



2025:DHC:7058-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11081/2025, CM APPL. 45604/2025 & CM APPL.
45605/2025

**BIOLOGICAL AGRI SOLUTIONS ASSOCIATION OF INDIA &
ORS.Petitioners**

Through: Mr. Sandeep Sethi, Mr. Rajeev K.
Virmani, and Mr. Rajshekhar Rao,
Senior Advocates with Mr. Ankit
Virmani, Mr. Krishan Tewary, Ms.
Malvikka Arya, Ms. Shriya Gambhir,
Ms. Diva Sehgal, Ms. Saloni Sharma
and Ms. Richa Khare, Advocates.

versus

UNION OF INDIARespondent

Through: Mr. Abhishek K. Gupta, CGSC with
Mr. Shaswat Kr. Pandey, for UOI.

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Date of Decision: 18.08.2025

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

J U D G E M E N T

DEVENDRA KUMAR UPADHYAYA, CJ: (ORAL)

1. Heard the learned counsel for the parties.
2. By instituting these proceedings under Article 226 of the Constitution of India, the petitioners have prayed for the following reliefs:

"A. a writ of mandamus or any other writ, order or direction to Respondent to expeditiously dispose of all pending applications under Clause 20C (3) of Fertilizer (Inorganic, Organic or Mixed) (Control) Order, 1985 Order, 1985 ("FCO") for inclusion of specifications of biostimulants in Schedule VI of FCO within a reasonable period of time;

B. an order declaring that the following provisions of FCO are null and void to the extent set out below:

- i. sub-clauses (4) and (7) of Clause 20C of FCO in so far as*



these provisions prohibit manufacturers and importers from manufacturing or importing for sale, selling, offering for sale, stocking or exhibiting post 16.06.2025, all such biostimulants for which applications for inclusion of specifications in Schedule VI of FCO have already been made under Clause 20C(3) of FCO but the applications remain pending with the Respondent;

- ii. *Item 5 of Form G-3 of FCO [as amended by the aforesaid Second Amendment Order of 2025] in so far as it stipulates that the provisional registrations granted under Cl. 20C(6) of FCO for manufacture or import of those biostimulants for which applications under Cl. 20C(3) of FCO seeking inclusion of specifications in Schedule VI of FCO are pending with Respondent, shall expire on 16.06.2025;*

C. *a writ of mandamus or any other writ, order or direction to Respondent to extend the provisional registration for all biostimulants for which applications under Cl. 20C(3) of FCO seeking inclusion of specifications in Schedule VI of FCO are pending with Respondent, till:*

- i. *disposal of such applications in accordance with the provisions of the FCO; and*
- ii. *if the application is allowed and specifications of a biostimulant are included in Schedule VI of FCO, then till expiry of 1 (one) year post the date of inclusion of full specifications in Schedule VI of FCO;*

D. *a writ of mandamus or any other writ, order or direction to Respondent to direct State licensing authorities to not interfere in any manner with the manufacture, import, stocking, sale, offering or exhibiting for sale of any biostimulant for which:*

- i. *provisional registration was granted and was subsisting as on 16.06.2025, or application for provisional registration was duly made and had remained pending, and*
- ii. *application for inclusion of specifications in Schedule VI of FCO is pending;*

E. *if the above prayers are not granted by this Hon'ble Court, then in the alternative, and without prejudice, this Hon'ble Court may be pleased to:*

- i. *pass an order declaring that clause sub-clauses (4) and (7) of clause 20C of FCO are null and void to the extent and in so far as these provisions prohibit manufacturers and importers who either hold*



provisional registration or have duly made applications for provisional registration that are pending from selling, stocking, exhibiting or offering for sale post 16.06.2025 and during the shelf life of the biostimulants, all such biostimulants that are duly manufactured or imported on or before 16.06.2025; and

- ii. issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent to permit stocking, sale, exhibiting and offering for sale of all biostimulants that were duly manufactured or imported by holders of provisional registration till 16.06.2025, for the entire duration of shelf-life of such biostimulants.*

