



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

**PUBLIC INTEREST LITIGATION NO.115 OF 2017
WITH
WRIT PETITION NO.5845 OF 2018**

PUBLIC INTEREST LITIGATION NO.115 OF 2017

Anand S/o Nanabhau Embadwar,
Aged about 51 years,
Occupation : Agriculturist,
R/o B-16, Laveera Park,
Karve Road, Near Karve Road,
Kothrud, Pune City,
Ex-Serviceman Colony,
Pune and also
R/o Netaji Chowk, Yavatmal.

... **Petitioner**

Versus

- 1. Union of India,**
Through Ministry of Agricultural
& Farmers Welfare,
Krushi Bhavan, New Delhi.
- 2. Indian Council for Agriculture
Research (I.C.A.R.),**
Through its Director General,
Krishi Bhavan,
Rajendra Prasad Road,
New Delhi.
- 3. Indian Agriculture Research
Institute (I.A.R.I.),**
Through its Director,
PUSA Campus,
New Delhi.
- 4. State of Maharashtra,**
Through Principal Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.

5. The Director of Agriculture,
Agricultural Commissionerate,
State of Maharashtra,
Pune.

***6. PUSA STFR Manufactures
Association,**
having its Office at
D-6, 2nd Floor Green Park
Extension,
New Delhi-110 016,
through Authorized Signatory
Shri Shubhasandesh Ramrao
Mujmule,
Age 42 years,
Occupation : Employee,
R/o Yavatmal (Maharashtra).

***7. Nagarjun Agro Chemicals Pvt.
Ltd.** (Hyderabad),
Factory at B.10 Sevagram
M.I.D.C., Wardha, through its
Director Shrikant Rathi.

... **Respondents**

***[Amended as per Hon'ble Court's
Order dated 11-4-2018]**

Shri M.G. Bhangde, Senior Advocate, with Shri A.M. Ghare, Advocate
for Petitioner.

Shri Praveen Swarup with Smt. Mugdha R. Chandurkar, Advocates
for Respondent Nos.1 to 3.

Shri A.M. Joshi, Assistant Government Pleader for Respondent
Nos.4 and 5.

Shri R.N. Ghuge, Advocate for Respondent No.6.

Smt. R.S. Sirpurkar, Advocate for Respondent No.7.

Shri S.P. Bhandarkar, Advocate for Intervenor.

WITH

WRIT PETITION No.5845 OF 2018

Nagarjuna Agro Chemicals Pvt. Ltd.,

Having its registered office,
Factory at G-01, D. No.6-3-1218/6/2
Street No.6 Spring Heaven,
Umahagar, Begumpeth,
Hyderabad-500016, A.P.

Factory at B-10 Sewagram MIDC,
Wardha through its Director
Shrikant Rathi.

... **Petitioner**

Versus

- 1. Union of India,**
Through Secretary,
Ministry of Agriculture and
Farmers Welfare,
Krushi Bhawan,
New Delhi.
- 2. Indian Council for Agriculture
Research (I.C.A.R.),**
Through its Director General,
Krishi Bhavan, Rajendra Prasad Road,
New Delhi.
- 3. Indian Agriculture Research Institute
(I.A.R.I.),**
Through its Director PUSA Campus,
New Delhi.
- 4. State of Maharashtra,**
through Principal Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.



5. The Director of Agriculture,
Agricultural Commissionerate,
State of Maharashtra,
Pune.

***6. PUSA STFR Manufactures Association,**
Having its Office at D-6, 2nd Floor,
Green Park Extension,
New Delhi - 11016,
Through its authorized signatory
Shri Shubasandesh Ramrao Mujmule,
Age 42, Occ - Employee,
R/o Yavatmal, (Maharashtra).

... **Respondents**

***[Amended as per Hon'ble Court's**
Order dated 10-9-2018]

Shri M.G. Bhangde, Senior Advocate, assisted by
Smt. R.S. Sirpurkar, Advocate for Petitioner.

Shri Praveen Swarup with Smt. Mugdha R. Chandurkar, Advocates
for Respondent Nos.1 to 3.

Shri A.M. Joshi, Assistant Government Pleader
for Respondent Nos.4 and 5.

Shri R.N. Ghuge, Advocate for Respondent No.6.

Shri J.B. Kasat, Advocate for Intervenor.

CORAM : R.K. DESHPANDE & MILIND N. JADHAV, JJ.

DATE OF RESERVING THE JUDGMENT : 12th DECEMBER, 2019

DATE OF PRONOUNCING THE JUDGMENT : 3rd JANUARY, 2020

JUDGMENT (PER R.K. DESHPANDE, J.) :

1. Rule. Heard the learned counsels appearing for the
parties. Both these Public Interest Litigation and Writ Petition are

being disposed of finally by this common judgment.

2. In Public Interest Litigation as well as in Writ Petition, an enquiry is sought in respect of manufacturing and marketing of soil testing fertilizer recommendations without having facility of testing of two mandatory parameters of Copper and Nitrogen during the year 2014 to 2-5-2018. The further relief sought is to restrain the marketing of STFR without getting its validation at least in five different agro-climatic zones in the country. The STFR technology is developed by the respondent Nos.2 and 3 - ICAR and IARI and commercialized by issuing licences to 14 companies/firms, including the petitioner- Nagarjuna Agro Chemicals in Writ Petition No.5845 of 2018.

3. The Indian Council for Agriculture Research (**ICAR**) is a leading institution for agricultural research, education and expansion in India with its Headquarter at New Delhi and functions under the control of the Ministry of Agriculture and Farmers Welfare, Government of India. The Indian Agriculture Research Institute (**IARI**) is a premier national institute for agricultural research, education and expansion and is also a deemed University under the provisions of the University Grants Commission Act, 1956 and awards Bachelor's and Master's Degrees in various agricultural

disciplines. It is a research wing/unit of ICAR, instrumental in developing several technologies, missions, tools, high yield variety of major crops and promoting agricultural mechanism in the industry. ICAR-Indian Institute of Soil Science (**IISS**), Bhopal, is also one of the constituent units of ICAR and a Society registered under the Societies Registration Act, 1860, engaged in the development of devices and method for measurement of soil health parameters and fertilizer recommendations.

4. In the scheme of Soil Health Management (**SHM**) of the National Mission for Sustainable Agriculture (**NMSA**), the Department of Ministry of Agriculture and Farmers Welfare, Government of India, has established soil testing projects at village level. The financial assistance is provided to a village entrepreneur (18 - 40 age group/Self-help Group (**SHG**)/Farmers Joint Liability Groups/Farmers Co-operative Societies/Farmers Producer Organizations (**FPOs**)/Retail Outlets, set up by fertilizer companies/Retailers of Fertilizer Companies/Schools/Colleges, located in the district to establish a soil testing lab along with other accessories). The financial assistance for the group is provided at the rate of 80%, and for an individual at the rate of 40% of the project cost of Rs.10,00,000/-.

5. The SHM is one of the most important interventions under the NMSA and it is aimed at promoting location as well as crop specific sustainable SHM, creating and linking soil fertility maps with macro-micro nutrient management/judicious applications for fertilizer and organic farming sciences. The object is to improve soil quality and profitability of farmers, employment generation for rural youths, to improve timeliness in analysis of soil samples, introduction of the single window approach from collection to issue of Soil Health Card (**SHC**) so as to minimize tools and maximize convenience to farmers, online delivery of Soil Health Cards to farmers using soil health card portal and to provide soil testing facilities to farmers at their doorstep. Under this scheme, a subsidy is shared between the Government of India and the States in the ratio of 60 : 40.

