

From

Director of Agriculture,
Haryana, Panchkula.

To

All the Deputy Directors of Agriculture, (in the State)

Memo No 988-1008/TA (QC)

Dated, Panchkula, the 23-2-16

Subject: Streamlining the procedure for submission of documents by the outside Pesticide manufacturing companies/units and for granting of licence to sell, stock or exhibit for sale or distribute insecticides in the State of Haryana.

Please refer to this office letter No. 440-58/TA(QC) dated 21.01.2008 on the subject cited above.

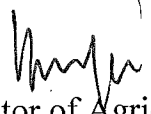
The matter regarding submission of affidavit/documents regarding the "responsible person" has been under consideration for a while. After careful consideration of the matter in the light of the existing provisions of law, it has been observed that section 33(1) of the Insecticides Act, 1968 provides that whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Section 33(2) of the Act says that notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect, on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. A licensee is required to provide a Principal Certificate under rule 10(4A)(i) from the Principal (manufacturer) to the Licensing Authority alongwith the application to obtain the licence. The particulars of employees of the manufacturer are also available with the Licensing Authority in the application form submitted by the licensee to obtain the licence.

The practice of informing/obtaining of affidavit/documents regarding 'responsible person' is not as provisions of the law. There is no provision in the Insecticide Act/Rules in this regard. The practice of informing the office about the name of 'responsible person' and launching the prosecution in a mechanical manner in his name has serious implications resulting into the subversion of judicial process. No one can legally abrogate his

responsibility to any other person in such manner in such matters. The Act clearly provides that the company and the person who actually commits the offence is liable for prosecution irrespective of the position he holds in the company. The abovesaid practice is prone to abuse since the actual offender may escape and the 'responsible person' as intimated by the company may be prosecuted wrongly causing injustice. Besides, it is the policy of the Government not to ask for affidavit unless it is required statutorily, so as to ensure transparency in public offices and harassment to the public. This practice is increasing the avoidable workload in the office and unnecessary causing harassment to the manufacturers also.

In view of the above, there is no justification in carrying on the existing practice of obtaining information/documents pertaining to 'responsible person' and is, therefore, discontinued with immediate effect. In the event of coming into notice the commissioning of any offence under the Insecticide Act/Rules, prosecution should be launched based on the information in the Principal Certificate/licence / application submitted for obtaining licence etc. For causing production of any other/additional information, if required, the Licensing Authority may give a notice to the Owner/ Chairman/ MD/ CEO/ Director of the company to intimate the name and other required particulars of the person responsible for the offence within **ten days'** time, duly informing him that in the event of failure to provide the requisite information within the aforesaid time, the prosecution would be launched in the name of the company and its chief executive.

This may be brought to the notice of all concerned.


Director of Agriculture, Haryana.

Endst. No. /009-10 /TA (QC)

Dated, Panchkula, the 23-2-16

A copy is forwarded to the following for information and necessary action.

1. Additional Director of Agriculture (Extension), Directorate of Agriculture, Haryana, Panchkula.
2. Additional Cane Commissioner, Directorate of Agriculture, Haryana, Panchkula.


Director of Agriculture, Haryana.