2025:PHHC:105915

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(I) CWP-12556-2019
Reserved on: May 19, 2025
Pronounced on : August 18, 2025

FEDERATION OF SEED INDUSTRY OF INDIA
-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

(II) CWP-13620-2019

MBS SANDHU AND OTHERS
-PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS
-RESPONDENTS

(III) CWP-11025-2025

GURINDER SINGH AND OTHERS
-PETITIONERS

V/S

STATE OF PUNJAB AND OTHERS
-RESPONDENTS

(IV) CWP-11060-2025

M/S NEW KISSAN AGRO AGENCY AND OTHERS
-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS
-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Ms. Munisha Gandhi, Sr. Advocate with
Mr. Vaibhav Sharma, Advocate
for the petitioner(s) (in CWP-12556-2019, CWP-13620-2019 and CWP-11025-2025).

Mr. Gurminder Singh, Sr. Advocate with

Mr. Karmanbir Singh, Advocate
Mr. Harish Mehla, Advocate
Mr. Randeep Singh Gill, Advocate and
Mr. Nitish Bansal, Advocate
for the petitioners (in CWP-11060-2025).

Mr. Maninderjit Singh Bedi, A.G., Punjab, assisted by
Mr. Chanchal K. Singla, Addl. A.G., Punjab,
Mr. Pardeep Bajaj, D.A.G., Punjab and
Mr. Rajeev Madaan, D.A.G., Punjab
for the respondent(s)-State.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Sushant Kareer, Advocate,
for respondent(s)-UOI.

Mr. Sunny Saggar, Advocate with
Mr. Omesh Garg, Advocate
for the respondent No.4 (in CWP-11060-2025).

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KULDEEP TIWARI, J. (ORAL)

1. All these writ petitions are amenable to being decided through a common verdict, on account of their enveloping a common challenge to the administrative orders passed by the Department of Agriculture, Punjab, whereby a ban has been imposed on the use of the paddy variety PUSA-44 and all types of hybrid paddy seeds (notified and non-notified kinds or varieties).

2. The petitioners before this Court are either the Companies involved in the business of seeds' production/trading, or the farmers aggrieved by the blanket ban imposed by the State Government upon use of the hybrid paddy seeds.

3. The Director of the Department of Agriculture, Punjab, through issuing an administrative order dated 04.04.2019, imposed a prohibition on

the use of all varieties of hybrid seeds in the State of Punjab. Subsequently, by an amended administrative order dated 10.04.2019, the prohibition was partially modified so as to permit the sowing of only such varieties of hybrid paddy seeds as have been notified by the Government of India specifically for the State of Punjab, while maintaining the prohibition in respect of all non-notified varieties. The legality of these two administrative orders has been assailed in CWP-12556-2019 and CWP-13620-2019.

4. On 07.04.2025, the Director of the Department of Agriculture, Punjab, issued another administrative order, thereby imposing a prohibition on the use of hybrid paddy seeds, including both notified and non-notified varieties. This administrative order dated 07.04.2025 has been challenged in CWP-11025-2025 and CWP-11060-2025.

5. As per the impugned administrative orders, the ban has been imposed on the recommendations made by the Punjab Agricultural University, Ludhiana. The reasons for imposing the ban, as could be culled out from the impugned administrative orders, are concisely extracted hereunder:-

> ***"REASONS FOR IMPOSING BAN ON PADDY VARIETY PUSA-44***
>
> *(a) This variety consumes more water; takes longer to mature; leaves extensive stubble after harvest, which causes stubble burning by the farmers and ultimately results in polluting the environment and many a time results in*

accidents also due to smoke;

(b) This variety is susceptible to early blight disease and various types of sap-sucking insects. As a result, the farmers are compelled to use expensive pesticides, which economically increase input cost as well as increase the rate of soil, water and air pollution in the State.

REASON(S) FOR IMPOSING BAN ON HYBRID PADDY SEEDS

(a) These seeds are expensive and their grain has higher breakage compared to the standards stipulated by the F.C.I. This results in the farmers getting lesser price in the market and facing great hardships.

6. The impugned administrative orders are sought to be challenged primarily on the following grounds:-

(a) The State Government has no statutory authority to pass the impugned administrative orders, as the subject of restriction in movement of seeds for the purpose of sale and sowing is the subject matter of the Seeds Act, 1966 (hereinafter referred to as the 'Act of 1966'), The Essential Commodities Act, 1955 (hereinafter referred to as the 'Act of 1955'), and The Seeds (Control) Order, 1983 (hereinafter referred to as the 'Seeds Order');

(b) The certification of seeds is the exclusive domain of the Union Government, under the Central Seed Certification

Authority constituted under the Act of 1966, and all the varieties of hybrid seeds are certified by authorities established under this Act;

(c) The authorized dealers are operating in the State of Punjab upon licences issued under the Act of 1966, and the prime object of the Act of 1966 is to increase the agricultural production in the country as well as to regulate the quality of certain seeds to be sold for the purpose of agriculture, including horticulture, PAN India.

7. Since the only legal issue involved in these writ petitions appertains to the legality of the impugned administrative orders, therefore, this Court is of the view that the facts are not necessary to be delved into.

COLLECTIVE SUBMISSIONS OF THE LEARNED SENIOR COUNSELS FOR THE PETITIONERS

8. Ms. Munisha Gandhi, Sr. Advocate, and Mr. Gurminder Singh, Sr. Advocate, who represent the petitioners, made collective submissions in beseeching the reliefs yearned for in these writ petitions. The star argument of the learned senior counsels for the petitioners is that, the maker of the impugned administrative orders lacks the statutory powers to make any such orders. While elaborating this argument, they laid much emphasis on the provisions of the Act of 1966 and submit that it has operation in the area of seed certifications, its regulations and control of variety and quality. It is further submitted that the subject seed finds place in the Concurrent List of 7th Schedule of the Constitution of

India, therefore, the Parliament has all power to enact the law on this subject. Emphasis has been laid on Entry No. 33 in the Concurrent List to strengthen the above made argument.

9. The learned senior counsels next argued that, the stand of the respondent-State with regard to derivation of their administrative powers from the State List II in the 7th Schedule is, in fact, a misconceived stand inasmuch as the trade and commerce, production, supply and distribution of goods are specifically covered under Entry No. 33 in the Concurrent List. Even the Entry Nos. 26 and 27 of the State List II clearly postulate that the trade and commerce, production, supply and distribution of goods are subject to Entry No.33 in the Concurrent List.

10. Expanding the scope of their argument on the above issue, the learned senior counsels submitted that the word 'foodstuffs' mentioned under Entry No. 33 covers seeds also, as this entry does not deal merely with trade and commerce in foodstuffs, but also in relation thereof in production, supply and distribution. To lend vigour to this submission, they placed reliance upon the verdict rendered by the Hon'ble Supreme Court in ***"Raghu Seeds & Farms Vs. Union of India", 1994(1) SCC 278.***

11. Furthermore, while drawing the attention of this Court to the object and various provisions of the Act of 1966, the learned senior counsels argued that it, being a Parliamentary law, would prevail. It is submitted that The East Punjab Improved Seeds and Seedlings Act, 1949 (hereinafter referred to as the 'Act of 1949') is repugnant to the Act of

1966, to The Seeds Rules, 1968 (hereinafter referred to as the 'Rules of 1968'), and also to the Seeds Order. The attention of this Court is drawn to the sphere of operation of the Act of 1966, Rules of 1968, and the Seeds Order to submit that they, being Parliamentary Acts, would prevail over the State enactment on account of repugnancy. In view of Article 254(1) of the Constitution, law made by Legislature of the State, to the extent of the repugnancy, is void. A comparative chart has also been placed before this Court, by its becoming enclosed with the written submissions, to establish the repugnancy between the Act of 1949 and the Act of 1966.

12. Continuing their arguments, the learned senior counsels argued that the provisions of the Act of 1949 are, in fact, repealed by the enactment of the Act of 1955, as it is entirely concerned with the control and regulation of seeds which are essential commodities. The repeal takes effect through Section 16(1)(b) of the Act of 1955, which contains a sweeping repeal provision applicable to all State laws controlling essential commodities, including seeds of food grains. In elaboration of this argument, reference is made to Section 2A(1) of the Act of 1955, which defines "essential commodity" as a commodity specified in the Schedule, item (7)(i) of which covers seeds of food crops as well as seeds of fruits and vegetables. Consequently, w.e.f. 01.04.1955, the Act of 1949 stands repealed and any reliance placed thereon by the State Government, in order to show its legal competence to issue the impugned administrative orders, is a highly misplaced reliance.

