

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

Original Application No. 107/2014 (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

Dr. Subhash C.Pandey,
G.SEED, HIG-1/8, Shivani Complex,
6 No. Stop, Shivaji Nagar,
Bhopal – 462016 (MP).

.....Applicant

Versus

1. Union of India
Through the Secretary,
Ministry of Environment & Forests,
Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110003.
2. State of Madhya Pradesh
Through Chief Secretary,
Government of Madhya Pradesh,
Mantralay, Bhopal, MP.
3. Madhya Pradesh State Disaster Management Authority
Through the Executive Director,
Police Radio Headquarter Campus,
Bhadrabada Road,
Bhopal (MP).
4. Department of Farmer Welfare & Agriculture Development
Through the Principal Secretary,
Mantralay, Bhopal (MP).
5. The Chief Electoral Officer,
Nirvachan Sadan, 17,
Arera Hills, Bhopal (MP).
6. Madhya Pradesh Forest Department,
Government of Madhya Pradesh
Principal Chief Conservator of Forests,
Satpuda Bhawan, 1st Floor,
Bhopal (MP).

7. Madhya Pradesh Pollution Control Board,
Through the Member Secretary,
E-5, Arera Colony, Bhopal (MP).
8. M.P.Bio Diversity Board
Kisan Bhawan,
Arera Hills, Bhopal (MP).
9. Indian Meteorological Department
Mausam Bhawan, Arera Hills
Jail Road, Bhopal (MP) – 462011.
10. Agriculture Insurance Company of India Ltd.
13th Floor, Ambadeep Building,
Kasturba Gandhi Marg,
Connaught Place, New Delhi – 110001.
11. Directorate of Town and Country Planning
Government of Madhya Pradesh
Paryavaran Parisar, E-5, Arera Colony,
Bhopal (M.P.)

.....Respondents

Applicant :
Dr. Subhash C.Pandey

Counsel for Respondent no. 1:
Shri Om Shankar Shrivastav, Advocate &
Shri Dharamvir Sharma, Advocate

Counsel for Respondent no. 2, 3 & 4:
Shri Sachin K.Verma, Advocate

Counsel for Respondent No. 7 :
Ms. Parul Bhadoria, Advocate for
Shri Purushaindra Kaurav, Advocate

Counsel for Respondent No. 8 :
Shri Rohit Sharma, Advocate for Shri Deepesh Joshi, Advocate

Counsel for Respondent No. 10 :
Shri N.C.Das, Advocate

JUDGEMENT

1. The Original Application was filed by the Applicant on the ground that the State of Madhya Pradesh had faced severe hailstorm on 27.02.2014 and 10.03.2014 causing extensive damage to the standing agriculture crops in the State. It was alleged that as a result of such severe hailstorm and heavy rainfall at the time when the crops were about to ripen, the same have become unfit for being harvested and the farmers have incurred huge losses. It was alleged that the said damaged crops were being disposed of by the farmers by resorting to large scale burning as the same had become useless.
2. It was alleged that as a result of the burning of such damaged crops and also there being dumped into water bodies, it was causing severe environmental pollution both air as well as water, particularly the air pollution
3. It was also alleged that apart from the environmental issue, humanitarian issues were also involved since after having spent huge amount of money on the purchase of seeds, fertilizers, pesticides, diesel, etc. by taking loans and having incurred huge losses, the farmers were getting disheartened and there had been many cases of suicides committed by the farmers in despair.
4. It was also brought to the notice of the Tribunal that the farmers are yet to receive the amount by way of crop insurance due to them for similar damages that occurred to their crops in the previous years.
5. This Tribunal vide order dated 13.03.2014 directed notice to be issued to the Respondents. After service of notice, when the matter was listed on 02.04.2014, an application came to be filed by way of M.A.No. 166/2014 for impleading among others the Indian Meteorological Department and General Insurance Corporation of India which was dealing with Crop

Insurance Schemes and which were later on taken over by the Agriculture Insurance Company of India Ltd. (AIC). Vide order dated 02.04.2014 notices were ordered to be issued to the newly impleaded parties. After the pleadings were received, the matter was proceeded with, basically on the issue pertaining to the damage caused to the environment as a result of unscientific methods being adopted for disposal of the damaged standing crops as well as crop residue by the farmers thereby causing pollution along with the ancillary issue pertaining to relief and settlement of insurance claims of the farmers since the AIC had been issued notice by this Tribunal.

