

## PRESS RELEASE

### PepsiCo backs out in court

**PepsiCo quietly withdraws case on receiving CSE's counter affidavit, which argued that the claims the Cola giant made in its petition were incorrect and misleading. Withdrawal of the writ petition against CSE means PepsiCo accepts its products do not meet international standards**

**New Delhi, December 16, 2003:** PepsiCo today withdrew its writ petition filed in the Delhi High Court against the Centre for Science and Environment (CSE) and the Government of India in the matter concerning pesticide residues found in their soft drinks. CSE had filed a counter affidavit to the petition on December 15, 2003, which challenged the cola giant's claims in its petition, calling these absolutely misleading and false. PepsiCo withdrew quietly, early in the morning today, just before the case was listed for hearing in the court. The corporation did not inform CSE's lawyers of its intentions, as is customary and expected in legal practice. It is clear that PepsiCo had no answers to the issues raised by CSE in its counter affidavit.

It will be recalled that PepsiCo filed a writ petition on August 8, 2003, days after CSE had released its report revealing high and unacceptable levels of pesticide residues in the soft drinks manufactured by PepsiCo. PepsiCo had questioned the right of CSE to conduct the study, had alleged mala fide and called its report dubious and irresponsible. At the last hearing on October 28, 2003, PepsiCo had refused to withdraw the writ petition even though the government -- in its response -- had stated that the writ was "highly frivolous, vexatious, vague and baseless, merely done to attract media attention". However, today, in a sudden change of heart barely hours after it received the CSE counter, PepsiCo has withdrawn the case and accepted the role of the Joint Parliamentary Committee probing the issue.

In its writ petition, PepsiCo had claimed that its products met standards and norms that are "much more stringent than those adhered to internationally". Responding to this, CSE in its counter affidavit drew the attention of the court to the government test (and its report) that had also detected pesticide residues in cola samples.

In this matter, the PepsiCo affidavit had said: "*Because the First Respondent (the government) would have found, upon such investigation and enquiry, if it would have taken the trouble of initiating one, that products of the Petitioner, particularly carbonated soft drinks, adhere to such standards and norms that are much more stringent than those insisted upon internationally.*"

The CSE counter affidavit said that this contention of PepsiCo has been proven incorrect and misleading and stood controverted by the laboratory reports filed in the affidavit of the government in this matter. The CFTRI and CFL reports, conducted to enquire into the matter on behalf of the government, had found pesticide residues 1.2 to 5.22 times higher than the EU limit for total pesticide residues in drinking water in 75 per cent of the samples. The government in its response stated that "*the assertion of the soft drink manufacturers that their product is within the EU limits has also not proved to be correct for 100 per cent of the samples*".

Furthermore, comparing the government laboratory findings with international standards reveals that 75 per cent of the samples tested by both laboratories would fail Australian norms for water used for

soft drinks and that 75 per cent of the samples tested by both laboratories would further fail USEPA norms for water used in soft drinks!

On this basis, CSE had submitted that the stance taken by PepsiCo (that it meets much more stringent norms than those adhered internationally) was completely false.

On the need for standards for this industry, the High Court had noted in its August 11, 2003 order that no standards for soft drinks existed in India. In its counter affidavit, CSE referred to PepsiCo's contention that the company met its own quality norms, "which conform to and are consistent with European Union norms, far more stringent than those prescribed by WHO". Given this contention, CSE believed that the company should have "no objection to laying down stringent norms for both inputs as well as final products" and requested the court to direct the government to set these norms, which the company claimed it was already adhering to.

PepsiCo's sudden and quiet backtracking from the case, CSE believes, demonstrates its admission of guilt and its inability to confront the court on crucial issues of public interest.

Furthermore, the PepsiCo writ had asked for the court to pass interim orders directing CSE to withdraw its materials from circulation and to take its study on pesticide residues off its website. CSE had pointed out that the writ was intimidating in character and designed to silence the voice of the public on issues that are the concern of all. It had pointed out that such lawsuits, called Strategic Lawsuits Against Public Participation or SLAPP for short, are commonly filed by corporations in the US.

CSE hopes that PepsiCo in its deposition to JPC will now accept, its failure to meet internationally agreed standards in India and will accept the need for stringent standards to safeguard public health in the county.

*For the PepsiCo writ petition and the CSE counter affidavit, please visit our website ([www.cseindia.org](http://www.cseindia.org)) or write to Souparno Banerjee at [media@cseindia.org](mailto:media@cseindia.org) or call on 9810098142.*