13. It is further submitted that, through the impugned administrative orders, prohibition has been imposed upon 'hybrid seeds' and not upon 'improved seeds', as provided under the Act of 1949. The term 'hybrid seeds' is synonymous to 'certified seeds', definition whereof is contained in Rule 2(e) of the Rules of 1968. Hybrid (certified) seed is the first generation resulting from the cross of two approved inbred lines or parents, one of which is male sterile, as provided under Rule 14 of the Rules of 1968, i.e. 'Classes and Source of Certified Seeds'. However, there is no provision in the Act of 1949, which provides for definition of certified/hybrid seed to be synonymous to improved seeds. The Act of 1949 does not confer any power upon the Department of Agriculture to pass an order of prohibition.

14. Finally, it is argued that the seeds, which the petitioners are using, have been notified under Section 5 of the Act of 1966 and they are the legally recognized variety for sale and use. The notification of notified seeds is subject to compulsory quality regulations and testing, and also to comply with the standards set by the Central Seed Committee. Therefore, the State Government cannot unilaterally impose prohibition upon the use of such seeds, which have been notified by the Central Government, by invoking the provisions of an Act which is already repealed.

SUBMISSIONS OF THE LEARNED ADVOCATE GENERAL AND THE LEARNED COUNSEL FOR THE RESPONDENT NO.4 (IN CWP-11060-2025)

15. The learned Advocate General, Punjab, in his endeavour to

defend the impugned administrative orders and to establish the competence of the authority concerned to issue such orders, argued that the subject 'agriculture' falls within the State List II in the 7th Schedule, which empowers the State to make laws with respect to agriculture. He placed reliance upon Entry Nos.6, 14, 17 and 18 thereof to submit that, not only agriculture, but public health and sanitation, water supplies, irrigation and canals are also the subjects of State. Moreover, while referring to Article 162 of the Constitution of India, he submitted that the State has power to issue executive orders to the matters with respect to which the Legislature of the State has power to make laws.

16. It is next argued that the power to control and regulate the movement of seeds and their use lies within the domain of the State Government, and that such power is derived from the State enactment i.e. the Act of 1949. Sub-section (a) of Section 3 of the Act of 1949 mandates that every occupier shall use only 'improved seeds' or 'seedlings', definition whereof is enclosed respectively in sub-sections (i) and (ii) of Section 2 of the *ibid* Act. Furthermore, by drawing the attention of this Court to the Statement of Objects and Reasons of the Act of 1949 and of the Act of 1966, he submitted that both these Acts operate in different fields; hence the question of repugnancy does not arise at all.

17. Since considerable emphasis has been laid upon the Statement of Objects and Reasons of the Act of 1949 and of the Act of 1966, this Court deems it appropriate to extract the same hereunder:-

*"**Statement of Objects and Reasons (Act of 1949)***

As a result of research work carried out by the Department of Agriculture, a number of improved varieties of crops have been evolved which give higher yield of better quality than the varieties grown generally by the farmers. By growing these varieties by all the farmers this country can become self-sufficient in food, and efforts have, therefore, been made in the past by carrying out extensive propaganda to get these varieties introduced on a large scale. Owing to the apathy on the part of some cultivators, it has not been possible to make headway to the desired extent in the case of some varieties. The growing of inferior varieties of crops by the recalcitrant section of agriculturists not only results in low yield and poor quality of produce but also brings about deterioration of the improved varieties by mixing which greatly thwarts the progress of the agricultural development. It is now high time to adopt such measures which will bring about increased production without much additional cost to the cultivators by forcing the backward section of the cultivators which is rather slow to accept agricultural improvements. Published vide East Punjab Government Extraordinary, dated the 23rd March, 1949."

*"**Statement of Objects And Reasons (Act of 1966)***

In the interest of increased agricultural production in the country, it is considered necessary to regulate the quality of certain seeds, such as seeds of food crops, cotton seeds, etc., to be sold for purposes of agriculture (including horticulture).

The methods by which the Bill seeks to achieve this object are-

(a) Constitution of a Central Committee consisting of representatives of the Central Government and the State Government, the National Seeds Corporation and other interests, to advise those Governments on all matters arising out of the proposed Legislation;

(b) fixing minimum standards of germination, purity and other quality factors;

> *(c) testing seeds for quality factors at the seed testing laboratories to be established by the Central Government and the State Governments;*
> *(d) creating of seed inspection and certification service in each State and grant of licences and certificates to dealers in seeds;*
> *(c) compulsory labelling of seed containers to indicate the quality of seeds offered for sale, and*
> *(f) restricting the export, import and inter-State movement of non-descript seeds.*
>
> *In order to eliminate undue hardship, provision has been made in the Bill for exempting the sale of seed by i) plant breeders, (ii) certain classes of producers, and (iii) any other persons for purposes other than for the purpose of sowing or planting. —Gaz. of Ind., 7-9-1964, Pt. II, section 2, Ext., p: 433."*

18. The learned Advocate General further argued that, post 1949, only improved seeds or seedlings can be used in view of Section 3 of the Act of 1949. Therefore, the Director of the Department of Agriculture is well within its jurisdiction to impose prohibition on the use of hybrid seeds, which are not covered under the 'improved seeds'. The authority of approval to variety of seeds to be used for the purpose of agriculture exclusively vests with the State Government. Furthermore, by drawing the attention of this Court to the recommendations made by the Punjab Agricultural University, Ludhiana, he submitted that the seeds in question are not overall economically good for the farmers and they lead to various harmful effects to health and pollution of air, soil and water. Therefore, the decision to impose prohibition on the seeds in question, based on the recommendations of the Punjab Agricultural University, clearly establishes the bona fide intention of the State and this Court, in exercise

of its power under Article 227 of the Constitution, ought not interfere in this decision until and unless there is something to the contrary.

19. It is further submitted that the State of Punjab, through the Department of Agriculture and Forest, is competent to pass administrative orders under the Act of 1949, as given in Item No. 2(e) in the Business Rules. Clause 3 of the Business Rules adopted by the State Government deal with experimental and improved method of farming, while Clause 4 deals with groundwater legislation, and Clause 8 deals with seed production and distribution. Therefore, in view of the above Business Rules, the power vests with the Director of the Department of Agriculture to issue the impugned administrative orders. These Business Rules have been issued in view of Article 162 of the Constitution of India; hence there is no procedural irregularity or illegality requiring any interference of this Court.

20. Concluding his arguments, the learned Advocate General submitted that, the reliance placed by the petitioners upon the Act of 1955 and the Seeds Order is totally erroneous, as the same have been enacted for a totally different purpose, i.e., for maintaining or increasing the supply of essential commodities or for equal distribution. Consequently, the Act of 1955, which operates in a totally different field, would not repeal the Act of 1949, which is a pre-Constitutional enactment.

21. The learned counsel representing the respondent No.4 (in CWP-11060-2025), by highlighting the recommendations made by the Punjab Agricultural University, submitted that the use of hybrid seeds is

not economically viable for the farmers and millers. Moreover, while referring to the breakage percentage of notified kind or variety of hybrid seeds during milling, he submitted that the same is more than the limit prescribed by the F.C.I. This results in non-acceptance of the rice milled by the rice millers by the F.C.I., which ultimately causes huge loss to them. Therefore, the State Government has rightly taken the decision to impose prohibition on such seeds, in order to protect the agriculture industry of the State.

SUBMISSIONS OF THE LEARNED ADDITIONAL SOLICITOR GENERAL OF INDIA, ON BEHALF OF THE UNION OF INDIA

22. The learned Additional Solicitor General, by filing a detailed reply dated 09.05.2025 (in CWP-12556-2019), set forth the stand of the Union of India on the present legal issue. He submitted that the Act of 1966 does not empower any person, entity, body or authority to restrict or allow the movement of any seeds. The purpose and intent of this Act is to ensure quality and adherence to minimal standards being maintained in the sale and purchase of seeds within the territory the Act extends to. He further submitted that this kind of restriction on the sale and cultivation of hybrid paddy seeds may have the effect of impeding interstate trade, which is protected under Article 301 of the Constitution of India, and regulated under Entry No. 33 in the Concurrent List.

23. It is next submitted that, the Government of India has been actively promoting hybrid seeds development in key crops like rice, maize and cotton to boost productivity and stress resistance to provide better

options to farmers, and increase productivity and farmers' income. Moreover, various national seed policies have been issued in this regard, and the latest one is the 2002 National Seed Policy.