6. When the matter was heard on 25.04.2014, on the request of the parties, a committee was ordered to be constituted to be chaired by the Principal Secretary, Farmer Welfare and Agriculture Development, Government of Madhya Pradesh which would include members i.e., 1. Official of the Animal Husbandry Department, 2. Official of the State Pollution Control Board 3. Official of the State Bio Diversity Board 4. Technical Expert from the Jawaharlal Nehru Krishi Vishwavidyalay, Jabalpur of the rank of Sr. Scientific Officer and 5. Representative of the Meteorological Department to consider all related issues such as adverse impact on the standing crops as a result of occurrence of natural calamities and disasters, disposal of such damaged crops as well as burning of crop residue which leads to air pollution and also to suggest better means and practices to be adopted by the farmers for the preservation and protection of environment as well as for the benefit of farmers and for efficient and better management as well as utilization of the biomass in a more productive manner. It was also directed that the Madhya Pradesh State Pollution Control Board (MPPCB) should constitute a team of scientists to carry out research and collect data on a pilot

basis on the effects on the environment particularly on the local ecosystem as a result of burning of crop residue so that the said committee under the chairmanship of the Principal Secretary, Farmer Welfare & Agriculture Development may also take note of the findings based upon the aforesaid research for including in their recommendations.

7. In the meanwhile, it was also brought to the notice of this Tribunal that at the Principal Bench of National Green Tribunal, New Delhi Original Application No. 118/2013 in case of Vikrant Kumar Tongad V/s State Environment Pollution Authority & Ors. was reported to be pending in which identical issues were involved and certain directions have been issued to the Ministry of Agriculture, Govt. of India to frame comprehensive guidelines for scientific disposal and management of crop residue to curtail and discourage the farmers from the practice of burning of crop residue which causes severe air pollution. In the meanwhile, the officials of AIC informed the Tribunal that based upon the surveys conducted on the damage that occurred to the standing crops in the State of Madhya Pradesh assessments had been made and it was found that the standing crops worth Rs. 2976.00 Crores had been damaged during the year 2013 and the reports had been sent which were being scrutinized by the Claims Committee for settling the insurance claims of the affected farmers.

8. This Tribunal was of the opinion that since the aforesaid assessment of the damaged crop pertains to the year 2013 and more than a year had elapsed, whether there was any provision in the scheme for grant of provisional relief/compensation to the farmers. The officers from the AIC submitted that there is no such provision in the Scheme with regard to crop insurance for grant of provisional relief to the affected farmers. Accordingly, the

provisions of the scheme were examined by the Tribunal since we were of the opinion that for mitigating the hardship of the affected farmers who have suffered due to damage to their crop and as official assessment and scrutiny would take a substantial period of time, as in the present case relief for damage to the kharif crop of 2013 was still to be paid, not providing any interim relief does not at all mitigate the hardship of the farmers for whose benefit the National Agricultural Insurance Scheme (NAIS) has been brought into force. The Tribunal finds that under Para 18 of the NAIS it was provided that :-

“The operation of the scheme will be reviewed annually, and modifications as may be required would be introduced. Periodic Appraisal Reports on the scheme would be prepared by the Ministry of Agriculture, the Government of India / Implementing Agency”.

While we are of the view that the scheme provides for periodical review and modifications, there is a need to take into account of granting interim relief to the affected farmers for mitigating their hardships as a result of damage to their crops as it takes considerable time to settle their final claims. Otherwise, the crop insurance scheme itself becomes meaningless. In this behalf, the provisions made under Section 140 read with Section 166 of the Motor Vehicles Act 1988 are good examples where in the event of motor vehicle accident, the interim relief is available to the insurer pending adjudication of the claim. A similar provision needs to be provided as interim relief to the farmers.

9. We would accordingly, draw the attention of the Ministry of Agriculture, Government of India as well as Agriculture Insurance Company of India Ltd. that with a view to make crop insurance meaningful for the benefit of the farmers who had suffered loss of their crop, some measures of granting

interim relief should be considered so that the farmers in despair do not resort to desperate step of committing suicide. For this purpose, in the event of the application being submitted, the need is for appointing a competent authority in this behalf who must, within a specified period of time, carry out survey of the affected field of a particular farmer and make his recommendation which in turn, if felt necessary, may be scrutinized at a higher level and relief for the same to the extent of atleast 25% should be liable to be paid within a specified period of time of about 30-45 days. It has been noticed throughout the country that the despair felt by the farmers who are under stress often makes them in taking extreme step of committing suicide which in turn pushes their dependant families into a more traumatic situation.