F. pending disposal of the present petition, this Hon'ble Court be pleased to direct the Respondent to

- (i) extend the validity of all provisional registrations that were valid and subsisting as on 16.06.2025, till disposal of the present petition, and*
- (ii) permit manufacture and import of all biostimulants for which the manufacturer/importer had duly made application for provisional registration with the Respondent but the same remains pending with the Respondent, till disposal of the present petition;*

G. pending disposal of the present petition, this Hon'ble Court be pleased to direct that no coercive action be taken against any manufacturer or importer interfering in any manner with the manufacture, import, stocking, sale, offering or exhibiting for sale of any biostimulant for which either the provisional registration had been granted or for which application for provisional registration has duly been made but is pending with the Respondent;

H. if the interim reliefs sought at sub-paras (F) and/or (G) above are not granted, then in the alternative, and without prejudice, pending the disposal of the present petition, this Hon'ble Court may be pleased to direct the Respondent to:

- i. permit stocking, sale, exhibiting and offering for sale of all biostimulants that were duly manufactured or imported by holders of provisional registration till 16.06.2025, for the entire duration of shelf-life of such biostimulants; and*
- ii. direct all State licensing authorities to not interfere in any manner with the stocking, sale, offering or exhibiting for sale of any biostimulant that was duly manufactured or imported by a holder of provisional registration till 16.06.2025, till the expiry of shelf-life of such biostimulant;*



I. pending disposal of the present petition, grant urgent ex-parte and ad-interim reliefs in terms of prayer clause B;

J. pass any further or other orders as may be deemed just and proper in the circumstances of the case.”

3. The petition has been filed on behalf of certain associations and individual firms. The associations which have filed the petition comprise of individual manufacturers/importers of biostimulants.

4. Drawing our attention to the statutory regime regulating manufacturing, import and sale of biostimulants, it has been argued by learned counsel representing the petitioners that prior to introduction of Clause 20C in Fertilizer (Inorganic, Organic or Mixed) (Control) Order, 1985 (hereinafter referred to as the ‘Control Order, 1985’), there was no statutory mechanism to regulate manufacturing/sale/import of biostimulants. It has been stated further that the said statutory mechanism has been brought into force by inserting Clause 20C in the Control Order, 1985 by means of a notification issued on 23.02.2021. Clause 20C introduced vide notification dated 23.02.2021 is extracted hereunder:

“20C. Specifications in respect of biostimulants.—

(1) Notwithstanding anything contained in this Order, the specifications of biostimulants, including its name, active ingredients or where it is not possible to indicate its active ingredients, then its chemical composition, name of the crop to which it may be applied, its benefits and the method of analysis for determination of its active ingredients or chemical composition shall be specified by the Central Government in Schedule VI.

(2) The biostimulants specified in Schedule VI shall be classified under any of the following categories, namely:—

- (a) botanical extracts, including seaweed extracts;*
- (b) bio-chemicals;*
- (c) protein hydrolysates and amino acids;*
- (d) vitamins;*
- (e) cell free microbial products;*
- (f) antioxidants;*



- (g) *anti-transpirants;*
- (h) *humic and fulvic acid and their derivatives*

(3) *Notwithstanding anything contained in this order, every manufacturer or importer of a biostimulant shall make an application to the Controller in Form G along with the following data relating to such product for specifying it as a biostimulant in Schedule VI, namely;—*

A. Chemistry:

- 1. Source (natural extracts of plant/microbe/animal / synthetic)*
- 2. Product Specification (with analysis from Good Laboratory Practice(GLP) or National Accreditation Board for Testing and Calibration Laboratory (NABL) accredited laboratory, Physical and Chemical properties of active ingredients and adjuvants, if any.*
- 3. Method of analysis conforming to the specifications.*
- 4. Shelf-life;*

B. Bio-efficacy Trials:

- 1. Agronomic Bio-efficiency trials shall be conducted at National Agricultural Research System, including Indian Council of Agricultural Research, State Agricultural Universities.*
- 2. Bio-efficacy trials shall be conducted at minimum three different doses for one season at three agroecological locations;*