6. The ICAR, IARI has developed the technology of **PUSA-STFR** Meter for all soil testings (**PUSA** is the lab and **STFR** means Soil Testing and Fertilizers Recommendation). The Soil Health Card (**SHC**) is a printed report that a farmer will be handed over for each of his holdings. It will contain the status of his soil with respect to 12 parameters as under :

- 1.** pH
- 2.** EC
- 3.** Organic Carbon (OC)
- 4.** Available Nitrogen (N)
- 5.** Available Phosphorous (P)
- 6.** Available Potassium (K)
- 7.** Available Sulphur (S)
- 8.** Available Zinc (Zn)
- 9.** Available Boron (B)
- 10.** Available Iron (Fe)
- 11.** Available Manganese (Mn)
- 12.** Available Copper (Co)

Based on this, the SHC also indicates fertilizer recommendations and soil health parameters required for the farmers.

7. There are many farmers in India who do not know which types of crops they should grow to get maximum yield. Basically, they do not know the quality and the type of their soil. They might know by experience what crops grow and what crops fail. But they do not know what they can do to improve the soil conditions. The



SHM scheme launched covers as many as all farmers in various parts of the country under the scheme. In the form of SHC, the farmers will get the report and this report will contain all details about the soil of their particular farm.

8. The PUSA-STFR Meter technology has been brought out by the scientists of Soil Science and Agricultural Chemistry (SS & AC) Division of IARI. It was capable of testing 5 soil parameters and was launched officially on 22-2-2012 by the Director, IARI, New Delhi. It was commercialized through the Zonal Technology Management and Business Promotion Development (ZTM & BPD) Unit of IARI. The patent application entitled “Digital Soil Fertilizer Recommendation (STFR) Meter” was filed, being No.2395/DEL/2011 dated 24-8-2011. This technology was licensed to 14 licensees (companies and firms) firms all over the country by entering into individual Memorandum of Agreement/Understanding (MoA/MoU) with each licensee during 23-7-2012 to 3-12-2016. One of such MoUs between the IARI, New Delhi, and M/s Nagarjuna Agro Chemicals Private Limited [for short, hereinafter referred to as **“Nagarjuna Agro Chemicals”**], entered into on 2-8-2014, contains Clauses 2.1 to 2.3, which are reproduced below :

“Article II: Grant of License

2.1 *The Licensor hereby grants to the Licensee, and the Licensee hereby accepts at their free will, a non-exclusive and non-transferable license in the territory as specified in the MOU, to use the “licensed Technology”, know how, design and blue print of Licensed Products i.e. “STFR Meter” to manufacture and to sell and have sold and offer to sell Licensed Products, subject to the terms and conditions contained in this Agreement.*

2.2 *The Licensor does not provide any right to the Licensee to sub-license the License/Right to manufacture/produce the Licensed Products, or transfer the Licensed Technology/Knowhow in any manner whatsoever, unless specifically authorized in writing to do so.*

2.3 *The territory of the licensee shall be territory of India.”*

Similar clauses are contained in MoAs/MoUs entered into between all the remaining 13 firms/companies. The **PUSA-STFR** technology in respect of which the aforesaid MoAs/MoUs are entered into is also called “**STFR, a mini lab**” or “**STFR Kit**” or “**STFR Meter**” technology developed by the ICAR and was upgraded on 12-8-2015 to analyze the aforesaid 10 parameters (except Copper and Nitrogen). The cost of STFR Meter was

Rs.86,000/- for a kit having capacity to test 50 soil samples with the facility of refilling at the cost of Rs.15,000/-.

9. It is the stand taken by the respondent Nos.2 and 3- ICAR and IARI in the affidavit dated 27-12-2018 filed in Writ Petition that Nagarjuna Agro Chemicals entered into MoU with ICAR-Indian Institute of Soil Science (IISS), Bhopal, on 27-7-2014 and 7-8-2014 for improvement of STFR Meter. According to the respondent Nos.2 and 3, this is violation of non-disclosure of technology know-how by Nagarjuna Agro Chemicals. One principal scientist of IARI, Dr. S.C. Datta, the Inventor of STFR, informed the officer in-charge, ZTN & BPD, IARI, on 19-3-2015 that Nagarjuna Agro Chemicals has made “Mridaparikshak” on its own by replicating the idea/concept of STFR Meter. It further states that the concept of STFR Meter is that it is a programmable digital colorimeter with menu based interactive program, dedicated to estimation of soil available nutrients and it is the first of its kind in India. The concept is patent protected and cannot be copied. It further states that “Mridaparikshak” does not display the soil testing technology developed and licensed by ICAR-IARI, but displays the soil testing technology in collaboration with Indian Institute of Soil Science, Bhopal.

10. In response to above letter, the Joint Director (Research), ICAR-IARI, Dr. K.V. Prabhu, informed the Director General, ICAR, on 6/7-4-2015 that IISS, Bhopal, a sister Institute in ICAR, appeared to have indulged in IP (Intellectual Property) violation and, therefore, corrective measures are required to be taken to resolve the matter. He further informed that this type of violation of IP will harm the morale of the investors and should be stopped in the first instance. He informed that an urgent action was solicited before the same situation extends to independent private public collaborations based on ICAR technology.

11. In the Minutes of Meeting held on 13-5-2015 under the chairmanship of Secretary, DARE, and DG, ICAR, which was attended by DDG (NRM), DDG (Crop Science), and ADG (IPCTM) along with the Scientists of IARI, IISS, Bhopal, and respective SMDs. The following decision was taken unanimously in the said meeting :

(1) IISS, Bhopal, will file patent for the soil testing kits developed by them as per the extant guidelines. The technology shall be in the name of "ICAR-IISS Mridaparikshak", as is done by IARI, giving the name "ICAR-IARI STFR Meter".

(2) The commercialization of the above two kits - “ICAR-IISS Mridaparikshak” and “ICAR-IARI STFR Meter” - has to be taken up by the respective Institutes as per the extant ICAR guidelines.

ICAR-IISS, Bhopal, thereafter informed all the State Governments and Union Territories on 15-7-2015 (Annexure-III to the reply filed by the respondent Nos.2 and 3) that “Mridaparikshak”, a mini lab, is being manufactured and marketed by Nagarjuna Agro Chemicals to provide soil testing at the farmers’ doorstep and it is compatible with SHC.

12. On 17-9-2015, the first trade agreement was signed between the petitioner- Nagarjuna Agro Chemicals and ICAR-IISS, Bhopal, for commercialization of the technology “Mridaparikshak”, a mini soil laboratory, capable of testing 10 parameters of soil. The price of “Mridaparikshak” was Rs.72,000/- and of refill was Rs.13,500/-. It is claimed that on 19-12-2015, the second agreement between Nagarjuna Agro Chemicals and ICAR-IISS, Bhopal, for commercialization of “Mridaparikshak” with increased capacity to test 12 parameters was entered into between Nagarjuna Agro Chemicals and ICAR-IISS, Bhopal. The cost of the licensed products, i.e. upgraded “Mridaparikshak” was fixed at Rs.86,000/- with the charges of Rs.17,000/- for refilling.

13. In the meetings of the Institute Technology Management Committee (**ITMC**), the highest body of ICAR on commercialization of technologies, held on 18-5-2016 and 17-12-2016, the components of Copper and Nitrogen were added in the parameters of STFR for commercialization. However, the Deputy Director General of ICAR, by his communication dated 13-1-2017, informed the Director, IARI, PUSA, New Delhi, that it was decided by the competent authority to withdraw commercialization of these two new parameters concerning the STFR Meter technology immediately and release them only after extensive validation across at least five agro-climatic zones. In response to this communication, the Acting Director, IARI, informed its compliance on 14-1-2017. Consequently, the agreements, which were under process for licensing of upgraded technology, were withheld and the licensees were informed on 20/21-1-2017 by the Zonal Technology Management and Business, Planning and Development Unit, IARI, New Delhi, that the execution of MoU was required to be withheld and suspended for all operations, including proto-type developmental or training, till the validation reports were approved by the competent authority.

