Civil Aviation And Others** reported in **(2011)5 SCC 435**, wherein the Hon'ble Supreme Court has held that the authority which has been vested with the power under the statute alone has to exercise its discretion and can pass an order and no other person, even superior authority can interfere with the functioning of the statutory authority. In

rejoinder, Shri Mihir Joshi, learned Senior Counsel has also placed reliance on the judgment on the said issue in the case of ***Uttar Pradesh State Road Transport Corporation v. Assistant Commissioner of Police (Traffic) Delhi*** reported in ***(2009)3 SCC 634***. Paragraph 28 of the said judgment reads as under:

“28. The direction that any breach will be considered to be in contravention of the conditions of the permit which could entail suspension/cancellation of the permit and impounding of the vehicle must be read in the light of the provisions of the Act and not dehors the same. This Court could not and, in fact, did not while issuing the said direction confer a statutory authority upon a person who did not have any such authority under the statute. An order passed by an authority without jurisdiction, it is trite, would be a nullity. It would, therefore, be preposterous to presume that this Court would confer jurisdiction upon an authority whose order would be a nullity and, thus, non est in the eye of law.”

42. Learned Senior Counsels for the petitioners, to buttress their above submission, have referred to letter dated 27.10.2015 issued by the Government of India. On the other hand, it is the case of the respondents that the communications sent by the Government are mere

communications of the policies of the Central Government and do not interfere in any manner with the powers of the Registration Committee conferred under the Scheme of the Act.

43. In this regard, it is to be noted, by the impugned guidelines, the Registration Committee has merely laid down the data which is to be furnished by a registrant seeking registration under the category of TIM v. FI or TIM v. FIM, to be used for another registrant. The communications made by the Government are merely indicative of policy decisions which it is entitled to take but not with reference to the decisions which are required to be taken by the 2nd respondent. It is also to be noticed, under the Scheme of the Act, the Central Government is empowered to constitute Central Insecticides Board to advise the Central and State Governments on technical matters arising out of the administration, and to carry out other functions assigned to the Board, by and under the Act. Section 4(2) of the Act enumerates the matters on which the Board will advise. The Board also consists of several members including the Plan Protection Adviser to the Government of India and the Secretary, Department of Agriculture, also an ex-official member. Further, in the order dated 05.09.2013, passed by this Court in Special Civil

Applications No.2530 of 2011, 7928 of 2011 and allied matters, directions are issued to the Government of India to frame appropriate guidelines. The letter dated 27.10.2015 has been written by the Department of Agriculture and Cooperation in compliance of the interim order dated 05.09.2013 passed by this Court. Further, the letter dated 27.10.2015, also clearly reveals that the Government of India, Department of Agriculture and Cooperation, has requested the Registration Committee itself to lay down the data requirement for technical indigenous manufacturer (TIM) contained in formulation registered for import (FI) without registering the Technical under a new category of registration called TIM v. FI. It is further stated that any applicant desirous of registration of technical for indigenous manufacture (TIM) will be required to submit Bridging Data of shelf life and packaging and also any other data which Registration Committee may deem fit and may include data on bio-efficacy and toxicity based on the trials in India and chemical comparison of technical grade pesticides. Ultimately, it is to be seen that the 2nd respondent - Registration Committee which is empowered under law, has approved the guidelines and in view of the communications which are made by the Union of India/ Department of Agriculture and Cooperation in

compliance of the directions of this Court which are issued to the Government of India earlier in the order dated 05.09.2013, it cannot be said that the 2nd respondent – Competent authority is directed by the Government for issuing such data requirement by way of guidelines. Having regard to order dated 05.09.2013 and the letter dated 27.10.2015 itself which directs respondent No.2 to lay down the data requirement for new type of registrations which are introduced, we are of the view that the guidelines are framed and approved by the Registration Committee only. The judgments in this regard relied upon by learned Senior Counsel for the petitioners would not render any assistance to support their case. As such, we also reject the said contention advanced on behalf of the petitioners.

44. On behalf of the respondents, a specific contention is raised stating that the petitioners are competitors in the business and except their business interest, they have no other interest to file the petition under Article 226 of the Constitution of India for the reliefs sought for. It is further the case of the respondents, in absence of violation of any statutory or fundamental rights of the petitioners, they have no *locus-standi* to file the petition for the reliefs, as sought for. It is their case that, the petitioners are importers of

insecticides and are in direct competition with the Indian manufacturers who would be able to supply insecticides to agriculture sector at much more competitive prices. It is alleged that the petition is filed either with a view to continue their monopoly in the market or to cut down the competition so that they can continue to sell their insecticides at higher rates. Thus, it is pleaded that not only the petitioners have failed to make out a case on merits but the petition is required to be rejected on the ground that the petitioners are not "aggrieved persons" to approach this Court. In support of their case, reliance is placed on the judgment in the case of ***Jashbhai Motibhai Desai v. Roshan Kumar, Haji Bashir Ahmed And Others*** reported in **(1976)1 SCC 671**.