24. Proceeding further with his submissions, the learned Additional Solicitor General submitted that the seed sector in India is governed primarily by the Act of 1966, Rules of 1968 and the Seeds Order. All these three legal instruments jointly form a comprehensive regulatory framework for the development, production, quality regulation, sale and distribution of seeds. Moreover, while explaining the process of notification of a seed variety, he submitted that a specific crop variety for which the seed is to be propagated is first developed by public or private research institutions. It is then subjected to multi-location trials generally over a period of three or more years. Subsequently, the variety is evaluated for its value for cultivation and usage, which includes yield performance, disease resistance, and adaptability in or across various agro-climatic zones. Upon satisfactory performance in evaluation trials, recommendation is made by the Varietal Identification Committee, which is followed by the approval of the Central Sub-Committee on Crop Standards, Notification and Release of Varieties, which operates under the Central Seed Committee constituted under Section 3 of the Act of 1966. Only after approval at this level, the variety is notified through a gazette notification under Section 5 of the Act. **Once notified, the variety becomes eligible for production and sale as certified seed, if only they meet the criteria and quality mandated under the notification under**

Section 5.

25. Closing his submissions, he submitted that there is distinction between 'seed variety' and 'seed quality', which is critically and legally significant. While the States, through their licensing authorities (under the Act of 1966), may monitor the quality of seed lots and enforce compliance under the Seeds Order, they do not have the competence to declare notified varieties as unsuitable for sale or cultivation without following the due process involving the Central Seed Committee. In the present matter, no case has been forwarded by the Government of Punjab to the Central Seed Committee for banning any notified hybrid variety of rice to address any alleged deficiencies in seed quality.

ANALYSIS OF THE APPOSITE LEGAL PROVISIONS GERMANE TO ADJUDICATE THE CONTROVERSY ENGENDERING THESE WRIT PETITIONS

26. According to the State Government, it derives the legal force for issuance of the impugned administrative orders from the Act of 1949, which is still in operation. Furthermore, this Act is also protected under the Constitution of India, as the subject of agriculture finds place in Entry No.14 in the State List II. Therefore, in view of Article 162 of the Constitution of India and the Business Rules framed by the Legislature of the State, the Director of the Department of Agriculture is well within its statutory jurisdiction to issue the impugned prohibition orders.

27. Consequently, before this Court proceeds to make the

required deliberation upon the issue(s) raised in these writ petitions, and thereupon, pen down its resultant opinion for adjudication thereof, it is deemed essential to first make a studied survey of some of the significant legal provisions.

STATUS, OBJECT AND CONTINUATION OF THE ACT OF 1949

28. To ascertain its true status, it is apt to trace the historical journey of this Act. The East Punjab Legislative Assembly enacted the Act of 1949, which received the assent of the Governor on the 24.10.1949 and was first published in the East Punjab Government Gazette (Extraordinary) of 29.10.1949. Therefore, this Act, being a pre-Constitutional Act, would fall within the ambit of 'existing law', as defined in clause (10) of Article 366 of the Constitution of India.

29. At this stage, Article 372 of the Constitution of India assumes significance in determining the effect of existing laws. The object of clause (1) of Article 372 is to sanction the continuance of existing laws until they are repealed or amended by competent authority or competent Legislature under the Constitution. Clause (2) empowers the President to, by order, make such adaptations and modifications of any law in force in the territory of India, whether by way of repeal or amendment, as may be necessary or expedient, for the purpose of bringing such law into accord with the Constitution. The first Explanation attached to this Article clarifies that the expression 'law in force' includes a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of the Constitution and not

previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.

30. The relevant clauses of Articles 366 and 372 are extracted hereunder:-

> ***"366. Definitions.-*** *In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—*
>
> *XX XX XX*
>
> *(10) "existing law" means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;*
>
> *XX XX XX*
>
> ***372. Continuance in force of existing laws and their adaptation.-*** *(1) Notwithstanding the repeal by this Constitution of the enactments referred to in article 395 but subject to the other provisions of this Constitution, all the law in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.*
>
> *(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.*
>
> *(3) Nothing in clause (2) shall be deemed—*
>
> *(a) to empower the President to make any adaptation or*

> *modification of any law after the expiration of three years from the commencement of this Constitution; or*
>
> *(b) to prevent any competent Legislature or other competent authority from repealing or amending any law adapted or modified by the President under the said clause.*
>
> *Explanation I.—The expression "law in force" in this article shall include a law passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that it or parts of it may not be then in operation either at all or in particular areas.*
>
> *XX XX XX"*

31. In exercise of powers conferred by clause (2) of Article 372, the President of India promulgated the Adaptation of Laws Order, 1950 (hereinafter referred to as the 'Order of 1950'). Pursuant to the Order of 1950, necessary amendments were made in part to ensure continuity of law. Order 2(1)(d) of the Order of 1950 defines the 'existing State law', which means an Act, Ordinance or other legislative enactment, which immediately before the appointed day was a law in force in an Indian State and was passed by the Legislature or other competent authority of such an Indian State or was made under the Extra-Provincial Jurisdiction Act, 1947, and includes any rule, order, bye-law or other instrument so in force, which was made under any such Act, Ordinance or legislative enactment. Rule 2(1)(a) defines the "appointed day" as 26th January 1950. The term 'existing law' also finds defined in Rule 2(1)(e), which means an existing Central law, existing Provincial law or existing State law. The relevant portion of Rule 2 of the Order of 1950 is extracted hereunder:-

> *"2. (1) In this Order—*
>
> *(a) "appointed day" means the 26th day of January, 1950;*
>
> *XX XX XX*
>
> *(d) "existing State law" means an Act, Ordinance or other legislative enactment by whatever name called which immediately before the appointed day was a law in force in an Indian State corresponding to the whole or any part of a Part B State; and was passed by the Legislature or other competent authority of such an Indian State or was made under the Extra-Provincial Jurisdiction Act, 1947, and includes any rule, order, bye-law or other instrument so in force which was made under any such Act, Ordinance or legislative enactment;*
>
> *(e) "existing law" means an existing Central law, existing Provincial law or existing State law."*

32. Part II of the Order of 1950 deals with the Adaptation of existing State laws. Rule 11, as encapsulated in the Part II, stipulates that all existing State laws shall, until repealed or altered or amended by a competent Legislature or other competent authority, be subject to the adaptations directed in this Order. Rule 11 is reproduced hereunder:-

> *"11. As from the appointed day, all existing State laws shall, until repealed or altered or amended by a competent Legislature or other competent authority, be subject to the adaptations directed in this Order."*

33. In view of the hereinabove extracted legal provisions, it becomes clearly established that the Act of 1949 is an 'existing State law', as defined under Rule 2(1)(d) of the Order of 1950, and therefore, falls within the sphere of 'existing law', as defined under Rule 2(1)(e) of the *ibid* Order.

34. As already stated, the Act of 1949, after amendment in part,

was adapted under the Adaptation of Laws (Third Amendment) Order, 1951 (hereinafter referred to as the 'Order of 1951'). **This means the Act falls within the ambit of 'existing law', as defined in Article 366(10), and continues to remain in force by dint of the Order of 1950 and the Order of 1951. (emphasis supplied)**

ISSUE OF REPUGNANCY BETWEEN THE ACT OF 1949 AND THE ACT OF 1966

35. Now, the issue for adjudication is ***"whether the Act of 1949 is repugnant to the provisions embodied in the Act of 1966"***. For this purpose, Article 254 of the Constitution of India assumes critical importance.

36. Clause (1) of Article 254 provides that if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void. Article 254 is reproduced hereunder:-

> *"**254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States**. - (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of*

> *the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.*
>
> *(2) Where a law made by the Legislature of a State [***] with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:*
>
> *Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State."*

37. Being an 'existing law', it cannot be, by any stretch of interpretation, treated as an enactment of Legislature of the State. The term 'Legislature of the State', as finds place in clause (1) of Article 254 relates to the Legislature of the State post the Constitution era. The law made by the Legislature of the State in Clauses (1) and (2) of Article 254 refers to the post Constitution law made by it and it is not applicable to the pre-Constitutional existing law. Article 254 gets attracted only when both the Central and the State legislations have been enacted on any of the matters enumerated in the Concurrent List, and there exists a conflict or both occupy the same field. **Therefore, the question of repugnancy, by the operation of Article 254, between the Act of 1949 and the**

Act of 1966 does not arise at all.

REPEAL OF THE ACT OF 1949 BY DINT OF OPERATION OF SECTION 16(1) OF THE ACT OF 1955

38. First of all, it is important to note that the subject of seeds is covered under Entry No. 33 in the Concurrent List. The reasons for drawing this conclusion stem from the fact that the Entry No. 33, which is extracted hereinafter, deals with the trade and commerce, production, supply and distribution of foodstuffs, which include seeds also.