14. In the fourth meeting of ITMC, held on 25-1-2017, the question of testing and validation of STFR Meter for commercialization in five agro-climatic zones was discussed and it was decided that there was no need for validation of PUSA-STFR Meter in five agro-climatic zones, as the prototypes manufactured by the licensees had already been validated/tested and certified on soil samples of varying characteristics. It was expressed that the provision of five different agro-climatic zones was not earlier included in the MoA signed with the licensees. It was unanimously agreed that the validation of STFR Meter may be done by sending blind samples to the licensees and asking them to test the same on their STFR Meter and send the reports in sealed envelopes to DDG (CS), ICAR. It was further decided that the reports on these samples be simultaneously also sent by IARI to the DDG (CS), ICAR, and the same be matched with the licensees' reports.

15. In the subsequent meeting of ITMC, IARI dated 27-1-2017, convened under the chairmanship of the Director, IARI, on the subject of the letter dated 13-1-2017 of DDG(CS), in respect of validation of improved STFR Meter in five agro-climatic zones, it was once again unanimously decided that there was no technical need for this procedure for validation of PUSA-STFR Meter in five agro-climatic zones, as the proto-types manufactured by the

licensees had already been validated/tested and certified on representative soil samples, varying in characteristics. It was also expressed that the provision for validation of STFR Meter manufactured by the licensees in five different agro-climatic zones was not included in the MoA signed with the licensees. It was decided in respect of the letter dated 13-1-2017 that the validation of STFR Meter may be done by sending the blind samples to the licensees and asking them to test the same on their STFR Meter and send the report in the sealed envelope to DDG(CS), ICAR.

16. In Public Interest Litigation No.115 of 2017, filed on 10-10-2017 by Anand s/o Nanabhau Embadwar, a resident of Pune, alleging that the STFR Meter was capable of satisfying only 10 compulsory parameters, excluding two important components of Nitrogen and Copper. A relief is claimed on the basis of the communication dated 13-1-2017 from ICAR to IARI that STFR Meter Technology is required to be tested in five different climatic zones to assure and verify the results of technology by the Institute itself and further to conduct validation test for final product of each manufacturer before allowing commercialization of STFR Meter. An interim relief is claimed to direct the respondents not to allow commercial use of STFR Meter in the market during the pendency of the present Public Interest Litigation and also a stay to the

commercialization of STFR Meter. In respect of the STFR Meter, the letter dated 6-2-2017 and 24-2-2017 of the two licensees, viz. M/s. Sugway Agribiotech and Research Foundation, and M/s. Om Agro Organics, seeking validation of the technology in five agro-climatic zones are produced as Annexure-J on Pages 84 and 85 of the writ petition. It is projected that the said two licensees also wanted validation of the STFR technology. Both these letters are shown to have been addressed to the Director, ICAR, New Delhi.

17. On 11-10-2017, this Court passed an order issuing notice after observing the complaint that - **(a)** the machines sold as mini labs for the purposes of soil testing do not show the available Nitrogen and Copper, **(b)** the Union of India and the States are both offering huge subsidy for the purchase of these defective machines, and **(c)** the respondents to take a note of the grievances and issue suitable directions to prevent loss of public revenue, if necessary.

18. On 16-10-2017, Writ Petition No.9258 of 2017 was filed by Nagarjuna Agro Chemicals in the High Court at Delhi. Thereafter, an application was moved before the Apex Court for transfer of PIL to Delhi High Court. It was disposed of on 26-3-2017 by the Apex Court, observing that there is no ground made out for transfer of the petition and it would be appropriate that the matter pending before

the Bombay High Court may be decided expeditiously. It was observed that it would be open for the petitioner to seek adjournment of the matter before Delhi High Court till the decision by the Bombay High Court to avoid conflict of decisions, which can be considered on its own merits.

19. Thereafter, Nagarjuna Agro Chemicals filed Writ Petition No.5845 of 2018 before this Court on 30-8-2018 seeking a direction to blacklist the licensees in respect of STFR for misrepresentation, cheating and fraud by stating that the soil testing kit does not qualify with all the requirements of SHM and SHC schemes. It further seeks a direction to constitute a Committee of Experts to check whether STFR kit specifies 12 essential parameters in different climatic conditions. The challenge is also to the communication dated 10-8-2018 issued by the Government of India directing the Secretary, Agriculture Department, of all the State Governments, to consider procurement of mini labs from the members of STFR Association, also in addition of mini labs developed by IISS (ICAR), Bhopal. The challenge is also to the communication dated 2-4-2018 by ICAR superseding its decision dated 13-1-2017 and promoting commercialization of PUSA-STFR Meter available for analyzing all 12 parameters of SHC.

20. It is the stand taken by the respondent No.2- ICAR in the affidavit dated 7-8-2018 filed in PIL that the DDG(CS) directed for re-testing of the STFR Meter on the complaint filed by Nagarjuna Agro Chemicals and its proxies that the STFR Meter was not capable of testing all the 12 mandatory soil elements, as stipulated in SHC. It is stated that the expert body of ICAR visited Soil Science Division of IARI on 21-3-2018 and 22-3-2018 to examine STFR Meter. Based on the analysis performed, the Committee certified that the STFR Meter was capable of analyzing all 12 parameters of SHC. Accordingly, a report dated 22-3-2018 was submitted. Thereafter, vide letter dated 2-4-2018, the DDG(CS) has approved the two new parameters of STFR technology developed by IARI, New Delhi, for further commercialization. The IARI has licensed the two new parameters to the licensee companies for further commercialization, making the STFR Meter (as modified) available for analyzing all 12 parameters of SHC. It was licensed to total nine companies, which did not include the petitioner- Nagarjuna Agro Chemicals.

21. On 10-8-2018, the Government of India, Ministry of Agriculture and Farmers' Welfare, informed all the Secretaries of the State Governments and Union Territories that in view of the recommendations of the ICAR, the procurement of a mini lab for the

members of the STFR Association also, in addition to a mini lab developed by IISS (ICAR), Bhopal, be considered for analyzing 12 parameters of SHC. In response to the communication of Nagarjuna Agro Chemicals for transferring additional parameters of Copper and Nitrogen in the PUSA-STFR Meter, it was informed on 6-3-2019 by the Zonal Technology Management and Business, Planning and Development Unit, ICAR-IARI, New Delhi, that the matter was *sub judice* and it will be decided in accordance with the court decision. Hence, all the three communications dated 2-4-2018, 10-8-2018 and 6-3-2019 are made the subject-matter of challenge in writ petition filed by Nagarjuna Agro Chemicals, by way of an amendment, which was allowed.

22. On 2-8-2019, one Civil Application No.1467 of 2019 was filed in PIL by one Bhagwan s/o Rajeram Karmenge, claiming to be an Agriculturist and resident of Nagpur. After going through the contents of the application, we find that the application fully supports the case of the petitioners in both these petitions. In fact, the application is a replica of what is contained in both these petitions. Paras 21 and 22 of the said application are reproduced below :

“21. *Despite these shortcomings, the respondent no.3 and its licensees have misled the public at large by portraying that their STFR kit can comply with the requirement of Soil Health Management Scheme and Soil Health Card Scheme. It is humbly submitted that due to such false representations by some licensees and respondent no.3, the business of the respondent no.7 was being adversely and prejudicially affected.”*

“22. *The respondent no.7 therefore make several complaints, almost 17 in number to the respondents. It is submitted that the false information and misrepresentation was creating immense confusion in the agricultural market, Government Department, NGOs and farmers, as they were falsely representing their product STFR Meter Kit is sufficient to analyze all the mandatory parameters, required for Soil Health Card. It is pertinent to note that the STFR Meter licensed by the respondent no.3, is not capable by analyzing soil ascertain availability of Copper and Nitrogen.”*

The respondent No.7, referred to in the aforesaid paras, is Nagarjuna Agro Chemicals. It is the stand taken in both these petitions as well as in the application for intervention that on the basis of the complaint received from M/s. Nagarjuna Agro Chemicals Private Limited regarding misconduct and malpractices by various technology holders of PUSA Digital STFR Meter through duplicating features of “Mridaparikshak”, a mini lab, in the technology of PUSA

Digital STFR Meter, the letter is addressed by one Dr. J.S. Sandhu, Deputy Director General (Crop Science), ICAR, to the Under-Secretary (Vigilance-I), Vigilance Section, ICAR, New Delhi. A copy of this letter is endorsed to the Director, IARI with the request that the STFR Meter will not be further licensed till the enquiry is over. It is, therefore, claimed that till such enquiry was completed, there should be no marketing of STFR Meter.