45. In response to the said plea of the respondents, learned Senior Counsels appearing for the petitioners have submitted that the data supplied by the petitioners for the purpose of registration of formulation is confidential one and they have spent lot of money and efforts to secure the same, as such, it cannot be used for the purpose of registration of the Technical of indigenous manufacturers. It is their case that as much as the confidential data which is supplied is being used as per the impugned guidelines, to permit third parties to rely on such data for the purpose of registration of Technical as such,

it cannot be said that the petitioners have no *locus-standi* to file the petition with the prayers as sought for. It is also the case of the petitioners that the first petitioner-Company and other petitioners are concerned with the proper administration of regulatory regime which directly impacts them, as such, they are entitled to question the same. It is further pleaded that if any insecticide which is registered does not maintain the required standards as contemplated under law, the Government is empowered to prohibit them for sale in exercise of power under Section 27 of the Act. As such, any registration of third party application based on diluted standards/ specifications may result in ban on sale of such insecticide, it cannot be said that the petitioners have no *locus-standi* to question the same.

46. The petitioners have filed the petition on the premise that the data containing Technical in the embedded formulation, which is supplied by them for the purpose of registration of their formulation is confidential one and the same has been generated after spending substantial amount of money, as such, it cannot be allowed to be used for the purpose of registration of Technical under Section 9(4) of the Act. It is to be noted that the insecticides, as set out in the Schedule, with which the present registrations are concerned,

are generic. There can be more than one registration for each of such insecticide. Even for manufacturing, there is no control, but manufacturers have to comply the required conditions for the purpose of registration. Under the Scheme of the Act, there is no such confidential data, as pleaded by the petitioners. Such a plea is totally misconceived. Under Section 9(4) of the Act, where an insecticide has been registered on the application of any person, any other person desiring to import or manufacture such an insecticide or engaged in the business of import or manufacture thereof, can apply, by way of an application, for registration. Same can be considered and such registrant shall be entitled for registration and certificate of registration in respect thereof on same conditions on which insecticide was originally registered on the earlier application, can be granted. In the reply filed earlier on behalf of the petitioners, as respondents in Special Civil Application No.2530 of 2011, it is clearly admitted that applicants are required to submit entire data relating to Technical also while seeking registration of formulation. Under the Scheme of the Act, if such data embedded in the formulation for Technical is taken as a baseline for the purpose of registration of subsequent applicant's Technical, it is always open for the authorities to register such Technical

under the Scheme of the Act. When such a provision is there in the Act itself, merely alleging, that data supplied is confidential and is registered by spending huge amount of money, is no ground at all to challenge the subsequent registration. When the petitioners are already holding registration for formulation, by virtue of the impugned guidelines issued by the respondent-authority, no rights, either statutory or constitutional, are infringed so as to agitate before this Court by way of a petition under Article 226 of the Constitution of India. It is pleaded that the rights of the petitioners as guaranteed under Article 19(1)(g) and 14 of the Constitution of India are affected. By accepting the case as it is, no right of the petitioners guaranteed under Articles 19(1)(g) or 14 of the Constitution of India is affected. Under the Scheme of the Act and the Rules made thereunder, it is open for multiple applicants to seek registration of the very same insecticide and in absence of any control either on manufacture or import of pesticide, it cannot be said that the embedded data supplied by the original/ earlier applicant is a confidential one, same cannot be used by a third party applicant so as to agitate the matter by way of a writ petition before this Court. The impugned guidelines which are issued by the 2nd respondent – Registration Committee for the

purpose of registration of subsequent applicant will not confer any right on the petitioners to challenge the same on the ground of their rights being violated either under the provisions of the Insecticides Act or otherwise.