> *"33. Trade and commerce in, and the production, supply and distribution of,-*
> *(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;*
> *(b) foodstuffs, including edible oilseeds and oils;*
> *(c) cattle fodder, including oilcakes and other concentrates;*
> *(d) raw cotton, whether ginned or unginned, and cotton seed; and*
> *(e) raw jute."*

39. The above aspect has been considered by the Hon'ble Supreme Court in ***Raghu Seeds & Farms' case (supra)***. In that case, the validity of the Seeds Order, which was purported to have been issued in exercise of the powers conferred by Section 3 of the Act of 1955, was challenged, besides challenge being thrown to the declaration of seeds of food-crops and seeds of fruits and vegetable as the essential commodities by the Government of India, in the order dated 24.02.1983. The challenge was thrown on the ground that, seeds of food-crops and seeds of fruits and

vegetable are not class of commodities, which could be declared by the Central Government as essential commodities for the purpose of the Act of 1955. The argument set up before the Supreme Court was that, such a commodity is not a commodity in respect of which the Parliament has power to make law by virtue of Entry No. 33 in the Concurrent List of the 7th Schedule. The Supreme Court, while giving wider scope to the Entry No.33, held that this entry deals with not merely trade and commerce in foodstuffs, but also in relation thereof in production, supply and distribution. Once it is clear that the Entry No.33 also deals with production, it is obvious that seeds are a vital commodity having direct connection with the production of foodstuffs to which it relates. It was finally held that the Seeds Order is within the domain of the Central Government under Section 3 of the Act of 1955. The relevant paragraphs of the verdict rendered in that case are reproduced hereunder:-

> *"3. By the impugned notified order dated February 24, 1983 the Central Government in exercise of the powers conferred by sub-clause (xi) of clause (a) of Section 2 of the Act declared the following seeds used for sowing or planting (including seedlings and tubers, bulbs, rhizomes, roots, cuttings and all types of grafts and other vegetatively propagated material of food-crops or cattle fodder) to be essential commodities for the purpose of the said Act, namely-*
>
> > *"(i) Seeds of food-crops and seeds of fruits and vegetables;*
> > *(ii) Seeds of cattle fodder and*
> > *(iii)Jute seed;."*
>
> *6. It is clear that the aforesaid Entry 33 deals with not merely trade and commerce in, but also the production, supply and distribution of, various products and articles mentioned in clauses*

> *(a) to (e) thereof. Clause (b) of Entry 33 mentions 'foodstuffs' as a class of commodity which includes edible oilseeds and oils. The main thing to be noticed is that the entry deals with not merely trade and commerce in foodstuffs but also in relation thereof in production, supply and distribution as well. Once it is clear that Entry 33 also deals with production, it is obvious that the seeds are a vital commodity having direct connection with the production of the foodstuffs to which it relates. Therefore, seeds of foodstuffs is an item which has direct bearing with the production of the foodstuffs and consequently it is competent for the Parliament as well as States to make laws in relation to seeds of foodstuffs. Surely seeds of food-crops and seeds of fruits and vegetables relate to foodstuffs.* ***(emphasis supplied)***
>
> *9. Therefore there is no doubt that the notified order dated February 24, 1983 was intra vires the powers conferred by sub-clause (xi) of clause (a) of Section 2 of the Act. Once the said notified order becomes valid, the Seeds (Control) Order, 1983 is within the power of the Central Government under Section 3 of the Act."*

40. Moreover, the trade and commerce, production, supply and distribution of the goods mentioned in the Entry Nos.26 and 27 in the State List II are also subject to the Entry No.33 in the Concurrent List. Entry Nos.26 and 27 are extracted hereunder:-

> *"26. Trade and commerce within the State subject to the provisions of entry 33 of List III.*
>
> *27. Production, supply and distribution of goods subject to the provisions of entry 33 of List III."*

41. At this juncture, it is also relevant to refer to the Entry No.14 in the State List II, which according to the State Government empowered it to issue the impugned administrative orders in respect of seeds. Entry

No.14 reads as under:-

> *"14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases."*

42. A collective reading of the above entries makes it abundantly clear that the subject of seeds is covered under the Entry No.33, therefore, the trade and commerce, production, supply and distribution thereof falls in the Concurrent List.

43. The Act of 1955 was brought into force w.e.f. 01.04.1955. Section 2A(1) of the Act of 1955 defines 'essential commodity' as a commodity specified in the Schedule, items (3) and (7)(i) whereof respectively cover 'foodstuffs' and 'seeds of food crops as well as seeds of fruits and vegetables'. Section 3 prescribes the powers to control production, supply, distribution etc. of essential commodities, while Section 4 speaks about the imposition of duties upon the Central Government or the State Government, or officers and authorities of Central Government or State Government, to the exercise of any such powers or discharge of any such duties. Section 5 prescribes the delegation of powers. It stipulates that the Central Government may, by notified order, direct that the power to make orders or issue notifications under Section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Central Government or to a State Government. Section 6 clarifies that any order made under Section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having

effect by virtue of any enactment other than this Act. Section 16 encloses the repeal and savings clause. The relevant provisions of the Act of 1955 are extracted hereunder:-

> *"**2A. Essential commodities declaration, etc**.—(1) For the purposes of this Act, "essential commodity" means a commodity specified in the Schedule.*
>
> *XX XX XX*
>
> ***3. Powers to control production, supply, distribution, etc., of essential commodities.—**(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, 1[or for securing any essential commodity for the defence of India or the efficient conduct of military operations], it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.*
>
> *(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—*
>
> *(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;*
>
> *(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops.*
>
> *(c) for controlling the price at which any essential commodity may be bought or sold;*
>
> *(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of, any essential commodity;*
>
> *(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;*

(f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity,—

(a) to sell the whole or a specified part of the quantity held in stock or produced or received by him or,

(b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him,

to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

*(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs *** which, in the opinion of the authority making the order, are, or, if unregulated, are likely to be, detrimental to the public interest;*

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(i) for requiring persons engaged in the production, supply or distribution of or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

[(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefore, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention

of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;]

[(j) for any incidental and supplementary matters, including, in particular, the entry, search or examination of premises, aircraft, vessels, vehicles or other conveyances and animals, and the seizure by a person authorised to make such entry, search or examination,—

(i) of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be committed and any packages, coverings or receptacles in which such articles are found;

(ii) of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such articles, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of this Act;

[(iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents.]]

(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to him the price therefore as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

[(3A) (i) If the Central Government is of opinion that it is necessary so to do for controlling the rise in prices or preventing the hoarding, of any food-stuff in any locality, it may, by notification in the Official Gazette, direct that notwithstanding anything contained in sub-section (3), the price at which the food-stuff shall be sold in the locality in compliance with an order made with reference to clause (f) of sub-section (2) shall be regulated in accordance with the provisions of this sub-section.

(ii) Any notification issued under this sub-section shall remain in force for such period not exceeding three months as may be specified in the notification.

(iii) Where, after the issue of a notification under this sub-section, any person sells foodstuff of the kind specified therein and in the locality so specified, in compliance with an order made with reference to clause (f) of sub-section (2), there shall be paid to the seller as the price therefor—

(a) where the price can, consistently with the controlled price of the foodstuff, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated with reference to average market rate prevailing in the locality during the period of three months immediately preceding the date of the notification.

(iv) For the purposes of sub-clause (c) of clause (iii), the average market rate prevailing in the locality shall be determined by an officer authorised by the Central Government in this behalf, with reference to the prevailing market rates for which published

figures are available in respect of that locality or of a neighbouring locality; and the average market rate so determined shall be final and shall not be called in question in any court.]

[(3B) Where any person is required, by an order made with reference to clause (f) of sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of foodgrains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in sub-section (3), an amount equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to—

(a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils;

(b) the general crop prospects;

(c) the need for making such grade or variety of foodgrains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and

(d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of foodgrains, edible oilseeds or edible oils.]

[(3C) Where any producer is required by an order made with reference to clause (f) of subsection (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-

section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to—

(a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-section as it stood immediately before the 1st day of October, 2009.

[(3D) The Central Government may direct that no producer, importer or exporter shall sell or otherwise dispose of or deliver any kind of sugar or remove any kind of sugar from the bonded go downs of the factory in which it is produced, whether such godowns are situated within the premises of the factory or outside or from the warehouses of the importers or exporters, as the case may be except under and in accordance with the direction issued by the Government:

Provided that this sub-section shall not affect the pledging of such sugar by any producer or importer in favour of any scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934) or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970),

so, however, that no such hank shall sell the sugar pledged to it except under and in accordance with a direction issued by the Central Government.