23. The main complaint in these two petitions and the application for intervention is that the technology of STFR Meter, commercialized by ICAR-IARI, did not satisfy the testing of the soil in respect of 12 parameters, including the two mandatory components of Copper and Nitrogen till 2-4-2018, but the respondent No.3- IARI was promoting it by acting hand-in-glove with the five licensees to project that it satisfied such requirement of testing, which amounted to misrepresentation and practising mischief and cheating the farmers or agriculturists, resulting in damage of the soil. The second complaint is that the commercialization of STFR Meter with all 12 parameters without its validation in five different agro-climatic zones with effect from 2-4-2018, needed to be stopped to prevent further cheating, misrepresentation and mischief being played upon the farmers or agriculturists and to prevent the damage of the soil.

24. The petitioner- Nagarjuna Agro Chemicals is engaged in commercialization of “Mridaparikshak”, a mini lab technology, as the licensee of IISS, Bhopal. The complaint is that some of the licensees of ICAR-IARI, viz. (i) M/s. Orlab Instruments Pvt. Ltd., Sanathnagar, Hyderabad, (ii) M/s. Sugway Agribiotech and Research Foundation, Yavatmal, and (iii) M/s. Plasti Surge Industries Pvt. Ltd., Amravati, have referred in their literature and letters to STFR Meter as “Mini lab”, which amounts to copying the registered trade mark of “Mridaparikshak” or “Mittiparikshak”. This was jeopardizing the business of Nagarjuna Agro Chemicals by creating confusion. It is the contention that the STFR Meter is not referred to as mini lab in the MoUs of these licensees with ICAR and IARI.

25. It is not in dispute that Copper and Nitrogen are the two mandatory parameters of soil testing. It is also not in dispute that till 2-4-2018, the STFR Meter did not have capacity of soil testing in respect of 12 parameters, including the two components of Copper and Nitrogen. Though the ICAR-IARI decided to introduce two parameters of Copper and Nitrogen on 18-5-2016 and 17-12-2016, the same could not be commercialized till 2-4-2018. In this background, the following questions would fall for consideration :

(1) Whether the respondent Nos.2 and 3 - **ICAR and IARI, have themselves** at any point of time up to 2-4-2018, represented to anyone that STFR Meter has capacity to test the soil in respect of 12 parameters, including Copper and Nitrogen?,

(2) Whether there was any representation by **any of the licensees of ICAR and IARI** up to 2-4-2018 that the STFR Meter has capacity to test the soil in respect of 12 parameters, including Copper and Nitrogen?,

(3) Whether any such representation, either by the respondent Nos.2 and 3 or by any of their licensees, has misled or cheated the farmers or agriculturists and caused damage to the soil and should there be any enquiry in respect of it?,

(4) If the answers of any of the questions above are in the affirmative, whether the licences issued for testing of STFR Meter are required to be cancelled, as is claimed?,
and

(5) Should the claim of the petitioners in both these petitions and of the intervenor to ask for the stoppage of commercialization of STFR Meter without its validation in respect of 12 parameters of soil testing in at least five different agro-climatic zones be entertained?

26. No doubt that it is a serious matter, if the facts leading to it are established by the petitioners and the intervenor. It is the

case of the respondent Nos.2 and 3- ICAR and IARI that such issues are raised only with an intention to promote “Mridaparikshak”, a mini lab, which is another technology of soil testing, being monopolistically commercialized by the petitioner- Nagarjuna Agro Chemicals. It is also the stand taken that the commercialization of the components of Copper and Nitrogen on 18-5-2016 and 17-12-2016 was prolonged up to 2-4-2018, because of unwarranted impediments created by the petitioner- Nagarjuna Agro Chemicals. It is also the case of the ICAR-IARI that the MoUs entered into with the licensees do not contain a stipulation that the STFR Meter with 12 parameters shall have validation at least in five different agro-climatic zones. If the respondents establish their stand, it would be a more serious matter, for which the petitioners and the intervenor will have to be held responsible.

About PUSA-STFR Meter and “Mridaparikshak”, a mini lab :

27. PUSA-STFR Meter and “Mridaparikshak” are mini portable lab technologies, developed for measurement of soil health parameters, fertilizer recommendations and preparing SHC. PUSA-STFR Meter is the invention of ICAR-IARI, New Delhi, and it is licensed to 14 licensees, during 23-7-2012 to 3-12-2016, including the petitioner- Nagarjuna Agro Chemicals, with which MoUs were entered into on 2-8-2014 and 25-5-2016. “Mridaparikshak” is the

product of ICAR-IISS, Bhopal, and it is licensed only to Nagarjuna Agro Chemicals on 17-9-2015, 19-12-2015 and/or 18-7-2016. The object of introducing such technologies, is to improve soil quality and to have macro and micro nutrient management/judicious application of fertilizers to increase the profitability of farmers/agriculturists. The financial assistance in the form of subsidy in the ratio of 60 : 40 by the Government of India and the State Government for its purchase is included. The cost of the upgraded version of STFR and “Mridaparikshak” is of Rs.86,000/- with Rs.15,000/- and Rs.17,000/- respectively as refilling charges. The available subsidy on purchase of it, is of Rs.45,000/-. The beneficiaries are the individuals, groups, institutions or co-operative societies. The beneficiaries provide service of testing of soil and fertilizer recommendation, approximately at the rate of Rs.50/- to 60/- per sample, at the doorstep of farmers.

28. Before considering the question of grant of reliefs claimed in the PIL as well as in the Writ Petition, we have to first consider whether any genuine public interest is involved in the matter and whether filing of PIL is *bona fide* or an abuse of the process of Court.

Lack of *bona fides* and genuine public interest in PIL :

29. The purchase of the STFR Meter was by availing subsidy provided by the State Government during 2014 to 2-5-2018 without having facility of soil testing with respect to two compulsory parameters of Copper and Nitrogen. Though faintly, the PIL refers to this aspect, there is no seriousness to take such an issue to its logical end. Even during the course of the oral arguments, it was made clear that the intention of the petitioner was not to make any complaint in respect of it and accordingly during the entire argument also, this aspect was neither highlighted nor emphasized. The very object of observing this, is to see whether the petitioner in the PIL is really interested in going ahead, with what it represented before this Court initially, when the order dated 11-10-2017 was passed directing the authorities of the Union of India and the State Government to take note of the loss of public revenue by offering huge subsidy. Neither the PIL nor the Writ Petition claim the relief of any enquiry or investigation to find out the actual loss, if any, caused either to the State Government or to the Union of India on account of extending the benefit of subsidy, by direct beneficiary transfer basis to the bank account of the beneficiary. In our view, the PIL suffers from lack of *bona fides* to collect and produce definite material by making genuine efforts and claim the relief, which ought to have been claimed.