47. The concept of “aggrieved person” is elaborately considered by the Hon’ble Supreme Court in the case of ***Ayaaubkhan Noorkhan Pathan v. State of Maharashtra and Ors.*** reported in ***AIR 2013 SC 58.*** While examining the concept of *locus-standi*, the Hon’ble Supreme Court has held that only a person who has suffered, or suffers from legal injury can challenge the act / action or order etc. in a Court of law. In the above said case, it is held that writ petition under Article 226 of the Constitution of India is maintainable either for the purpose of enforcing a statutory or legal right or when there is a complaint by appellant that there has been a breach of statutory duty on the part of the authorities. The relevant portions of the judgment, as contained in Paragraphs 7, 8 and 9, read as under:

“7. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the Authority/Court, that he falls within the category of aggrieved persons.

Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. Infact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. (Vide : State of Orissa v. Madan Gopal Rungta, AIR 1952 SC 12; Saghir Ahmad and Anr. v. State of U.P., AIR 1954 SC 728; Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal and Ors., AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh, AIR 1996 SC 2736 :

(1996 AIR SCW3424); and Tamil Nadu Mercantile Bank Shareholders Welfare Association (2) v. S.C. Sekar and Ors., (2009) 2 SCC 784).

8. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. (Vide: *Shanti Kumar R. Chanji v. Home Insurance Co. of New York, AIR 1974 SC 1719; and State of Rajasthan and Ors. v. Union of India and Ors., AIR 1977 SC 1361).*

9. In *Anand Sharadchandra Oka v. University of Mumbai, AIR 2008 SC 1289 : (2008 AIR SCW 1336)*, a similar view was taken by this Court, observing that, if a person claiming relief is not eligible as per requirement, then he cannot be said to be a person aggrieved regarding the election or the selection of other persons."

48. By applying the above said ratio of the Hon'ble Supreme Court, having regard to the facts and circumstances of the present case, it cannot be said that any right of the petitioners, either statutory or a right guaranteed under the

Constitutional Scheme, is violated. By applying the ratio laid down in the judgment referred to above, we are of the view that the petitioners have no *locus-standi* to file the present petition before this Court seeking relief under Article 226 of the Constitution of India. What should be the policy and guidelines for the purpose of registration of applications under the Scheme of the Act is a matter primarily concerning the Government and registering authority and the same cannot be dictated by the third parties like the petitioners who are holding registrations of insecticides/ formulations.

49. To defend the plea of the respondents that the petitioners have no *locus-standi* to come before this Court with the prayers sought for, on behalf of the petitioners, an attempt is made by referring to the provisions contained under Section 27 of the Act. It is true that Section 27 of the Act empowers the Government for prohibiting sale of an insecticide when it comes to the adverse notice for reasons of public safety etc. However, the probable prohibition in future, as contemplated under Section 27 of the Act, will not confer any right on the petitioners to seek invalidation of the impugned guidelines at this stage. Further, when under Section 27 of the Act, prohibition order, prohibiting sale can be confined to a particular batch or batches of an insecticide by a

particular manufacturer or importer, if a third party registrant holder violates any of the provisions, there cannot be any general order prohibiting sale of an insecticide. By applying the provisions of Section 27 also, we are of the view that the petitioners cannot be termed as “aggrieved persons” as of now to seek the reliefs as prayed for. As the petitioners are not affected parties by impugned guidelines and in absence of any violation of their statutory or fundamental rights, we find force in the contention of the respondents that the petitioners have no *locus-standi* to file this petition under Article 226 of the Constitution of India for the reliefs sought for.

50. For the aforesaid reasons, apart from the merits as discussed above, we also dismiss the petition filed in Special Civil Application No.6462 of 2016 on the ground that the petitioners have no *locus-standi* to file the same for the reliefs as sought for. Accordingly the petition is dismissed. No order as to costs.

51. Special Civil Applications No.2530 of 2011 and 7928 of 2011 stand dismissed as having become infructuous. Special Civil Application No.17662 of 2014 seeking directions to respondent No.2 is also disposed of with a direction to the 2nd respondent to take further steps on the application(s) made

by the petitioner for registration of indigenous manufacture of technical grade insecticide Bispyribac Sodium as per the guidelines which are in force now. If the said application(s) is/are still pending as of today, same shall be disposed of by the 2nd respondent as early as possible, preferably with a period of two months from today.

52. So far as Letters Patent Appeals No.404 of 2016, 405 of 2016 and 622 of 2016 are concerned, they are directed against interim orders pending the Special Civil Application. Now, in view of the disposal of Special Civil Application, said Letters Patent Appeals have become infructuous. Same are dismissed as infructuous.

53. In view of the above, the connected Civil Applications in Letters Patent Appeals and Special Civil Applications shall stand disposed of.

sd/-

(R.SUBHASH REDDY, CJ)

sd/-

(VIPUL M. PANCHOLI, J)

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