

**GOVERNMENT OF INDIA
CHEMICALS AND FERTILIZERS
LOK SABHA**

UNSTARRED QUESTION NO:4598
ANSWERED ON:20.12.2012
ISSUANCE OF COMPULSORY LICENCE
Das Shri Khagen

Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

- (a) the bone of contention between the Government and Novartis on Glivec;
- (b) whether the Novartis has approached the Supreme Court;
- (c) if so, the progress of the case;
- (d) whether the Government can issue the compulsory licence when a case is pending before the court citing the public interest; and
- (e) if not, the reasons therefor?

Answer

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION AND MINISTER OF STATE IN THE MINISTRY OF CHEMICALS AND FERTILIZERS (SHRI SRIKANT KUMAR JENA)

(a) to (c): M/s. Novartis filed an application in the year 1998 for grant of patent for the anti-cancer drug `Glivec`. The office of Controller General of Patents, Designs and Trade marks (CGPDTM) examined and rejected the said application on the ground of the provisions contained in Section 3(d) of the Patent Act, 1970. M/s Novartis appealed in the High Court of Chennai against the said decision of the patent Office. After the operationalization of Intellectual Property Appellate Board (IPAB), the said case stood transferred to IPAB, which in its decision dated 26th June, 2009 rejected the appeal of M/s Novartis on the grounds of Section 3(d). M/s Novartis then filed the Special Leave Petition against the said decision of the IPAB in the Supreme court of India. The case came up for hearing in the Supreme Court of India on 11.11.2011 and the hearing has been concluded on 11.12.2012. The case is still sub-judice.

(d) & (e): No compulsory license has been issued in this case. However, it is informed that the Compulsory License can be issued only for a patent which has been granted by Office of CGPDTM, whereas, in the present case the patent was not granted by Office of CGPDTM and hence the question of issue of Compulsory License does not arise in this case.