30. The petitioner- Anand s/o Nanabhau Embadwar in PIL claims himself to be an ordinary resident of Pune and a permanent resident of Yavatmal. He claims himself to be an Agriculturist, a Social Worker for the welfare of the farmers, and a son of the Ex-Minister of Agriculture in the State of Maharashtra. After going through the contents of the PIL, we find that the factual averments made in the petition are based upon what the petitioner has learnt, without disclosing the sources of his information. We do not find any averment in the petition as to the nature of the social activities, if any, undertaken by the petitioner for the welfare of the farmers till this date. No efforts are shown to have been made to contact the farmers and collect any information about STFR. It is not the case that the farmers have approached him with this grievance. It is not his case that he made any representation to any of the authorities to ventilate any such grievance of the farmers. The PIL does not give any details, the extent, and as to how and in what manner there is misrepresentation, cheating, mischief or fraud, said to have been practised upon the farmers and its actual effect on the soil, guided by the recommendations, if any.

31. In the PIL, the petitioner has annexed certain representations dated 1-11-2016, 8-11-2016 and 9-11-2016, said to

have been made by Nagarjuna Agro Chemicals, the petitioner in the another Writ Petition. The petitioner also refers to the letter dated 31-3-2017 at Annexure G, said to have been issued by the District Superintending Agricultural Officer, Yavatmal, to the Director, ICAR-IARI, PUSA, New Delhi. The two letters addressed to the ICAR, New Delhi, by M/s. Sugway Agribiotech and Research Foundation on 6-2-2017, and M/s. Om Agro Organics on 24-2-2017 are annexed at Annexure-J. The claim of the petitioner is that these documents are supplied to him by Nagarjuna Agro Chemicals, the petitioner in another Writ Petition. By the two letters dated 9-10-2017 and 29-11-2017, the aforementioned companies/firms have denied issuance of the letters dated 6-2-2017 and 24-2-2017. Hence, genuineness of the letters dated 6-2-2017 and 24-2-2017 is doubted and Nagarjuna Agro Chemicals have shown willingness to withdraw these two letters on affidavit.

32. It is not the case of the petitioner in PIL that he himself has purchased or used the STFR Meter as a farmer and has fallen prey to the alleged misrepresentation, cheating or fraud in respect of the soil testing of his own holdings. The petitioner is not the person directly aggrieved. The petitioner does not claim to be the “Expert” in the field of soil testing to question the authenticity or

validity of STFR. It is not the averment in the PIL that the petitioner himself made any enquiry either from the licensees or from the farmers/agriculturists or from the beneficiaries of the subsidy scheme of the State Government, as to the effect of the STFR Meter. The petitioner does not explain as to how and what kind of interest he has in the subject-matter of the PIL.

33. We, therefore, find that the petitioner- Anand s/o Nanabhau Embadwar is a person, who can be described as the mouthpiece or spokesperson of Nagarjuna Agro Chemicals and the PIL is being prosecuted without having any public interest or having no intention to subserve the interest of the farmers. The petitioner in the PIL lacks *bona fides* and genuine public interest. There is one Civil Application No.1467 of 2019 filed by one Bhagwan s/o Rajeram Karmenge, an Agriculturist from Nagpur, supporting the stand taken by the petitioners in both these petitions. The application for intervention is a replica of both these petitions and seeks intervention in the matter. This intervenor also stands on the same footing. We allowed this application and permitted the applicant to intervene in this matter.

Allegations of misrepresentation, mischief, cheating or fraud :

34. In the year 2014, the STFR Meter had capacity of testing

of soil in respect of 5 parameters of pH, EC, Organic Carbon, Phosphorous and Potassium. We find that this is specifically incorporated in the MoU dated 2-8-2014, entered into between the petitioner- Nagarjuna Agro Chemicals and ICAR-IARI. It is not the case of the petitioners that the transfer of STFR Meter technology to other licensees was with more than 5 parameters. This technology was upgraded on 12-8-2015 to 10 parameters and the newly added parameters were Zinc, Sulphur, Boron, Iron, Manganese, Lime requirement and Gypsum requirement. Though on 18-5-2016 and 17-12-2016, the two mandatory components of Copper and Nitrogen were decided to be added in the parameters for commercialization of STFR Meter, the same were not released till 2-4-2018.

35. We have not been pointed out any evidence or material to indicate that the respondent Nos.2 and 3- ICAR and IARI have in any manner till 2-4-2018 represented to anyone that the STFR Meter had capacity to test the soil in respect of 12 parameters, including Copper and Nitrogen. Though it is the case of the petitioners that the five licensees, viz. (1) M/s. Sugway Agribiotech and Research Foudation, Yavatmal, (2) M/s. Om Agro Organics, Yavatmal, (3) M/s. Orlab Instruments Pvt. Ltd., Hyderabad, (4) M/s. W.S. Telematics Pvt. Ltd., New Delhi, and

(5) M/s. Plasti Surge Industries Pvt. Ltd., Amravati, have shown in their literature that 15-parameter technology is available in the STFR Meter, the evidence produced on record is only in respect of M/s. Plasti Surge Industries Pvt. Ltd., Amravati, projecting that the STFR Meter satisfies the requirement of testing in respect of 12 parameters. There is no evidence produced on record, even to order any investigation in respect of the alleged misrepresentation, mischief, cheating or fraud by the other licensees to project that the STFR Meter had capacity of testing of soil in respect of 12 parameters.

36. It is unfathomable to understand as to how and in what manner the farmers or agriculturists stand cheated. The STFR Meters are purchased by the individuals, self-help groups of villagers, co-operative societies, institutions, etc., by availing subsidy from the licensees of ICAR and IARI and ultimately services of testing of soil are provided to the farmers or agriculturists at the cost of approximately Rs.50/- to 60/- per sample at their doorstep. It is not the evidence produced on record to show that any of the farmers or agriculturists have suffered actual loss or damage of soil as a result of such services being availed.

The first complaint dated 17-3-2016 by the petitioner- Nagarjuna Agro Chemicals :

37. Upon launching of STFR Meter, the MoU was entered into between ICAR-IARI and Nagarjuna Agro Chemicals on 2-8-2014 for transfer of technology, having capacity of soil testing in respect of 5 parameters of pH, EC, Organic Carbon, Phosphorus and Potassium. The first complaint was made by the petitioner- Nagarjuna Agro Chemicals to ICAR on 17-3-2016. The complaint was that though the model STFR Meter was upgraded to have the facility of analyzing 10 parameters, the technology was not transferred to it, though it was transferred to the other companies/licensees and thus there was a biased attitude. The complaint states that the other companies/licensees were showing in their literature different parameters as against the original technology transferred. The request was made to make an enquiry into this. It is not the complaint that ICAR and IARI have acted hand-in-glove for such projection or representation. The writ petitioner does not claim to transfer the upgraded version of STFR Meter, to it. In fact, by MoU dated 25-5-2016 entered into between ICAR-IARI and Nagarjuna Agro Chemicals, the facility of 10 parameters was transferred for commercialization. We fail to understand as to how any such grievance made in the complaint dated 17-3-2016 survives.

The complaints dated 1-11-2016 and 8-11-2016 by the petitioner- Nagarjuna Agro Chemicals :

38. The second complaint dated 1-11-2016 was in respect of transfer of 15 parameters technology to the other companies/licensees, viz. M/s. Sugway Agribiotech and Research Foundation, Yavatmal, and M/s. Om Agro Organics, Yavatmal, but excluding the petitioner- Nagarjuna Agro Chemicals. Again the request was to transfer such technology to it. The third complaint dated 8-11-2016 was in respect of not providing Copper, Nitrogen and Calcareousness to it, though such parameters were provided to the other companies/licensees, including M/s. Orlab Instruments Private Limited, Hyderabad, M/s. Sugway Agribiotech and Research Foundation, Yavatmal, and M/s. Plasti Surge Industries Private Limited, Amravati. Surprisingly, the petitions do not claim any relief of providing such parameters. Besides it, such grievance is purely private and individual without involving any public interest. In the affidavit dated 19-11-2019 by ICAR-IARI, it is stated on Page 848 that on 7-1-2017, ICAR offered testing of 12 components to the licensees, including Nagarjuna Agro Chemicals. In none of these three complaints dated 17-3-2016, 1-11-2016 and 8-11-2016, the demand was made that the STFR Meter, consisting of 12 parameters, was required to be sent for analysis in five different agro-climatic zones. The projection in the complaints in writing to ICAR is different than the projection in the petition. The claim in

the petition, therefore, lacks *bona fides*.

