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CASE ANALYSIS: PEPSICO INDIA HOLDINGS PVT LTD. VS

KAVITHA KURUGANTI

~Ronit Jain

INTRODUCTION

This analysis is based on the legal dispute between PepsiCo India Holdings Pvt. Ltd. and Kavitha Kuruganti, which was resolved by the High Court of Delhi on January 9, 2024. The case revolves around the registration and subsequent cancellation of PepsiCo's plant variety FL 2027 under the Protection of Plant Varieties and Farmers' Rights Act, 2001. This particular case holds significant importance as it delves into the delicate balance between the intellectual property rights of corporations and the protection of farmers' rights. The ruling underscores the legal obligations of companies to provide accurate information during plant variety registrations and sheds light on the legal safeguards in place to shield farmers from unfair legal tactics employed by major agribusinesses. It sheds light on the wider implications for agricultural policy, corporate ethics, and the well-being of farmers under the Plant Varieties and Farmers' Rights Act.

QUORUM

Yashwant Varma and Dharmesh Sharma, JJ

FACTS OF THE CASE

PepsiCo India Holdings Pvt. Ltd. (the appellant) is a subsidiary of PepsiCo Inc. and is engaged in the production, distribution, and sale of various food and beverage items. The Lay's brand, manufactured by the appellant, utilizes a specific potato variety known as FL 2027 (also referred to as FC-5) for the production of potato chips. FL 2027 is recognized for its minimal external flaws, high dry matter content, and consistent sugar levels. Developed in the United States by Dr. Robert W. Hoopes, a former employee of Frito-Lay Agricultural Research, a

division of PepsiCo Inc., the rights to FL 2027 were transferred to Recot Inc., a subsidiary of PepsiCo Inc., through a Deed of Assignment signed on September 26, 2003. Subsequently, Recot Inc. changed its name to Frito-Lay North America, Inc. (FLNA).

After that, PepsiCo India Holdings Pvt. Ltd. submitted an application on February 18, 2011, seeking the registration of a plant variety called FL 2027 initially classified as a "new" variety, PepsiCo later amended its application on February 16, 2012, to designate the variety as an "extant" one according to Section 16(1)(c) of the Act. The revised application also maintained the first sale date as December 17, 2009. However, inconsistencies in the application, particularly regarding the type of variety and the date of first sale, prompted an examination and subsequent revocation of the registration by the Authority established under the Act on December 3, 2021.

PROCEDURAL HISTORY

Initially, PepsiCo's application classified FL 2027 as a "new" variety. However, upon revision, it was reclassified as an "extant" variety, with the first sale recorded on December 17, 2009. The Registrar raised multiple queries regarding the application, including inquiries about the applicant's identity, breeder details, and the need for supporting documentation to validate the registration.

On December 3, 2021, the Authority decided to revoke the registration of FL 2027. This decision was made due to the presence of incorrect information and the failure to meet the requirements outlined in the Act. PepsiCo filed an appeal under Section 56 of the Act. However, the Single Judge dismissed the appeal, upholding the revocation based on inaccuracies found in the application and insufficient supporting documentation. After that it was appealed before the Division Bench of the High Court of Delhi challenging the judgment made by the Single Judge.

ISSUE

The main concern at hand revolves around the legitimacy of PepsiCo's registration revocation for the plant variety FL 2027, which was allegedly due to inaccurate information in the application and the infringement of farmers' rights as stipulated in the Act. Key areas of dispute encompass the accuracy of the application information submitted by PepsiCo, the Authority's understanding and implementation of pertinent clauses within the Protection of Plant Varieties and Farmers' Rights Act, 2001, and the potential impact on public interest and farmer rights.

PETITIONER'S ARGUMENTS (PEPSI CO)

PepsiCo asserted that the errors found in the application, specifically the misclassification of FL 2027 as a "new" variety instead of "extant," were not significant and could be corrected. They highlighted that the Registrar treated the application as an "extant" variety, and the mistake did not impact the registration approval. Moreover, they argued that the inaccurate first sale date did not have a substantial impact on the registration process, as the variety was genuinely sold in Chile in 2002, a fact that was not disputed by the opposing parties. PepsiCo affirmed that they were the rightful assignee of the breeders and had submitted the required documentation to validate this, meeting the criteria outlined in Section 16(1)(c) of the Act.