(3E) The Central Government may, from time to time, by general or special order, direct any producer or importer or exporter or recognised dealer or any class of producers or recognised dealers, to take action regarding production, maintenance of stocks, storage, sale, grading, packing, marking, weighment, disposal, delivery and distribution of any kind of sugar in the manner specified in the direction.

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorize any person (hereinafter referred to as an authorized controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,—

(a) the authorized controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in-charge of the management of the undertaking, except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(5) An order made under this section shall,—

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual be served on such individual—

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report there of shall be prepared and witnessed by two persons living in the neighbourhood.

(6) Every order made under this section by the Central Government or by any officer or authority of the Central Government shall be laid before both Houses of Parliament, as soon as may be, after it is made.

***4. Imposition of duties on State Governments, etc**.—An order made under section 3 may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.*

***5. Delegation of powers**.—The Central Government may, by notified order, direct that [the power to make orders or issue notifications under section 3] shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—*

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or such authority subordinate to a State Government, as may be specified in the direction.

***6. Effect of orders inconsistent with other enactments.—**Any order made under section 3 shall have effect notwithstanding*

anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

XX XX XX

16. Repeals and savings.—*(1) The following laws are hereby repealed:—*

(a) the Essential Commodities Ordinance, 1955 (1 of 1955);

(b) any other law in force in any State immediately before the commencement of this Act in so far as such law controls or authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity.

(2) Notwithstanding such repeal, any order made or deemed to be made by any authority whatsoever, under any law repealed hereby and in force immediately before the commencement of this Act, shall, in so far as such order may be made under this Act, be deemed to be made under this Act and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force until and unless it is superseded by any appointment made, licence or permit granted or direction issued under this Act.

(3) The provision of sub-section (2) shall be without prejudice to the provision contained in section 6 of the General Clauses Act, 1897 (10 of 1897), which shall also apply to the repeal of the Ordinance or other law referred to in sub-section (1) as if such Ordinance or other law had been an enactment."

44. The Act of 1949 was undisputedly in force prior to the enactment of the Act of 1955. Therefore, by dint of Section 16 of the Act of 1955, the Act of 1949 stood repealed. In order to further clarify this issue, it is important to understand the sphere of operation of the Act of

1949.

SPHERE OF OPERATION OF THE ACT OF 1949

45. The Act of 1949 was enacted to promote the use of pure and certified seeds and seedling of the improved varieties of crops recommended by the Department of Agriculture in the Punjab. This Act governs the trade and commerce, production, supply and distribution of seeds within the territory of Punjab.

46. The definition of 'improved seed', 'seedlings' and 'authorized agent' is enclosed respectively in sub-sections (i), (ii) and (iv) of Section 2 of this Act. Improved seed means the seed approved by the Department of Agriculture, Punjab; Seedlings means the plants raised from improved seed; and Authorized Agent means an agent authorised to sell improved seeds and seedlings only on behalf of the Department of Agriculture. Section 3 empowers the competent authority to declare seeds or seedlings of approved varieties of crops, and to specify the area and period, and also to restrict movement. Sub-section (a) of Section 3 mandates that, in such areas to which this Act is applied, every occupier shall use only improved seeds or seedlings, while sub-section (b) **empowers the authority to prohibit or restrict their movement.** Section 4 imposes an obligation upon the Department of Agriculture to make available improved seeds and seedlings for sale through its authorized agents. Moreover, restriction is imposed upon authorized agents to stock for sale only improved seeds or seedlings. Section 5 empowers officers of the Agriculture or of the Revenue Department to

enter any area, to which this Act extends, for the purpose of ascertaining whether improved seeds or seedlings have been grown in the land or not. Section 6 deals with penalties to be imposed upon any occupier found growing a variety of any crop other than a variety approved by the Department of Agriculture.

47. The relevant portion of Sections 2 to 6 of the Act of 1949 is reproduced hereunder:-

> ***"2. Interpretation-*** *In this Act, unless there is anything repugnant in the subject or context,—*
>
> *(i) "Improved Seed" means the seed approved by the Department of Agriculture;*
>
> *(ii) "Seedlings" means the plants raised from improved seed;*
>
> *XX XX XX*
>
> *(iv) "Authorised Agent" means an agent authorised to sell improved seeds and seedlings only on behalf of the Department of Agriculture;*
>
> *XX XX XX*
>
> ***3. Power to declare seeds or seedlings of approved varieties of crop and to specify the area and period, and restrict movement.***
>
> *In such areas to which this Act is applied—*
>
> *(a) improved seeds or seedlings only shall be used by each and every occupier;*
>
> *(b) the movement of improved seeds or seedlings from one area to another may be prohibited or restricted.*
>
> ***4. Provision of seeds and seedlings by Agricultural Department.***
>
> *(1) For the purposes of this Act improved seeds and seedlings shall be made available for sale by the Department of Agriculture, through ts authorised agents, who shall stock for sale only improved seeds or seedlings.*
>
> *(2) An authorised agent shall not withhold from sale improved seeds or seedlings to any occupier.*

XX *XX* *XX*

5. (1) Any officer of the Agriculture or of the Revenue Department, not below the rank of Agricultural Assistant or Naib-Tehsildar, as the case may be, may enter upon any land situated in the area to which this Act extends, for the purpose of ascertaining whether improved seeds or seedlings have been grown in the land or not.

(2) Any officer of the Agriculture or of the Revenue Department, not below the rank of Agricultural Assistant or Naib-Tehsildar, as the case may be, may enter upon any land or premises owned, or occupied by an authorised agent, to inspect the seed sold by him, or to inquire if he is withholding any seed from sale to any occupier, or to search, as far as may be necessary for that purpose, the aforesaid land or premises.]

6. Penalties

(1) If any occupier of land within the area to which this Act applies is found growing a variety of any crop other than a variety approved by the Department of Agriculture, he shall be liable to punishment with a fine which may extend to Rs. 100.

(2) If an authorised agent withholds from sale or wilfully refuses to sell improved seeds or seedlings he shall be punishable with fine which may extend to rupees five hundred.

(3) Any abetment of a breach of the provisions of this Act shall be punishable with fine which may extend to Rs. 100.

(4) No prosecution for any offence under this Act shall be instituted except on a complaint in writing made by the [Deputy Commissioner within whose jurisdiction the land is situated], or by an officer specially authorised by him in this behalf."

48. A comprehensive study of the above provisions clearly stipulates that the sphere of operation of the Act of 1949 is to control the trade and commerce, production, supply and distribution. Since seeds fall within the ambit of essential commodities, as already observed

hereinabove, therefore, by dint of Section 16 of the Act of 61955, the Act of 1949, in fact, stands repealed.

49. Nonetheless, even if this Court were to consider that the Act of 1949 does not stand repealed upon the coming into operation of the Act of 1955, the following issues arise for consideration:-

(i) Whether the State Government has power to impose a blanket ban on the use of hybrid paddy seeds notified under Section 5 of the Act of 1966 ?

(ii) Whether, after enactment of the Act of 1955, Act of 1966 and the Seeds Order, the Act of 1949 is deemed to be repealed ?

50. In order to discover the answers to the hereinabove formulated issues, it is imperative to first understand the object and scheme of the Central Act(s) enacted post the Constitutional era.

51. PAN India, the seed sector is governed by the provisions of the Act of 1966, the Rules of 1968, and the Seeds Order. **These three legal instruments provide a comprehensive regulatory framework for the development, production, quality regulation, sale and distribution of seeds. (emphasis supplied)**

52. The Act of 1966 regulates the varieties of seeds, which are to be made available for sale within the territory of India, and ensures the availability of quality seeds to farmers, and also prevents the sale of spurious or misbranded seeds. The Seeds Order, issued under the Act of

1955, mandates compulsory licensing of seed dealers to ensure accountability and enforceability of 'quality' norms. For better understanding, this Court deems it apposite to further examine the provisions of the Act of 1966, the Rules of 1968 and the Seeds Order.