The complaint dated 9-11-2016 by the petitioner - Nagarjuna Agro Chemicals :

39. In the complaint dated 9-11-2016, for the first time, a grievance was made that the STFR Meter is not validated in respect of 12 parameters in at least five different agro-climatic zones. The petitioner- Nagarjuna Agro Chemicals has communicated its comparative assessment on 27-7-2014 to the Director, IISS, Bhopal, in respect of the soil testing kit technology developed by Acharya N.G. Ranga Agriculture University, Hyderabad, and the STFR Meter by ICAR. It states that both these technologies are genuinely farmers' friendly instruments, worth promotion amongst the peasant community. In fact, on 22-11-2016, the petitioner- Nagarjuna Agro Chemicals has signed a satisfactory report along with the Scientists of IARI, stating that the STFR Meter is tested and the results are found to be highly satisfactory. It further certifies that the STFR Meter is suitable for soil testing. Some other licensees have also conveyed the satisfactory reports. Thus, the complaint dated 9-11-2016 had lost its significance.

Validation of STFR Meter in five agro-climatic zones :

40. The petitioners in both these petitions and also the intervenor do not claim themselves as Experts who can authoritatively tender advice of a binding nature. We asked the learned counsels appearing for the parties to tell us the authority, competent to say that the commercialization of STFR Meter technology with 12 parameters, is not advisable or permissible without its validation in at least five different agro-climatic zones. Except the names of ICAR and IARI Scientists, no other name has come forward. The ITMC, which is the highest body in ICAR in respect of the decision of commercialization of technology, consisting of Scientists, has decided in its meetings held on 18-5-2016 and 17-12-2016 to add the two components of Copper and Nitrogen in the parameters of STFR. In the further meeting of ITMC held on 25-1-2017 and 27-1-2017, it was decided that there is absolutely no necessity to get all 12 parameters tested in five different agro-climatic zones. It is the specific stand taken in Para 17 of the affidavit filed on 16-8-2019 in PIL by the respondent Nos.1, 2 and 3 that the STFR Meter has been added and validated, exclusively using soils from different agro-climatic zones, viz. Western Himalayan, Upper Gangetic Plains, Trans Gangetic Plains, Central Plateau and Hills, Southern Plateau and Hills, West Coast Plains and Western Dry Region. In our view, neither the

petitioners nor the intervenor are competent to challenge the authority of ICAR and IARI and there is no valid basis to challenge the same.

41. Before releasing 2 parameters of Copper and Nitrogen for commercialization on 2-4-2018 as per the resolutions dated 18-5-2016 and 17-12-2016 passed by ITMC, there was a report of the Expert Body of Scientists, received on 23-2-2018. The Committee, consisting of three Scientists, visited the Soil Science Division of IARI on 21-3-2018 and 22-3-2018 to examine the STFR Meter. Based on the analysis performed, the Committee certified that the STFR Meter is capable of analyzing all 12 parameters of SHC. We have not been pointed out any superior body of Experts or Scientists before whom such decision can validly be challenged. Obviously, we do not possess such expertise to judge the validity or correctness of such reports and the decision.

The communication dated 13-1-2017 by Dr. Jeet Singh Sandhu, the Deputy Director General (Crop Science), IARI :

42. In both these petitions and the application for intervention, heavy reliance is placed upon the communication dated 13-1-2017, issued by the Deputy Director General (Crop Science), Dr. Jeet Singh Sandhu, addressed to the Director,

IARI, PUSA, New Delhi, which we reproduce below :

*“Dr. Jeet Singh Sandhu
Deputy Director General
(Crop Science)*

*INDIAN COUNCIL OF AGRICULTURE RESEARCH
KRISHI BHAWAN,
DR. RAJENDRA PRASAD ROAD,
NEW DELHI-110001.*

*F.No.: PPS/DDG(CS)/2016
Dated : 13th January, 2017*

Dear Dr. Kaur,

*It has come to my notice that 2 new parameters
(e.g. Ca and N) are being released for commercialization to all,
STFR meter-licensed companies.*

*In this connection, it has been decided by the
Competent Authority to withdraw commercialization of these
two new parameters concerning STFR meter technology
immediately and release them only after extensive validation
across atleast five agro-climatic zones.*

(J.S. Sandhu)

*Dr. (Mrs.) Ravinder Kaur,
Director,
I.A.R.I., Pusa,
New Delhi - 110 012.”*

The letter contemplates release of two new parameters of Copper and Nitrogen only after extensive validation across at least five agro-climatic zones. We wanted to know the basis for issuance of such letter, particularly when it is preceded by the two resolutions dated 18-5-2016 and 17-12-2016 passed by ITMC, the highest body in ICAR, for commercialization of technology.

43. In the affidavit dated 19-11-2019, filed by Shri A.K. Singh, the Director, ICAR-IARI, it is stated in Para 5.11

as under :

“5. The second question which arise relates to the Authority of DDG(CS) to issue letters dated 13.01.17 & 06.02.17 for validation of the two new parameters of STFR Meter in 5 agro-climatic Zones:

II. The letter dated 13.01.2017 (Page 538) was issued by the DDG.(CS), ICAR stating therein that it had come to his knowledge that two new parameters (Copper and Nitrogen) were being released for commercialization to all PSM licensed companies and in this view of the matter, the Competent Authority had decided to withdraw the commercialization of the said two parameters of STFR Meter and to release them later only after extensive validation across at least 5 agro-climatic zones. The record shows that the Competent Authority i.e. DG, ICAR did not issue any such direction, thus, the orders dated 13.1.17 & 2.4.17 were without authority. Even the record in the Office of the then DDG (CS)/Dr. J.S. Sandhu does not contain any instructions of the Competent Authority. The P.S. to the then DDG (CS) has stated that no such file / document is available on this letter i.e. Letter dated 13.01.2017 issued by the then DDG (CS). The file note to this effect is marked hereto as ANNEXURE-D.”

Thus, there was neither any authority to Dr. J.S. Sandhu nor there was any basis to issue the letter dated 13-1-2017, which was in fact superseded on 2-4-2018.

44. In the meeting dated 9-9-2019 called by the Secretary, ICAR, with the officials of ICAR, IARI, IISS, Bhopal, inputs were called for taking decision on the question of unauthorized intervention of Dr. Jeet Singh Sandhu, the then DDG (CS), ICAR, and it was resolved that the complaint by Nagarjuna Agro Chemicals was that there being no sustainable reason/rationale demanding for validation/testing of PSM in five different climatic zones and the then DDG (CS), ICAR, Dr. Jeet Singh Sandhu, in gross violation of Clause 4.6.4 of General Procedures of IP Management, vide his letter dated 13-1-2017, directed arbitrarily IARI to withdraw its decision of commercialization of two additional parameters of Copper and Nitrogen, unless the said PSM technology was validated/tested in five different climatic zones. We are, therefore, of the view that there was neither any justification nor any valid basis either for the petitioner- Nagarjuna Agro Chemicals or for Dr. Jeet Singh Sandhu to insist upon the requirement of testing the STFR Meter in five different agro-climatic zones.