C. Toxicity: Name of the Institute (where the manufacturer of biostimulant obtained the certificate)

The test report along with recommendation of following five basic acute toxicity tests (i) to (v) and four Eco toxicity tests (vi) to (ix) of GLP accredited laboratory shall be submitted along with the application, namely:—

- (i) Acute oral (Rat)*
- (ii) Acute dermal (Rat)*
- (iii) Acute Inhalation (Rat)*
- (iv) Primary skin Irritation (Rabbit)*
- (v) Eye irritation (Rabbit)*
- (vi) Toxicity to bird*
- (vii) Toxicity to Fish (Freshwater)*
- (viii) Toxicity to honeybee*
- (ix) Toxicity to earthworm*

Note:- Long-term chronic studies as in case of pesticides are not needed to be conducted;



D. Heavy metal analysis report;

E. The sample of the product along with an Affidavit by the manufacturer or importer on non judicial stamp paper of rupees ten stating that the product is not laced with pesticide beyond permissible limit of 0.01ppm

Provided that in case of a biostimulant having natural origin or other, the requirement of necessary data shall be as decided by the Central Biostimulants Committee as per the guidelines formulated by it in this regard:

Provided further that every manufacturer or importer of a biostimulant shall, notwithstanding that such biostimulant has been specified in Schedule VI, be required to make an application under this sub-clause.

(4) Notwithstanding anything contained in this order, any person manufacturing a biostimulant as on the date of publication of this order for which no standards have been specified, may, subject to making an application for grant of provisional registration under sub-clause (5), continue to manufacture for sale, sell, offer for sale, stock or exhibit such biostimulant for a period of two years from the date of publication of this order.

(5) The manufacturer referred to in sub-clause (4) shall, within a period of six months from the date of publication of this order, submit an application to the Controller for grant of provisional registration in Form G-1 along with—

(a) details of the product, its specifications, label and such other particulars as may be required;

(b) a certificate issued by the State Government in Form G-2 to the effect that—

(i) the product is available in the market prior to the publication of the said order; and

(ii) no incident has come to its notice about harmful effect of the product.

(6) On receipt of an application under sub-clause (5) for provisional registration, the Controller shall, by an order in writing, grant a provisional certificate of registration of biostimulant in Form G-3.

(7) No person shall manufacture or import any biostimulant unless such biostimulant is included in schedule VI.

(8) The Controller shall, by notification in the Official Gazette, publish the



name of the manufacturer or importer of the biostimulant included in Schedule VI.

(9) No biostimulant shall contain heavy metals content over and above the following maximum limit prescribed for various metals, namely,—

<i>In mg/kg (maximum)</i>	
<i>Cadmium (as Cd)</i>	<i>5.00</i>
<i>Chromium (VI) (as Cr)</i>	<i>50.00</i>
<i>Copper (as Cu)</i>	<i>300.00</i>
<i>Zinc (as Zn)</i>	<i>1000.00</i>
<i>Lead (as Pb)</i>	<i>100.00</i>
<i>Arsenic (as As₂O₃)</i>	<i>10.0.</i>

(10) No biostimulant shall contain any pesticide beyond the permissible limit of 0.01pm.”

5. A perusal of the aforequoted provisions of Clause 20C of the Control Order, 1985 reveals that a complete statutory scheme has been framed by the Central Government for regulating the biostimulants, which includes the specifications of the biostimulants including its names, active ingredients, name of the crop to which it is to be applied, its benefits and methods of analysis for determination of active ingredients or chemical compositions of the tracer molecule etc. The scheme provides that such specifications relating to biostimulants shall be specified by the Central Government in Schedule-VI as appended to the Control Order, 1985.

6. Sub-clause (3) of Clause 20C provides that for inclusion of any biostimulants in Schedule-VI, manufacturer or importer is required to submit an application to the Controller in form G which is to contain certain information and data as given therein. At this juncture, we may note that at the time when Clause 20C was inserted in the Control Order, 1985 vide notification dated 23.02.2021, no biostimulants were included in Schedule-VI which implies that even the manufacturers/sellers/importers



which were operating prior to the notification dated 23.02.2021, were required to apply for inclusion of their products in Schedule-VI.