53. Sub-section (2) of Section 2 of the Act of 1966 defines 'Central Seed Laboratory'; sub-section (3) defines 'Certification Agency'; sub-section (4) defines 'Committee'; sub-section (9) defines 'notified kind or variety'; sub-section (11) defines 'seed'; and sub-section (15) defines 'State Seed Laboratory'. Section 3 provides for the constitution of a Central Seed Committee to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it by or under this Act. Section 5 prescribes the power to notify kinds or varieties of seeds. These Sections are reproduced hereunder:-

> *"**2. Definitions.**—In this Act, unless the context otherwise requires,—*
>
> *XX XX XX*
>
> *(2) "Central Seed Laboratory" means the Central Seed Laboratory established or declared as such under sub-section (1) of section 4;*
>
> *(3) "certification agency" means the certification agency established under section 8 or recognised under section 18;*
>
> *(4) "Committee" means the Central Seed Committee constituted under sub-section (1) of section 3;*
>
> *XX XX XX*
>
> *(9) "notified kind or variety", in relation to any seed, means any kind or variety thereof notified under section 5;*
>
> *XX XX XX*

(11) "seed" means any of the following classes of seeds used for sowing or planting—

(i) seed of food crops including edible oil seeds and seeds of fruits and vegetables;

(ii) cotton seeds;

(iii) seeds of cattle fodder;

[(iv) jute seeds,]

and includes seedlings, and tubers, bulbs, rhizomes, roots, cuttings, all types of grafts and other vegetatively propagated material, of food crops or cattle fodder;

XX XX XX

(15) "State Seed Laboratory", in relation to any State, means the State Seed Laboratory established or declared as such under sub-section (2) of section 4 for that State;

XX XX XX

***3. Central Seed Committee.**—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Seed Committee to advice the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it by or under this Act.*

(2) The Committee shall consist of the following members, namely:—

(i) a Chairman to be nominated by the Central Government;

(ii) eight persons to be nominated by the Central Government to represent such interests as that Government thinks fit, of whom not less than two persons shall be representatives of growers of seed;

(iii) one person to be nominated by the Government of each of the States.

(3) The members of the Committee shall, unless their seals become vacant earlier by resignation, death or otherwise, be entitled to hold office for two years and shall be eligible for re-nomination.

> *(4) The Committee may, subject to the previous approval of the Central Government, make bye-laws fixing the quorum and regulating its own procedure and the conduct of all business to be transacted by it.*
>
> *(5) The Committee may appoint one or more sub-committees, consisting wholly of members of the Committee or wholly of other persons or partly of members of the Committee and partly of other persons, as it thinks fit, for the purpose of discharging such of its functions as may be delegated to such sub-committee or sub-committees by the Committee.*
>
> *(6) The functions of the Committee or any sub-committee thereof may be exercised notwithstanding any vacancy therein.*
>
> *(7) The Central Government shall appoint a person to be the secretary of the Committee and shall provide the Committee with such clerical and other staff as the Central Government considers necessary.*
>
> ***5. Power to notify kinds or varieties of seeds**.—If the Central Government, after consultation with the Committee, is of opinion that it is necessary or expedient to regulate the quality of seed of any kind or variety to be sold for purposes of agriculture, it may, by notification in the Official Gazette, declare such kind or variety to be a notified kind or variety for the purposes of this Act and different kinds or varieties may be notified for different States or for different areas thereof."*

54. As per Section 2(15) of the Act of 1966, 'State Seed Laboratory' means the State Seed Laboratory established or declared as such under sub-section (2) of Section 4 for that State. There are four Central bodies, as provided under the Act, which exist for the regulation of production and sales of the seeds. These four bodies are:- (a) Central Seed Committee (Section 3/Rules 3 & 4); (b) Central/State Seeds Laboratory (Section 4/Rule 5); (c) Central/State Certification Agency

(Section 8/Rule 6); and (d) Central Seed Certification Board (Section 9).

55. A conjoint reading of Section 2(9), Section 3 and Section 5 of the Act of 1966 makes it vividly clear that if the Central Government, after consultation with the Central Seed Committee, is of the opinion that it is necessary or expedient to regulate the quality of seed of any kind or variety to be sold for the purpose of agriculture, it may, by notification in the Official Gazette, **declare such kind or variety to be a notified kind or variety for the purposes of this Act and different kinds or varieties may be notified for different States or for different areas thereof.**

56. The hybrid seeds have been notified by the Central Government by dint of powers envisaged under Section 5 *(supra)*. Section 9 of the *ibid* Act encloses the provision for grant of certificate by certification agency, on an application by any person selling or otherwise supplying any seed of any notified kind or variety. Section 12 provides for the appointment of Seed Analysts, while Section 13 provides for the appointment of Seed Inspectors. Sections 23 and 25 clearly postulate the supremacy of the Central Government over action pertaining to seeds. Section 23 provides power to the Central Government to issue such directions to any State Government, as may appear to it to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made thereunder. Section 25 bestows power upon the Central Government to make rules, by notification in the Official Gazette, to carry out the purposes of this Act. Sections 9, 12, 13, 23 and 25 of the Act of

1966 are reproduced hereunder:-

> ***"9. Grant of certificate by certification agency.***—*(1) Any person selling, keeping for sale, offering to sell, bartering or otherwise supplying any seed of any notified kind or variety may, if he desires to have such seed certified by the certification agency, apply to the certification agency for the grant of a certificate for the purpose.*
>
> *(2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and shall be accompanied by such fees as may be prescribed.*
>
> *(3) On receipt of any such application for the grant of a certificate, the certification agency may, after such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates conforms to the [prescribed standards], grant a certificate in such form and on such conditions as may be prescribed:*
>
> *[Provided that such standards shall not be lower than the minimum limits of germination and purity specified for that seed under clause (a) of section 6.]*
>
> ***12. Seed Analysts.***—*The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Analysts and define the areas within which they shall exercise jurisdiction.*
>
> ***13. Seed Inspectors***.—*(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Inspectors and define the areas within which they shall exercise jurisdiction.*
>
> *(2) Every Seed Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860) and shall be officially subordinate to such authority as the State Government may specify in this behalf.*
>
> ***23. Power to give directions.***—*The Central Government may give such directions to any State Government as may appear to the*

Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made thereunder.

***25. Power to make rules**.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the functions of the Committee and the travelling and daily allowances payable to members of the Committee and members of any sub-Committee appointed under sub-section (5) of section 3;

(b) the functions of the Central Seed Laboratory;

(c) the functions of a certification agency;

(d) the manner of marking or labelling the container of seed of any notified kind or variety under clause (c) of section 7 and under clause (b) of section 17;

(e) the requirements which may be complied with by a person carrying on the business referred to in section 7;

(f) the form of application for the grant of a certificate under section 9, the particulars it may contain, the fees which should accompany it, the form of the certificate and the conditions subject to which the certificate may be granted;

[(ff) the standards to which seeds should conform;]

(g) the form and manner in which and the fee on payment of which an appeal may be preferred under section 11 and the procedure to be followed by the appellate authority in disposing of the appeal;

(h) the qualifications and duties of Seed Analysts and Seed Inspectors;

(i) the manner in which samples may be taken by the Seed Inspector, the procedure for sending such samples to the Seed Analyst or the Central Seed Laboratory and the

manner of analysing such samples;

(j) the form of report of the result of the analysis under sub-section (1) or sub-section (2) of section 16 and the fees payable in respect of such report under the said sub-section (2);

(k) the records to be maintained by a person carrying on the business referred to in section 7 and the particulars which such records shall contain; and

(l) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

57. In exercise of the powers conferred by Section 25 of the *ibid* Act, the Central Government made the Rules of 1968, in order to carry out the object and purposes of the Act. What emerges from perusal of the Rules of 1968 is that, they prescribe the complete mechanism and regulations for certifying the seeds and the seed producer, and also provides the procedure for packing, labeling etc. qua the seeds of notified kind or variety. Rules 21 and 23 embody the respective duties of a Seed Analyst and of a Seed Inspector. Rules 21 and 23 are reproduced hereunder:-

*"21. **Duties of a Seed Analyst.**– On receipt of a sample for analysis the Seed Analyst shall first ascertain that the mark and the seal or fastening as provided in clause (b) of sub-section (1) of section 15 are intact and shall note the condition of the seals thereon.*

(2) The Seed Analyst shall analyse the samples according to the provisions of the Act and these rules.

(3) The Seed Analyst shall deliver the copy of the report of the result of the analysis to the persons specified in sub-section (1) of section 16.

(4) The Seed Analyst shall from time to time forward to the State Government the reports giving the result of analytical work done by him.

