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PRESS RELEASE

CSE WELCOMES HIGH COURT DECISION

The Centre for Science and Environment welcomes the decision of the High Court in response to a petition filed by PepsiCo India Holdings Pvt Ltd and Others, calling for an expert committee to review the findings of pesticide residues in carbonated soft drinks. The experts' findings are to be made available in 3 weeks. All sides agreed that the government should choose the laboratories where the testing is done, and samples for testing should be picked up at random from the market, not provided by the company.

The court endorsed CSE's concern over the lack of standards for permissible pesticide residues in soft drink sold in India. It has instructed the government to review the standards after comparing with the standards that may exist in other parts of the world.

The PepsiCo petition, filed on Friday, questioned CSE's credibility and motivation, and made several unsubstantiated allegations, amounting to questioning the right of a public interest organisation to carry out such tests and make them public. It refers to CSE as having "no legal authority or recognition". At the same time, it asserts the 'constitutional' right of the Petitioners to continue to sell their products.

Such lawsuits, where the rights of individuals or institutions to bring matters of public interest to the notice of the public are questioned, are common in countries like the US. Common enough to be given a name: **Strategic Lawsuits Against Public Participation** or **SLAPP** for short. SLAPPs amount to silencing people into submission. They are not just "intimidation lawsuits". They question the rights of individuals and institutions to speak out on a public issue, and to communicate their views to government officials. They question the right of people to tell their elected representatives what they think, want, or believe in – in effect, for attempting to influence government action.

The dangers of allowing such lawsuits are well documented in the US. "Scientists and concerned advocates must be able to express their legitimate concerns. Any restriction on speech about the quality and safety of our food is dangerous, undemocratic and unconstitutional," says David Bederman, Associate Professor of Law at Emory University Law School.

In response, New York, California and about a dozen other states have anti-SLAPP or citizen protection acts. California has an anti-SLAPP statute (California Code of Civil Procedure Sec

425.16), which recognises that it is in the public interest to encourage participation in matters of public significance, and this participation should not be 'chilled' through abuse of the judicial process. It provides for speedy identification and dismissal of such lawsuits at the beginning of the case.

The petition sought an interim order to stop CSE from publishing 'unsubstantiated' statements or materials against the petitioners, and to withdraw the material from the website. Counsel for the petitioner, Harish Salve, announced at the start however that they would not press these charges, withdrawing all charges of malafide against CSE from the present petition.

According to CSE director Sunita Narain: "The right of individuals and organisations like CSE to carry out action in public interest and in favour of public health cannot be questioned. It is a right to hold industries and governments accountable for their action, and should be strengthened - not suppressed."