10. It was also brought to our notice that under the existing scheme no compensation can be paid till the District is declared as adversely affected when such calamities occur damaging the crops. In this regard preliminary reports submitted by officials at Block level and by block Revenue officials even at Tehsil level should be considered sufficient enough guidelines to provide immediate relief as sometimes such disasters/calamities may be localized and not widespread so as to cover the entire Revenue District. Therefore, the scheme needs to be modified so as to make it more meaningful and to promptly provide succor to the farmers in distress.
11. Since we have found that assessment for the payment of compensation for the year 2013 was still pending and this application pertains to the damage caused to the crops in the year 2014 for which assessments were yet to be carried out, this Tribunal emphasized upon the officials of the AIC that they must expedite the matter with regard to the finalization of the claims. While,

we are aware that the loss which had been assessed for 2013 kharif crop at Rs. 2187.43 crores was a substantial amount requiring contribution from the Central Government, the State Government and the AIC as per the working of the scheme, it was directed that the finalization of assessments must be expedited. During the pendency of the application before this Tribunal, the said amount had finally been sanctioned for being disbursed to the farmers concerned. However, claims for 2014 are yet to be processed and assessments made and compensation is yet to be decided and paid. There is need to expedite the same.

12. As regards the basic issue pertaining to the impact on the environment as a result of unscientific means adopted by the farmers for disposal of the damaged crop and crop residue by burning the same leading to air pollution, the Committee directed to be constituted by this Tribunal held its meeting on 06.06.2014 and the report of the Committee with its recommendations was filed before this Tribunal alongwith the affidavit dated 08.07.2014. The aforesaid issues were again considered by the Tribunal while hearing the matter on 28.07.2014. The Committee made certain recommendations which are as follows :

- i. To issue directions to all the District Collectors for giving permission for mechanized harvesting of crop only when combined harvester is used along with straw reaper.*
- ii. District Collectors/District Magistrates to enforce prohibitory orders under Section 144 Cr.P.C. for discouraging the farmers from burning of Narwai crop (residue) in the fields.*
- iii. It was suggested that straw reapers along with combined harvester should be provided to the farmers so that straw residues of Agriculture output may be removed during harvesting itself and therefore, there will be no necessity to the farmers to burn the fields after harvesting.*
- iv. It was further suggested that use of happy seeders and zero tillage along with production of vermicompost should be promoted so that the farm residue could be converted into manure.*

- v. *Creation and establishment of accustomed hiring centres to be established under the State's sponsored schemes wherein aforesaid machines and technology shall be made available to the farmers by the State Government.*
- vi. *It was also noted that one of the main reasons for using of mechanised harvesters resulting in burning of narwai crop (residue) is non availability of farm labourers.*
- vii. *It was estimated that if the total estimated production of 332 lakh tons of Narwai in the State of Madhya Pradesh gets effectively converted into biomass, it will not only increases organic carbon in the soil but will be highly productive and helpful for water conservation.*
- viii. *It was also decided in the meeting to get an appeal issued by the Hon'ble Chief Minister apprising the farmers in the State not to indulge in burning of Narwai and highlighting ill effects of burning as opposed to its potential value and benefits.*
- ix. *Drawing up of a policy for biomass management at the State level.*

13. On 28.07.2014 itself, the Learned Counsel for the State submitted that the State Government had taken a decision on 25.07.2014 for granting subsidy to the farmers for procurement of "straw reapers". The aforesaid issue of straw reaper was felt necessary in the light of the fact that the harvesting of Rabi crop is primarily being now undertaken on a major scale through combined harvester which results in a substantial quantity of straw (stem of wheat plant) being left standing in the fields. Such left over standing straw is generally burnt by the farmers before the field is ploughed and made ready for the sowing of the kharif crop post summer and prior to the monsoon. A study made on the issue was also submitted before us to indicate that as a result of such large scale burning of the left over crop residue in the fields from Central to North India, presence of Carbon particles in the atmosphere increases to a considerable extent and subsequently with the advent of south western monsoon, these particles are carried away through wind currents to faraway places and deposited there including on the mountain tops in the Himalayas affecting the glaciers.

