

MONSANTO PAYS FOR ITS SINS

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In a definitive legal action that many would say was coming, some of the most powerful anti-trust lawyers in America have filed a case against the Monsanto Company. The case has been filed at the instance of a group of influential environmental NGOs in the US. Jeremy Rifkin, well-known environmental activist and long time critic of Monsanto is the actual initiator of this action and a principal carrying force in the lawsuit. What should be particularly intimidating for Monsanto is the high caliber battery of lawyers who have filed the case. These are people who have fought and won some of the most high profile class action suits, notably the one against Microsoft and the Exxon Valdez oil spill in Alaska.

The case against Monsanto was filed on behalf of a coalition of small farmers and farmer groups and is classified as a 'class-action' suit in the US. These suits are particularly tricky and since they are filed on behalf of a whole class of people, are usually perceived as an action seeking to right the wrongs done to large numbers of people; in this case the farming community. A similar class action suit brought against tobacco companies was decided in favor of the people and against the tobacco giants. This led to a court decision following which the tobacco majors will have to pay out millions of dollars in compensation to aggrieved victims who had filed a class action against the damage done to them. Seeing the history of class action suits, Monsanto has every reason to be worried.

The case against Monsanto is for prematurely pushing genetically modified seeds onto the market without adequate bio-safety tests. The lawsuit charges that Monsanto has given farmers fraudulent guarantees about the safety and marketability of the new genetically engineered seeds. In addition to this, the company is accused under antitrust laws of attempting to control a major portion of the world's seed supply. Specifically, Monsanto is accused of being central to the efforts to form an international cartel that conspires to control the world market in maize and soybean. Together with Monsanto, the lawyers have named nine other Life Sciences giants like Novartis and Du Pont as co-conspirators.

In addition to their legal problems, Monsanto has to worry about the stock market. Wall Street is putting strong pressure on the company to spin off its Searle pharmaceutical business. Whereas independent Searle shares are selling at \$ 38 a share, combined with Monsanto, their price goes up a paltry \$ 3 to 41.25 a share. And that is not all. Faced with the millstone of its agribusiness and its heavy investments made to buy up all the competition (at a cost of 8.5 *billion* dollars) Monsanto has had to back out of the proposed acquisition of Delta –Pineland. This is the company, which owns the so-called Terminator technology. It is now threatening Monsanto with an 81 million-dollar 'break-up fee' for backing out of the acquisition.

Actually Monsanto has no one but itself to blame for its present ills. Its overarching ambition, its greed and its scorn for the power of public opinion has brought it to a position where the global industry has begun to question the survival of the company as a commercially viable concern. Instead of engaging in a public dialogue with an obviously concerned civil society, Monsanto decided to use the power of the market and its influence with governments to quell public disquiet about its actions. In the US, it succeeded in convincing the Food and Drug Administration (FDA) that most stringent authority on food and drug safety, that there were no areas of concern in genetically engineered food! Instead of a transparent policy on foods produced by this new technology, Monsanto aborted the efforts to have a national and international policy on labeling of Genetically Modified foods (GM foods). In showing

such contempt for consumer concerns and the right of the consumer to choose the food s/he wishes to eat, Monsanto succeeded in raising a whole host of real and imaginary fears. These are now coming back to haunt it.

In India, Monsanto conducted its field trials for genetically altered cotton (a Bt cotton variety) along with its partners, the Indian seed company Mahyco. There was complete lack of transparency about the tests. No public disclosure was made about the nature and scope of the tests. The local farmers were not informed about what was being tested and what the dangers of such tests were. Nor was the consent of the local farming community taken. Farmers were not informed about the precautions they must take. Most seriously, standard bio-safety guidelines were flouted concerning isolation distances and physical containment of the plots where the transgenic cotton was being grown. For behaving in this arrogant fashion, Monsanto had to face the ire of the Indian farming community and the Indian people. There is now a public interest litigation against it and Monsanto has become a bad word in Indian civil society.

At the level of the science, adopting and promoting the terminator technology is an example of Monsanto's unbridled greed. This technology of producing sterile seeds incapable of germinating, is geared to only one purpose: total control of the seed sector. This will lead to high, monopolistic prices for seeds and the utter marginalisation of the world's poor farmers. This single policy has done more to wipe out Monsanto's self-constructed image as a pro-farmer company dedicated to removing hunger, than all its other acts put together. So great has been the revulsion at the greed of this Life Science giant that governments and institutions have come out with bans against the Terminator. Gordon Conway, president of the Rockefeller Foundation was constrained to issue an appeal to Monsanto to stop the Terminator in the interest of science and the public good.

Another sin of commission being laid at Monsanto's door is the push for the rigid regime of Intellectual Property Rights (IPRs) which is embodied in the TRIPs chapter of the WTO. Although Monsanto is not alone in pressurising the US government, the other gene giants being fulsome partners, it is the most visible face opposing flexible IPRs for developing countries and pushing for straight patents on seeds. The seed patent is designed to establish monopolies and to steal from the farmers of developing countries the land races and traditional varieties that companies use as the foundation material for new varieties. The furore against seed patents is strong and vocal in Asia, Africa, and Latin America as also in pockets in Europe and the US. If Monsanto does not retract its push for monopolistic IPR regimes, the going will get even harder for the company which should expect to face large scale boycotts.

Monsanto's troubles are far from over. It is seen as the single point focus of all that the public perceives is wrong with biotechnology. And there precisely lies the trouble. It would be a colossal mistake to weld Monsanto and Biotechnology into one identity. So that rejection of Monsanto would indirectly lead to rejection of biotechnology. Biotechnology as a science and a technology has significant potential for developing countries in the form of perhaps more and better food. Even though the direction of research in the hands of the trans-nationals like Monsanto do not allow one to believe that this could be true!

Monsanto's (and others') misuse of genetic engineering for personal aggrandizement has been on such a colossal scale that one could easily overlook the fact that this technology could indeed have something to offer. It would be shortsighted to damn the technology just because a strong case is emerging for damning Monsanto. When civil society puts Monsanto in the dock it should be sure that it is the company's performance that is being judged, not the science of genetic engineering. The evaluation of that science will have to take place in a different place and using a different set of standards.