RESPONDENT'S ARGUMENTS (KAVITHA KURUGANTI)

The respondents contended that the provision of inaccurate information regarding the initial sale date and variety type was a breach of the Act. They maintained that these errors warranted revocation under Section 34 of the Act. It was stressed by the respondents that PepsiCo's actions, such as litigating against farmers for intellectual property violations, contravened Section 39(1)(iv) of the Act, which safeguards farmers' rights to utilize, preserve, and market agricultural produce, including seeds. The respondents alleged that PepsiCo had not adhered to the legal prerequisites for registration, which encompassed furnishing comprehensive DUS (Distinctiveness, Uniformity, and Stability) data and the requisite declarations as per Section 18(1) of the Act.

ANALYSIS

The court assessed whether the errors in the application justified revocation. It pointed out that although FL 2027 was initially processed as an "extant" variety by the Registrar, the misclassification could not be considered insignificant. The court reviewed the discrepancy in the first sale date and its impact on registration. Despite the incorrect date, the sale in 2002 was undisputed, lessening the seriousness of the error. Examining Section 34, the court highlighted the conditions for revoking plant variety registration. It concluded that PepsiCo's application contained adequate grounds for revocation due to inaccuracies. Regarding farmers' rights, the court addressed the respondents' claim of rights violation. It recognized the significance of safeguarding farmers under Section 39(1)(iv) and condemned PepsiCo's actions as contradictory to the Act's principles.

The court relied on multiple precedents to justify its reasoning:

1. *Intellectual Property Attorneys Association v. Union of India*, 2014: This case was cited by the court to emphasize that the Registrar's powers under Section 20 of the Act are quasi-judicial. The court found support in this precedent to argue that the Authority cannot simply replace the Registrar's judgment unless there are clear grounds for revocation.¹

2. *Vineet Enterprises, Secunderabad v. State of Andhra Pradesh*: This case reinforced the principle that administrative bodies must operate within their designated authority and not exceed their mandate. The court applied this principle to the actions of the Authority in this particular case.²

3. *State (NCT of Delhi) v. Union of India*, (2018): This precedent was utilized to affirm that legal decisions should serve the greater public good and align with public policy.³ This case was referenced to support the argument that internal management issues and the transfer of rights between group companies should not be subject to external challenge unless there is clear evidence of fraud or impropriety.⁴

RATIO DECIDENDI

The court in this case established the importance of accuracy and completeness in applications for the registration of plant varieties under the Protection of Plant Varieties and Farmers' Rights Act, 2001. The court ruled that any inaccuracies or ambiguities in critical details, such as the type of variety and the date of first sale, can compromise the integrity of the registration process and may lead to the revocation of the granted registration. Strict compliance with statutory requirements outlined in Sections 16(1)(c) and 34 of the Act is mandatory. Applicants must clearly demonstrate their eligibility and the accuracy of the information provided. Additionally, the court highlighted the protection of farmers' rights as per Section 39(1)(iv) of the Act, emphasizing that actions by corporations that mislead or exert undue legal pressure on farmers are against the objectives of the Act

OBITER DICTA

The court highlighted the importance of safeguarding farmers' rights and maintaining the integrity of the intellectual property system in its passing comments. This decision underscores the importance of balancing the interests of breeders and farmers, ensuring that any deviations

¹ *Intellectual Property Attorneys Association v. Union of India*, 2014 SCC Online Del 1912.

² *Vineet Enterprises, Secunderabad v. State of Andhra Pradesh*, 1995 SCC Online AP 354.

³ *State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501.

⁴ *Khushalbai Mahajibhai Patel v. A Firm of Mohmadhussain Rahimbux*, 1980 Supp SCC 1.

that disrupt this balance are not acceptable. It highlighted the significance of authorities making a clear distinction between substantive and procedural errors to avoid any unjustified violation of lawful rights.

CONCLUSION

In its judgment, the court ruled in favour of the cancellation of PepsiCo's registration of the FL 2027 potato variety, supporting the decision made by the Protection of Plant Varieties and Farmers Rights Authority. The court determined that the inconsistencies and uncertainties in PepsiCo's application, specifically concerning the variety type and initial sale date, warranted the revocation of the registration. Furthermore, the court identified that PepsiCo's conduct violated the farmers' rights regulations outlined in the Act, resulting in a misuse of the legal system that required remedial actions.

The importance of this case in the present day is found in its confirmation of the legal norms and ethical factors involved in the registration of plant varieties. It emphasizes the need for precision and openness in submissions to safeguard the concerns of all parties involved, particularly farmers. Furthermore, this case sheds light on the legal responsibility of companies in their interactions with agricultural societies and the defense of indigenous rights from exploitative behaviours. With the expansion of agricultural innovation and corporate participation in farming, this case establishes a vital precedent to guarantee that legal structures promote sustainable and fair agricultural methods.