***23. Duties of a Seed Inspector.** - In addition to the duties specified by the Act the seed inspector shall -*

(a) inspect as frequently as may be required by certification agency all places used for growing, storage or sale of any seed of any notified kind or variety;

(b) satisfy himself that the conditions of the certificates are being observed;

(c) procure and send for analysis, if necessary, samples of any seeds, which he has reason to suspect are being produced stocked or sold or exhibited for sale in contravention of the provisions of the Act or these rules;

(d) investigate any complaint, which may be made to him in writing in respect of any contravention of the provisions of the Act or these rules;

(e) maintain a record of all inspections made and action taken by him in the performance of his duties including the taking of samples and the seizure of stocks and submit copies of such record to the Director of Agriculture or the certification agency as may be directed in this behalf;

(f) when so authorised by the State Government detain imported containers which he has reason to suspect contain seeds, import

> *of which is prohibited except and in accordance with the provisions of the Act and these rules;*
>
> *(g) institute prosecutions in respect of breaches of the Act and these rules; and*
>
> *(h) perform such other duties as may be entrusted to him by the competent authority."*

58. In exercise of the powers conferred by Section 3 of the Act of 1955, the Central Government notified the Seeds Order. The Seeds Order primarily operates in the area of issuance of license to dealer and the validity of license. Rules 11 and 12 of the Seeds Order specifically deals with enforcement authority. As per Rule 11, the State Government may, by notification in the Official Gazette, appoint such number of persons, as it thinks necessary, to be licensing authority, and may also define in that notification the area within which each such licensing authority shall exercise his jurisdiction. Likewise, Rule 12 empowers the State Government to, by issuing notification in the Official Gazette, appoint Inspectors and also to define in that notification the local area within which each such Inspector shall exercise his jurisdiction. The Seeds Order also carries provisions for suspension/cancellation of licence issued to various dealers. Moreover, Rule 13 encloses the provisions relating to inspection and punishment. A close scrutiny of the Seeds Order makes it abundantly clear that it imposes an obligation to create an enforcement authority, viz., that the State Government may, by notification, appoint any number of persons to be licensing authority and also define the area within which each such licensing authority shall exercise his jurisdiction. Similarly, the State Government may, by

notification, appoint any number of persons to be Inspectors and define the local area within which each such Inspector shall exercise his jurisdiction. Rules 11 to 13 are extracted hereunder:-

> ***"11. Appointment of licensing authority***
>
> *The State Government may by notification in the Official Gazette appoint such number of persons as it thinks necessary to be licensing authority and may also define in that notification the area within which each such licensing authority shall exercise his jurisdiction.*
>
> ***12. Appointment of Inspectors***
>
> *The State Government may by notification in the Official Gazette appoint such number of persons as it thinks necessary to be inspectors and may in such notification define the local area within which each such Inspector shall exercise his jurisdiction.*
>
> ***13. Inspection and punishment***
>
> *(1) An Inspector may with a view to securing compliance with this Order-*
>
> *(a) require any dealer to give any information in his possession with respect to purchase, storage and sale of seeds by him;*
>
> *(b) enter upon and search any premises where any seed is stored or exhibited for sale to ensure compliance with the provisions of this Order;*
>
> *(c) draw samples of seeds meant for sale, export and seeds imported, and send the same in accordance with the procedure laid down in Schedule I, to a laboratory notified under the Seeds Act, 1966 (54 of 1966) to ensure that the sample conforms to standard of quality claimed;*
>
> *(d) seize or detain any seed in respect of which he has reason to believe that a contravention of this Order has been committed or is being committed;*
>
> *(e) seize any books of accounts or document relating to any seed in respect of which he has reason to believe that a contravention of this Order has been committed or is being committed.*

Provided that the Inspector shall give a receipt, in respect of the books of accounts or documents seized, to the person from whom they have been seized.

Provided further that the seized books of accounts or documents shall be returned to the person from whom the same had been seized after copies thereof or extracts therefrom as certified by such person have been taken.

(2) Subject to the provision of paragraph (d) of sub-clause (1), the provision, of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this clause.

(3) Where any seed is seized by an Inspector under this clause, he shall forthwith report the fact of such seizure to a Magistrate where-upon the provisions of sections 457 and 458 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as may be, apply to the custody and disposal of such seed.

(4) Every person, if so required by an Inspector, shall be bound to offer all necessary facilities to him for the purpose of enabling him to exercise his power under this clause."

59. It is apposite to record here that, as per Rule 10 of the Seeds Order, the Controller is competent to direct any producer or dealer to sell or distribute any seed, in such manner, as may be specified therein.

60. **The hereinabove discussed provisions of law make it evident that the State Government is not vested with any power to impose a ban upon notified kind or variety of hybrid seeds, which have legal force on account of Section 5 of the Act of 1966.** What is more important, at this stage, is that the State Government has, in fact, not only appointed the Central/State Seed Committee Inspectors etc., but also following the provisions of the Act of 1966.

61. In order to make further evaluation, it is important to refer to

the reply of the respondent(s)-State of Punjab, as filed in CWP-13620-2019, wherein the legality of the administrative orders dated 04.04.2019 and 10.04.2019 has been assailed. It is important to note that, in these impugned administrative orders, the State Government has prohibited the use of non-notified kinds or varieties of hybrid seeds in the State of Punjab. While defending the decision of imposing this prohibition, the State Government has come up with a stand that it has been empowered to do so by Section 5 of the Act of 1966. It is further submitted that, out of 105 hybrid seeds notified and released for different States, only 06 hybrid seeds have been recommended for the State of Punjab by the Central Government. Moreover, while referring to the various provisions of the Act of 1966, the State Government took the stand that the Act enjoins power upon State Government for establishment of Seed Certification Agency for the State to carry out the functions entrusted to the Certification Agency and any person selling, keeping for sale or offering to sell, or otherwise supplying any seed of any notified kind or variety, may apply to the Certification Agency for grant of certificate for the purpose. The relevant preliminary objections taken by the State Government, in its reply (supra), are extracted hereunder:-

> *"1. That the present writ has been filed praying for issuance of writ in the nature of certiorari for setting aside the impugned memo dated 04.04.2019 and its amendment dated 10.04.2019. The Memo has been issued under Section 5 of the Seeds Act 1966. Section 5 of the Seeds Act specifically provides that the Central Government after consultation with the Central Seed Committee to regulate the quality of seed of any kind or variety to be sold for*

the purposes of agriculture, may notify such varieties by notification in the Official Gazette for different States and different areas. The Director Agriculture has only ordered that only those varieties of hybrids paddy will be allowed to be sown in State of Punjab which are notified by the Government of India for this area and no un-notified will be allowed to be sold in Punjab.

2. That it is further submitted the similar letter dated 06-06-2018 (Annexure R-1) was issued during the previous year and the Petitioners did not challenge the same and hybrid paddy seeds of varieties which were not notified under Section 5 of the Seeds Act by the Central Government were not allowed to be sold in the State of Punjab during the previous year also.

3. That the Punjab Agricultural University Ludhiana has suggested through a report that "Though at the national level 105 hybrids have been released for different states but out of these only six following hybrids have been recommended for the State of Punjab by Central Government.

a. Ganga	*in year 2001*
b. PA 6129	*in year 2007*
c. Sahyadri 4	*in year 2008*
d. VNR 203	*in year 2013*
e. 27P22	*in year 2016*
f. HRI 180	*in year 2016*

Besides milling issues, all the hybrids are susceptible to Bacterial Leaf Blight (BLB) disease for which there is no chemical control available all over the world. Even the Central Variety Release Committee (CVRC) recommended hybrids did not meet the state variety release pre-requisites. The above recommended varieties have no/negligible area in Punjab because of their low yield and susceptible to disease. The copy of notifications dated 19-09-2013 and 30-03-2017 issued by Central Government under Section 5 of Seeds Act, 1966 is annexed as Annexure R-2 colly.