7. Sub-clause (4) of Clause 20C provides that a person who was manufacturing or importing a biostimulant on the date of publication of notification dated 23.02.2021 for which no standards were specified, may continue to manufacture or import for sale or sell or offer for sale, stock or exhibit such biostimulants for a period of three months from the said date, subject to the making an application for grant of provisional registration in terms of sub-Clause (5) of Clause 20C.

8. Sub-Clause (5) of Clause 20C requires the manufacturer or importer to make application to the Controller for grant of provisional registration in form G-1 by 31.03.2023 with certain details including details of the products, its specifications, label and any other particulars which may be required. The said application for grant of provisional registration was also to be accompanied by a certificate issued by the State Government in form G-2 evidencing that the product has been available in the market prior to publication of the order dated 23.02.2021 and that no incident has come to the notice of the State Government about harmful effect of the product. The Form G-2 as appended with the Control Order is a certificate issued by the State Government to that effect to be accompanied with the application for provisional registration. Form G-2 is extracted herein-below:

“FORM- G-2

[See clause 20C(5)(b)]

(To be issued by the State Government(s))

This is to certify that M/s _____ is selling biostimulant (Name) brand name _____ prior to the (date of publication of notification) and during last three years, ----- metric ton/ litre of biostimulant were sold in the state.

This is further certified that no complaint has so far been reported of ill effects or hazardous effects of the said biostimulant on humans as well as on animals or environment.



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Director of Agriculture”

9. Sub-clause (6) of Clause 20C provides that the Controller shall by an order grant a provisional certificate of registration of biostimulants in Form G-3 on receipt of an application under sub-clause (5) of Clause 20C. Form G-3 which was also added *vide* notification dated 23.02.2021 is extracted herein-below:

*“FORM G-3
[See clause 20C(6)]
(To be issued by Controller)
Certificate of Provisional Registration*

M/s..... (name) and (address) is hereby given the Certificate of Provisional Registration to manufacture the biostimulant (Name) under sub-clause (6) of clause 20C of the Fertiliser (Inorganic, Organic or Mixed) (Control) Order, 1985, details of which are as under:—

- 1. Name of the bio-stimulant:*
- 2. Brand Name of the bio-stimulant:*
- 3. Location of manufacturing unit:*
- 4. Place of storage:*
- 5. Certificate Registration Number:*

Book No. and Page No.

*The provisional registration shall be valid upto.....day of August, 2022.
The provisional registration shall be subject to the following terms and conditions:—*

- 1. The holder shall manufacture only the biostimulant for which the registration is provided.*
- 2. The heavy metal content and Pesticide content shall not exceed the limit prescribed under the Order.*
- 3. The holder shall comply with the provisions of the said Order and notification issued thereunder.*
- 4. For selling of biostimulant, the authorization letter shall be obtained from the Notified Authority of the concerned State Government.*
- 5. Any information provided in Form G-1 if found incorrect, or on violation of any terms and conditions, the Controller of Fertiliser shall cancel the provisional registration.*



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(Controller)
[F.No.3-14/2017 Fert Law]
NEERAJA ADIDAM, Jt. Secy.

Note: The principal Order was published in the Gazette of India vide G.S.R. number 758 (E). dated the 25th September, 1985 and last amended vide SO 3885 (E) dated 29th October, 2020.

10. It has been argued by learned counsel for the petitioners that the date “16.06.2025” which occurs alongwith the phrase “the provisional registration shall be valid upto” was substituted for the date 22.02.2024, however, after expiry of the said date namely after 16.06.2025, the date of validity of the provisional registration has not been extended, as a result of which the manufacturers/importers will not be able to either manufacture or import a biostimulant after the said date, though their applications for inclusion of their products in Schedule VI are pending consideration before the Controller (in some cases, we have been informed that the said applications have been decided and as many as 146 products have been included in Schedule VI).