45. It is because of this communication dated 13-1-2017 issued by Dr. Jeet Singh Sandhu, that the STFR Meter technology with 12 parameters could not be commercialized from 18-5-2016

till 2-5-2018. This is very clear from the reply dated 21-2-2017 by ZTN & BPD, IARI, New Delhi, in response to a complaint dated 1-11-2016 by the petitioner- Nagarjuna Agro Chemicals. Thus, during this intervening period, the petitioner- Nagarjuna Agro Chemicals started exploiting the situation and monopolizing the business by projecting that its Meter called “Mridaparikshak” was having capacity of testing soil in respect of 12 parameters, which was absent in the STFR Meter. It is the case of the respondent Nos.2 and 3 on affidavit that during 17-9-2015 to 17-9-2019, Nagarjuna Agro Chemicals has paid the royalty of Rs.3.21 Crores, to IISS, Bhopal, in respect of sale of “Mridaparikshak”. Thus, the approximate business monopolistically earned by Nagarjuna Agro Chemicals could well be imagined to be manifold as royalty forms only an insignificant percentage of the cost of each meter sold.

46. We made a specific query to the learned counsels appearing for all the parties in these petitions to point out to us, whether the technology of “Mridaparikshak”, a mini lab, was analyzed in five different agro-climatic zones. In response to this query, an affidavit is filed by the petitioner- Nagarjuna Agro Chemicals on 12-12-2019 stating in Para 1 that the validation reports received from two agro-climatic zones in respect of

“Mridaparikshak” were placed on record and the reports from four more agro-climatic zones were awaited. If, according to the petitioners, the STFR Meter required validation in five different agro-climatic zones for its commercialization, then how could the petitioner- Nagarjuna Agro Chemicals proceed to commercialize its Meter “Mridaparikshak”, a mini lab, without having its validation in at least five agro-climatic zones. Surprisingly, the petitioners did not ask for validation of “Mridaparikshak” in five different agro-climatic zones and only targeted the PSM (STFR Meter).

47. It is the stand taken by the respondent Nos.2 and 3 in the affidavit dated 27-12-2018 that the STFR Meter is a programmable colorimeter based technology and climatic variability has nothing to do with its functioning or performance. Moreover, at any given location, calibration of meter with standards (known concentration) and testing of unknown samples are done in the same environment, thus nullifying the effect of environment, if any. Lab equipments (colorimeters, spectrophotometers, etc.) manufactured in one part of the world are used without any problem in different countries across the world under differently variable climatic conditions. The fertilizer recommendation is made, based on available nutrients’ content in soil, and the same procedure is followed in case of STFR Meter. This is the standard

procedure followed all over the world. On soil test based fertilizer recommendation, nowhere climatic condition is taken into consideration. It is the stand taken that there is no basis for the claim of the petitioners that the STFR Meter is required to be tested in five different agro-climatic zones and by the logic given by the petitioners, it may not be possible at all to commercialize such equipment given large climatic variability in different countries. We cannot entertain any doubt in respect of such stand taken by the respondent Nos.2 and 3.

Alleged malpractices by the licensees of STFR Meter in duplicating “Mridaparikshak” :

48. The petitioners have placed heavy reliance upon the communication dated 6-2-2017, said to have been written by Dr. Jeet Singh Sandhu, the Deputy Director General (Crop Science), referring to the complaint, said to have been received from M/s. Nagarjuna Agro Chemicals Private Limited regarding the misconduct and malpractices by various technology holders of PUSA Digital STFR Meter through duplicating features of “Mridaparikshak”, a mini lab, in the technology of PUSA Digital STFR Meter. We reproduce below a copy of this communication dated 6-2-2017, which is on Page 176 of Writ Petition, as Annexure 14 filed by the petitioner.

“Dr. Jeet Singh Sadhu

*INDIAN COUNCIL OF
AGRICULTURAL RESEARCH
KRISHI BHAVAN,
DR. RAJENDRA PRASAD
ROAD,
NEW DELHI-110 001*

*D.O.No.PPS.DDG/(CS)/2017
Dated the 6th Feb. 2017*

A Complaint has been received from M/s. Nagarjuna Agro Chemicals Pvt. Ltd. regarding the misconduct and malpractices by various technology holders of PUSA Digital STFR Meter through duplicating features of Mridaparikshak Mini Lab in the technology of PUSA Digital STFR Meter.

The whole complaint is enclosed for further necessary action at your end.

*Sd/-
(N.S. Sandhu)
Deputy Director General (Crop Science)*

*To
Sh. S.K. Sinha
Under Secretary (Vig.I)
Vigilance Section
ICAR, Krishi Bhavan,
New Delhi-1.*

CC to Director IARI with the request of STFR Meter will not be further licensed till enquiry is over.”

49. It is expressed by the petitioners that such complaint needs necessary investigation. This letter dated 6-2-2017 is written to the Under Secretary, Vigilance Section, ICAR, New Delhi, and a copy of it, is forwarded to the Director, IARI, with a request that STFR Meter not to be further licensed till the enquiry is over. In Para 20 of the Petition, Nagarjuna Agro Chemicals claimed to have made a detailed complaint, on the basis of which the letter

dated 6-2-2017 was issued. We repeatedly made inquiries from the petitioners, intervenors and the respondents in respect of such a complaint. We are specifically told by all the parties that the copy of such a complaint is neither available with the petitioners nor in the office of ICAR-IARI. It is the specific stand of the respondent Nos.2 and 3 that in fact there was no such complaint. What we find is that this is an instance of manipulating the situation on the basis of bogus and ingenuine claim. Thus, the claim in the petitions and the application for intervenor is based upon falsity of facts.

50. Perusal of the letter dated 6-2-2017, reproduced above, shows that the complaint of the petitioner- Nagarjuna Agro Chemicals is regarding misconduct and malpractices by various technology holders of PUSA Digital STFR Meter through duplicating features of “Mridaparikshak” Mini Lab in the technology of PUSA Digital STFR Meter. The request to the Director, IARI, at the bottom of the letter is that the STFR Meter will not be further licensed till the enquiry is over. Though none of the parties could tell us about the complaint referred to in this communication, we find that it may be referable to the complaint dated 8-11-2016 against three licensees. We are surprised as to how the complaint by the petitioner- Nagarjuna Agro Chemicals in respect of violation

of intellectual property rights by duplicating “Mridaparikshak” can be entertained and investigated into by ICAR and IARI. Obviously, this is a matter between Nagarjuna Agro Chemicals and the other licensees of ICAR and IARI and there is no obligation upon the inventor of the STFR Meter to take any action against such licensees. We, therefore, do not find any justification or valid reason to direct that the STFR Meter will not be further licensed till the enquiry is over.

Genuineness of the complaints dated 6-2-2017, 24-2-2017 and 31-3-2017 :

51. The petitioners have produced on record the letters dated 6-2-2017 and 24-2-2017 from two licensees of PUSA-STFR, viz. M/s. Sugway Agribiotech and Research Foundation and M/s. Om Agro Organics, respectively regarding validation of technology in five agro-climatic zones. Though these letters are addressed to the Director, ICAR, it is the stand taken that these letters were actually received in the office of the Director, ICAR, on 13-10-2017, i.e. after filing of PIL. It is the stand taken by the respondent Nos.2 and 3 that M/s. Sugway Agribiotech and Research Foundation have made it clear in the letters dated 6-2-2017 and 24-2-2017 to IARI demanding validation in five agro-climatic zones. It is the case of the respondent Nos.2 and 3 that these letters are fabricated. It is also the affidavit filed by the

respondent Nos.2 and 3 in Writ Petition on 19-11-2019 stating that the aforesaid licensees have also clarified on 9-10-2017 and 29-11-2017 in writing that they had never issued any such letter demanding validation in five agro-climatic zones. Thus, the claim of the petitioner is based upon false documents. The learned Senior Advocate Shri Bhangde has shown willingness on the part of the petitioners to withdraw both these letters dated 6-2-2017 and 24-2-2017 to IARI. Thus, our opinion about falsity of claim stands confirmed.