4. That the Government of India in the interest of increased

> *agricultural production in the Country, considered it necessary to regulate the quality of certain seeds, such as Seeds of Food Crops, Cottonseeds etc. to be sold for the purposes of agriculture for which it enacted The Seeds Act, 1966. The provisions of the Act show that the Central Government has to constitute a Central Seed Committee and establish a Central Seed Laboratory. It can, by notification in the Official Gazette, declare notified kinds or varieties of seeds, specify the minimum limits of germination and purity with respect to any seed of any notified kind or variety and also the mark or label to indicate that such seed conforms to the minimum limits of germination and purity specified. This Act enjoins establishment of a Seed Certification Agency for the State to carry out the functions entrusted to the certification agency and any person selling, keeping for sale or offering to sell or otherwise supplying any seed of any notified kind or variety may apply to the certification agency for the grant of certificate for the purpose....."*

62. Considering the conflicting stand (supra) taken by the State Government in the writ petitions filed in the year 2019 and in the year 2025, and in order to have a clear picture of the stand of the respondent-State of Punjab and to ascertain the true status of the Act of 1949, this Court, by way of the interim order dated 05.05.2025, posed specific queries to the learned Advocate General, Punjab. These queries related to whether, after the incorporation of the Act of 1966, the State Government is still certifying seeds as 'improved seeds' or 'seedlings', and whether it is still issuing separate licences to authorized agents for the distribution of 'improved seeds' and 'seedlings'. The relevant portion of the interim order is reproduced hereunder:-

> *"16. After hearing the parties at length, this Court, has put a*

> *specific query to learned Advocate General, Punjab, as to whether, after incorporation of the Act of 1966; (i) the State Government is still certifying the seeds and seedlings in view of the provisions of Sections 2(i) and (ii) of the Act of 1949; (ii) State Government is still issuing separate licence to authorises agents for distribution of 'improved seeds' and 'seedlings', in exercising power of Act of 1949."*

63. Although a detailed reply has been filed on behalf of the respondent-State of Punjab, the State Government maintained stoic silence on the above-referred queries. In fact, as stated by the learned senior counsels for the petitioners, the State Government has neither separately notified any seeds as per provisions of Section 2(i), nor established any mechanism of authorized dealers as per provisions of Section 2(iv) of the Act of 1949. Rather, the State Government is following the mechanism for regulating seeds as per the Central Government enactments, i.e. the Act of 1966, Rules of 1968 and the Seeds Order. **Consequently, this Court can easily infer that, despite the Act of 1966 being in force, the Act of 1949 has been dug out and invoked by the State Government merely to lend legal force to its decision to impose a ban on the use of notified kind or variety of hybrid seeds.**

64. In respect of the administrative order dated 07.04.2025, the Union of India has come up with a clear stand that, once a variety is notified under Section 5 of the Act of 1966, it attains a national legal character and becomes eligible for production and sale across the country

in specified States and agroclimatic zones. The prescribed **de-notification process** must be followed, involving Central Seed Committee, to amend, override or nullify such notification after according an opportunity of being heard to the concerned breeder or proponent of the variety. The Union of India has further clarified that, while the States, through their licensing authorities, may monitor the quality of seed lots and enforce compliance under the Seeds Order, they lack competence to declare notified varieties as unsuitable for sale or cultivation. The Central Seed Committee, under the Act of 1966, and the Seed Controller, under the Seeds Order, are the competent statutory bodies for matters involving regulatory or enforcement action against notified varieties. Moreover, it is also the stand of the Union of India that they have not received any case forwarded by the Government of Punjab, thereby proposing a ban on any notified hybrid variety of rice to address any alleged deficiencies in seed quality.

65. Let's also examine the above issue from a different perspective. There are, undisputedly, overlapping provisions among the Act of 1949, the Act of 1966, and the Seeds Order. It is also undisputed that the Act of 1949 is a pre-Constitutional enactment, and after the commencement of the Constitution of India on 26.01.1950, the subject of seeds was included under Entry No. 33 in the Concurrent List. Thereafter, the Parliament enacted the Act of 1966, which governs the same subject, namely, seeds.

66. It is an accepted legal proposition that the latest law repeals

the earlier law inconsistent therewith. The legal maxim '***LEGES POSTERIORES PRIORES CONTRARIAS ABROGANT'*** rules that *'later laws repeal earlier laws inconsistent therewith'*. The elementary rule is that if a new enactment has come on same subject, which governs the wider sphere, the earlier enactment must give place to the later, if the two cannot reconcile.

67. In the present scenario, the Act of 1966 has constituted specific authorities, who shall notify the kinds or varieties of seeds to be notified kinds or varieties. Moreover, it also prescribes the complete mechanism to be followed thereafter to regulate the trade and commerce, production, supply and distribution of seeds. The State Government has neither issued any preliminary notification notifying 'improved seeds' or 'seedlings', nor issued any notification notifying 'authorized agents' to sell such improved seeds or seedlings, under the Act of 1949 after the incorporation of the Act of 1966. This clearly reflects that the Act of 1949 has not been given effect to by the State Government; rather it created authorities under the Act of 1966 for its implementation. Therefore, the Act of 1949 shall give way to the Act of 1966.

68. It is well established principle of interpretation that when two laws relate to the same subject, the construction of earlier law may be adjusted in the light of the later one, so as to make them consistent, unless there is an irreconcilable conflict. The Latin legal maxim **'*non est novum ut priores leges ad posteriores trahantur'*** rules that *'it is not new that earlier laws are drawn to conform to later ones'*. Therefore, this Court

has onerous duty to interpret the earlier Act in such a way to give harmonious construction to that of new Act. The Act of 1949 is a pre-Constitutional Act, whereas the Act of 1966 is a post-Constitutional Act, and as observed above, it has been enacted by the Parliament by having concurrent power in view of Entry No.33 in the Concurrent List. Therefore, the State Government cannot pass any conflicting administrative orders to nullify any act undertaken by dint of the Act of 1966. In view of the above observations, **this Court has no hesitation in holding that the imposition of prohibition for use of 'notified kind or variety of hybrid seeds', by dint of Section 5 of the Act of 1966, does not pass the test of legality, hence deserves to be quashed.**

69. Now, final issue arising for consideration emerges from the submission of the learned Advocate General that the State Government draws its power to issue the impugned administrative orders from the provisions of Article 162 of the Constitution of India.

70. Reliance on Article 162 is also a completely misplaced reliance. Though Clause (1) of Article 162 extends the executive power of the State to the matters with respect to which Legislature of the State has power to make laws, however, the proviso attached to this Article imposes certain restrictions to the effect that, in case, where both Legislature of State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the

Union or authorities thereof. Article 162 is extracted hereinafter:-

> *"**162. Extent of executive power of State.-** Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws:*
>
> *Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof."*

71. This Court has evaluated the above submission of the learned Advocate General in the light of Article 162, and is of the view that, the State Government does not have any power to issue the administrative order dated 07.04.2025. The Central Government, while exercising its executive powers by dint of the Act of 1966, notified kind or variety of hybrid seeds, therefore, the State Government cannot issue conflicting directions to prohibit the user thereof. As already observed, the subject 'seeds' falls in the Concurrent List, hence both Legislature of State and Parliament have power to enact laws. With these observations, this Court can safely conclude that Article 162 does not come to rescue the impugned administrative order dated 07.04.2025.

72. Here comes the final issue for consideration as to whether the State Government has power to prohibit the sale of non-notified kinds or varieties of hybrid seeds. Although the learned senior counsels for the petitioners have, during the course of arguments, laid the principal challenge to the ban imposed by the State Government upon the use of

notified kind or variety of hybrid seeds, the petitions bearing CWP-12556-2019 and CWP-13620-2019 assail the legality of the State Government's decision to impose ban on the use of non notified kind or variety of hybrid seeds. Nonetheless, as recorded in paragraph 14 of this verdict, the learned senior counsels have argued that the State Government cannot unilaterally impose prohibition upon the use of seeds, which have been notified by the Central Government under the Act of 1966.

73. This Court has already discussed in detail the three apposite legal instruments, i.e. the Act of 1955, the Act of 1966 and the Seeds Order. All these three legal instruments jointly form a comprehensive regulatory framework for the development, production, quality regulation, sale and distribution of seeds. Section 3 of the Act of 1955 empowers the competent authority to issue a prohibition order for sale of any essential commodity ordinarily kept for sale. Non notified seeds do not assume legal sanctity as assumed by notified seeds under the Act of 1966. In the case at hand, the prohibition has rightly been imposed by the State Government upon the non notified seeds, and this power is conferred upon the State Government by the Act of 1966 and Section 3 of the Act of 1955.

FINAL ORDER

72. In summa, this Court holds as under:-

(a) The administrative order dated 04.04.2019, which was partially modified vide administrative order dated

10.04.2019, thereby imposing prohibition only upon the use of those kinds or varieties of hybrid paddy seeds in the State of Punjab which are non-notified varieties, while allowing the use of kind or variety of hybrid seeds notified by the Government of India under the Act of 1966, is within the sphere of the Act of 1966 and passes the test of legality. Therefore, ***CWP-12556-2019 and CWP-13620-2019 are dismissed*** *and the* ***administrative orders dated 04.04.2019 and 10.04.2019 are upheld.***

(b) The administrative order dated 07.04.2025, whereby prohibition has been imposed upon the use of notified kinds or varieties of hybrid paddy seeds in the State of Punjab, does not pass the test of legality. Therefore, ***CWP-11025-2025 and CWP-11060-2025 are allowed*** *and the* ***impugned administrative order dated 07.04.2025 is set aside.***

74. A photocopy of this order be placed on file of each connected case.

(KULDEEP TIWARI)
JUDGE

August 18, 2025
devinder

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No