11. We have further been informed by learned counsel representing the respondents that in certain other cases, certain objections have been raised by the Controller on the application submitted for inclusion of the products in Schedule VI for the reason that these applications were found deficient and accordingly, the manufacturer/importer concerned has been directed to make the deficiency good. It has thus, been argued by learned counsel representing the petitioners that the regime which has been operating since the notification dated 23.02.2021 has been abruptly put to an end inasmuch as, though various applications for inclusion of biostimulants in Schedule VI are still pending consideration and prior to 16.06.2025, the manufacturers/importers were allowed to operate on the basis of provisional



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registration issued in their favour in form G-3, but now on account of non extension of the said date of validity of provisional registration beyond 16.06.2025, these importers/manufacturers are unable to operate any further.

12. The emphasis of the learned counsel representing the petitioners is that it is not that the manufacturers/importers were issued provisional registration in form G-3 without any basis. It has been stated in this regard that the application to be made by manufacturers/importers seeking provisional registration was to accompany certain information including the details of the products, its specifications and label etc., and further that such application was also to be accompanied by a certificate to be issued by the State Government certifying that the product has been available in the market prior to 23.02.2021 and also that no incident has come to its notice of any harmful effect. On the said basis, it has been contended on behalf of the petitioners that once even after inclusion of Clause 20C in the Control Order, 1985 the manufacturers/importers who were operating prior to 23.02.2021 were permitted to operate, there does not appear to be any reasonable ground not to extend the date beyond 16.06.2025, so far as validity of the provisional registration is concerned. It is further contended that the provisional certificate was granted by the Controller only after being satisfied of various conditions including the condition that the product concerned was not reported to cause any harm, that too by none other than a government authority, namely, the State Government concerned.

13. Mr. Abhishek K. Gupta, learned CGSC representing the Union of India has however, stated that the provisions contained in Clause 20C of the Control Order, 1985 are statutory in nature having been framed under Section 3 of the Essential Commodities Act, 1955 and as such, are binding on all concerned including the importers/manufacturers even if they have



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been operating prior to 23.02.2021. It has also been argued that though the date of validity of provisional registration has been extended from time to time after the notification dated 23.02.2021, however, it was found that various manufacturers/importers have not made their applications for inclusion of their products in Schedule VI and therefore, in an endeavour to make all the manufacturers/importers of biostimulant compliant of the statutory Order, the date has not been extended.

14. Having considered the submissions made by learned counsel representing the respective parties, we notice as under:

(a) Even on issuance of the notification dated 23.02.2021, the manufacturers/importers of biostimulants were permitted to operate subject to the condition that they would have applied for grant of provisional registration as contemplated in sub-clause (5) of Clause 20C;

(b) On application to be made under sub-clause (5) of Clause 20C, the Controller was mandated to issue provisional registration, that of course however, depended on fulfilment of certain requirements by the manufacturer/importer seeking provisional certificate and the requirements to be fulfilled were (i) information regarding details of the products, its specifications and the label etc. was to be provided and (ii) a certificate was to be issued by the State Government regarding the product certifying that the product has been available in the market prior to the notification dated 23.02.2021 and further that no incident has come to notice about the harmful effect of the product;

(c) adequate precaution is available in case any information



alongwith this application for provisional registration was found to be incorrect as is apparent from clause 5 of Form G-3 which clearly provides that in case any such information is found incorrect, the Controller of Fertilizer shall cancel the provisional registration.

(d) In past, the date of provisional registration has been extended from time to time, which however, has not been extended after 16.06.2025.

(e) All the applications made by the producers/importers for inclusion of their respective products in Schedule VI have yet not been decided/disposed of. Some of them have been disposed of and as many as 146 products have been included in Schedule VI. However, a large number of applications are either pending or certain deficiencies have been pointed out to the manufacturers/importers concerned by the Union of India in their applications.

(f) Even after inclusion of the products in Schedule VI, there are certain formalities to be completed by the manufacturers/importers such as making certain applications to the appropriate authorities/ State Government which is likely to take some time.