52. The petitioners have relied upon the communication dated 31-3-2017, said to have been issued by the District Superintending Agricultural Officer, Yavatmal, in the name of Director, ICAR-IARI, New Delhi, requesting for supply of information as to whether PUSA-STFR Meter Kit is capable of testing of 12 mandatory soil elements and whether it is being marketed by M/s. Plasti Surge Industries Private Limited, Amravati. The information is asked to avoid misutilization of Government funds by way of subsidy. It is the stand taken by the respondent Nos.2 and 3 in Para 27 of the affidavit dated 27-12-2019 that this letter was received by ICAR on 13-10-2017, i.e. after more than six months' period of its issuance, and it was only a photocopy and not the original. It is neither addressed to the petitioner nor any copy

of it, is forwarded and hence the veracity of this letter is questioned.

53. Shri Bhangde, the learned Senior Advocate appearing for the petitioner in Writ Petition No.5845 of 2018,, invited our attention to various communications issued by the State Government, Department of Agriculture, the Commissioner of Agriculture, and the District Agricultural Superintendent during 12-1-2017 till 6-11-2017. We have gone through all these communications and find that these communications take note of -
(i) the fact that the STFR Meter does not satisfy the requirement of soil testing in respect of 12 mandatory parameters, (ii) that another technology of “Mridaparikshak”, a mini lab, satisfies the requirement of testing of soil in respect of 12 mandatory parameters, and (iii) the STFR Meter technology, therefore, may not be admissible for getting subsidy from the State Government and it is only “Mridaparikshak”, commercialized by Nagarjuna Agro Chemicals, which is admissible for the subsidy from the State Government. We fail to understand as to how various departments under the State Government are mobilized to defeat the commercialization of STFR Meter, which is the technology developed, patented and owned by the authenticated agency of the Government of India, i.e. ICAR and IARI, and to

promote the monopolistically commercialized technology of “Mridaparikshak”, a mini lab, owned by IISS, Bhopal, a Unit of ICAR, and marketed only and exclusively by Nagarjuna Agro Chemicals to its own advantage.

54. Our research work on the aforesaid two aspects reveals that the petitioner- Nagarjuna Agro Chemicals has been instrumental in misleading and misrepresenting various Government departments for commercial profiteering and gain without having any genuine and *bona fide* interest in raising such issues. For this purpose, the sequence of significant events has to be noticed. The STFR Meter technology was initially having capacity of soil testing in respect of 5 parameters and it was licensed to Nagarjuna Agro Chemicals under the MoU dated 2-8-2014. It was subsequently upgraded to 10 parameters on 12-8-2015. The petitioner- Nagarjuna Agro Chemicals entered into first MoU on 17-9-2015 with IISS, Bhopal, in respect of “Mridaparikshak”, having capacity of soil testing with 10 parameters. The first complaint was made by Nagarjuna Agro Chemicals on 17-3-2016 to ICAR-IARI for providing 10 parameters of STFR Meter and accordingly it was made available to it under another MoU dated 25-5-2016. On 18-5-2016, the ITMC of ICAR decided to introduce the parameter of Copper in the STFR Meter, in

its meeting dated 18-5-2016. On 18-7-2016, the additional three parameters were added in “Mridaparikshak”. Thus, “Mridaparikshak” was having capacity of testing of soil in respect of 13 parameters.

55. In the background of the aforesaid events, the petitioner-Nagarjuna Agro Chemicals made a complaint on 9-11-2016 that the STFR Meter is required to be validated at least in five agro-climatic zones. Though on 17-12-2016, one more important parameter of Nitrogen was added in the STFR Meter, the two parameters of Copper and Nitrogen could not be released till 2-4-2018 for commercialization because of the complaint made by the writ petitioner, which was acted upon by Dr. Jeet Singh Sandhu, the Deputy Director General, on 13-1-2017, and by the State Government, through its Commissioner of Agriculture, by issuing the communication dated 17-1-2017. The petitioner was successful in preventing the further licensing of STFR Meter on the basis of the communication dated 6-2-2017 by Dr. Jeet Singh Sandhu. The pendency of PIL and the order dated 11-10-2017 passed by this Court was also utilized to perpetrate the design to monopolistically commercialize “Mridaparikshak” up to 2-4-2018.

56. In view of above, we hold that the petitioners or the intervenor have failed to make out any case of misrepresentation, mischief, cheating or fraud on the farmers or other beneficiaries in respect of commercialization of STFR Meter, having capacity to test the soil with regard to 12 parameters, including Copper and Nitrogen. There is no case made out that the STFR Meter is required to be validated at least in five different agro-climatic zones before its commercialization or that its marketing is required to be stopped. The complaint of misconduct or malpractices by various technology holders of PUSA Digital STFR Meter through duplicating features of “Mridaparikshak” Mini Lab in the technology of PUSA Digital STFR Meter, is a commercial and private dispute, for which the petitioners and the intervenor have appropriate remedy to avail and there is no question of any enquiry or investigation in respect of these matters to be entertained by this Court.

57. On the contrary, we find that both these petitions and the application for intervention are actuated by ulterior motive of having commercial gain by eliminating the competition and creating monopoly using the process of the Court. This is nothing but an abuse of the process of the Court. The petitioner- Nagarjuna Agro Chemicals has made inconsistent

and contradictory claims. It did not want to lose the benefits of STFR Meter, but wanted its marketing by others to be prohibited. The litigation is unnecessarily dragged on to spend valuable time of the Court for several days and the petitioners and the intervenor are responsible for it.

58. In our view, the Court has to be intolerant to such situation and the practice of filing such frivolous and vexatious litigation, without having any genuine interest and lacking in all *bona fides*. It needs to be curbed and treated with iron hands, so as to deter the litigants from taking the Court for a ride by misusing the process. The respondent Nos.2 and 3- ICAR and IARI are the Government of India's establishments consisting of renowned Scientists having expertise in the field. Their *bona fides* are not questionable. It is unfortunate that one of its Units, i.e. IISS, Bhopal, is licensing the promotion of commercial interest of Nagarjuna Agro Chemicals, which is having hostile attitude towards its parent establishment. We expect the respondent Nos.2 and 3- ICAR and IARI to initiate and take action for violation of Clause 2.2 of its MoU against the petitioner and to carry it to logical end. If possible, to blacklist the petitioner- Nagarjuna Agro Chemicals in accordance with law.

59. For the reasons stated above, we dismiss both these petitions with the following order as to costs :

(1) The petitioner- Nagarjuna Agro Chemicals in Writ Petition No.5845 of 2018, the petitioner- Anand s/o Nanabhau Embadwar in PIL No.115 of 2017, and the intervenor- Bhagwan s/o Rajeram Karmenge in Civil Application No.1467 of 2019 filed in PIL, are hereby held liable - jointly and severally - to pay the total costs of Rs.50,00,000/- [Rupees Fifty Lakhs], to be paid to the respondent Nos.2 and 3- ICAR and IARI within a period of four weeks from today.

(2) The costs be divided in two parts of Rs.25,00,000/- [Rupees Twenty Five Lakhs] each, to be deposited in the account of the respondent Nos.2 and 3- ICAR and IARI respectively.

(3) We expect the respondent Nos.2 and 3 to proceed to take suitable action against the petitioner in Writ Petition No.5845 of 2018, as is permissible in law.

60. Put up both these matters after a period of four weeks to see the compliance of this order.

(Milind N. Jadhav, J.)

(R.K. Deshpande, J.)