15. In the aforesaid factual situation, what we find is that in case the provisional registration applications were submitted till 31.03.2023 and the date of validity of the provisional registration was extended from time to time, the said date ought to have been extended beyond 16.06.2025, atleast in respect of the cases where the applications seeking inclusion of the products in Schedule VI were pending or they were found to be deficient with intimation to the manufacturers/importers to make the deficiency good.



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Such date could not, of course, be extended beyond 16.06.2025 in respect of those manufacturers/importers whose applications for inclusion of their products in Schedule VI have been rejected. The reasons for continuance of the operation by manufacturers/importers, in a situation where either the product has been included in Schedule VI or applications are yet to be considered for any reason including for want of fulfilment of certain deficiencies, is that while granting the provisional registration adequate precautions were already taken by the Controller of Fertilizers. As already noticed above, the applications seeking provisional registration was not only required to disclose the details of the products, its specifications and label but also was to be accompanied by certificate to be granted by the State Government concerned evidencing that the product has been available even prior to the notification dated 23.02.2021 and further that no incident has come to notice about harmful effect of the product. We may also notice that adequate powers are currently available to the Controller of Fertilizers, as is apparent from Clause 5 of Form G-3, which permits the Controller to cancel the provisional registration in case any information provided by the manufacturer/importer seeking provisional registration is found to be incorrect.

16. In view of the discussion made above and also taking into account the relevant facts and circumstances including the concerns of Union of India about the safety measures, we find it appropriate to dispose of the present writ petition with the following directions:

- (a) The manufacturers/importers of biostimulants whose products have been included in Schedule VI will make their respective applications with the authorities/State Government concerned for completion of the formalities within three weeks from today and on receipt of such



application, the authority/State Government concerned shall take a final decision as expeditiously as possible, say within next six weeks. If application to the authority/State Government is made by the manufacturer/importer, whose product has been included in Schedule-VI, within the time stipulated herein, such manufacturer/importer shall be permitted to manufacture, sell, offer to sell and import its products till the decision on the application to be preferred by such manufacturer is taken by the authority/State Government concerned.

- (b) Those manufacturers/importers whose applications for inclusion of their products in Schedule-VI have been rejected will not be able to operate unless their product is included in Schedule VI on any subsequent application which they may make, if such subsequent application is permissible to be made under law.
- (c) The manufacturers/importers whose applications are pending or in respect of whose applications certain deficiencies have been pointed out by the Union of India shall also be permitted to operate till final decision is taken on their applications for inclusion of their products in Schedule VI. Such applicants shall, however, make the deficiencies good within four weeks from today and once any representation intimating that the deficiencies as pointed out by the Union of India have been made good, appropriate decisions which may be permissible under the law shall be taken by the Competent Authority within next two weeks.

17. At this juncture, Mr. Sethi, learned senior counsel representing the petitioners has drawn our attention to a notification dated 09.06.2025 whereby Fertilizer (Inorganic, Organic or Mixed) (Control) 5th Amendment Order, 2025 has been promulgated. He submits that certain clauses in the



earlier Control Order, 1985 have been substituted by this amendment. The said amendment provides for bio-efficacy trial as also the methodology of testing in sub-clause (3) of Clause 20C. It has been further stated that the said methodology of testing takes longer time and accordingly, in case any deficiency is to be removed by certain manufacturers/importers, they may be given some more time for the said purpose.

In this respect, we may observe that in absence of any intention occurring in the notification dated 09.06.2025 regarding its operation retrospectively, it shall operate prospectively.

18. We also make it clear that the benefit of this order shall be available only to the members of the petitioners' associations i.e. Petitioner no.1, Petitioner no.2 and Petitioner no.3, whose list has already been enclosed alongwith the writ petition and also to Petitioner nos.4 to 13.

19. Since we have not delved into the validity of the Fertilizer (Inorganic, Organic or Mixed) of Control Order 1985, any observations made herein-above shall not be construed as our opinion as far as prayer clause B of the writ petition is concerned.

20. The petition is disposed of in the aforesaid terms.

21. Pending applications also stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

AUGUST 18, 2025

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