14. While we are not in a position to either accept or comment on the same, the fact remains that it is a major problem as the labour costs have gone up and due to the non-availability of labourers for harvesting the crops manually which has become expensive, the farmers are resorting to mechanized way of harvesting by using harvester combine in most parts of the country. Therefore, the crop residue which is not collected after the harvesting is done mechanically is left in the fields and there is no suitable method available for managing the crop residues. By leaving these residues in the fields it becomes almost impossible to manually collect the same which in turn gives rise to the same being ignited and put on fire by the farmers before the field can be ploughed back for sowing next crop. Crop residues burning influences atmospheric air quality by emitting pollutants like Sulphur dioxide, Oxides of nitrogen, Carbon monoxide, Black carbon, etc. and leads to air pollution affecting the human health and contributes to global warming and climate change. It is in this background that the Government of Madhya Pradesh, after constitution of the Committee by this Tribunal, which met on 06.06.2014 and subsequently on 25.07.2014 under its order dated 25.07.2014 decided to procure straw reapers for being distributed to the farmers with the harvesters combine for collection of straw so that the same can be used as fodder for animals and thereby reducing the chance of burning which otherwise leads to air pollution damaging the environment.

15. While the issue with regard to burning of the crop residue in the fields post harvesting of the crops, is taken care of by deploying straw reapers on a large scale and making them available to the farmers, as regards the damaged crops due to natural calamities, it was suggested by the Committee

that the farmers will be advised through the Farmers Welfare & Agriculture Department and encouraged for better management of biomass by converting it into organic manure by composting and use it effectively as a fertilizer replacing chemical fertilizers which not only saves the cost of raising crops but improves the soil fertility and prevents pollution.

16. On 18.09.2014, after hearing the Learned Counsel for the parties, the Tribunal took note of the fact with regard to the manner of implementation of the NAIS after it was submitted that an amount of Rs. 2187.43 Crores had been received and the same would be credited into the respective bank accounts of the farmers through the Nodal Agency. While dealing on the aforesaid issue on 18.09.2014 and after considering the NAIS scheme, the Tribunal recorded as follows:

“As per Para 10 of the aforesaid scheme, it was submitted that cut-off date for receipt of proposals in respect of damage/loss to the crop for the Kharif season is 31st January and for the Rabi Season it is 31st July. It was pointed out that under Para 18 dealing with the management of the scheme, a review system has been developed according to which every State forming part of the aforesaid scheme, is required to have District Level Monitoring Committees. The provision in this behalf reads as follows:

‘The Scheme will be implemented in accordance with the operational modalities as worked out by the IA in consultation with the Department of Agriculture and Co-operation.

During each crop season, the agriculture situation will be closely monitored in the implementing State / Union Territories. The State / UT Department of Agriculture and District Administration shall set up a District Level Monitoring Committee (DLMC), who will provide fortnightly reports of Agricultural situation with details of area sown, seasonal weather conditions, pest incidence, stage of crop failure (if any), etc.’

It was submitted by the Learned Counsel for the Applicant that in fact, it is only after the issue with regard to crop failure is raised and then only the concern for assistance is taken up and then the surveys with regard to the crop damage, etc. are conducted. It was submitted that in case the DLMC which are required to provide fortnightly reports of the agricultural situation including reviewing the seasonality, weather conditions, pest incidence, stage of crop

failure, are performing their duty such a situation of carrying out the surveys and asking for Central teams to come to conduct the same would not be necessary if the aforesaid data which is required to be provided fortnightly is already available.

We would therefore, direct the State to submit whether such DLMCs have already been constituted within the State and whether they are providing the aforesaid data as mentioned in the scheme to the concerned authorities. In case such reports are being prepared, Shri Verma shall file before us such reports from any of the 5 Districts for the month of August 2014. In case such committees have not been constituted so far, the Agriculture Department of the State shall take necessary action in this behalf for constitution of such committees which may be beneficial in the event of any such crop failure.”

17. Shri Sachin K.Verma, Learned Counsel appearing for the State, sought further time to apprise whether further steps in this behalf had been taken as directed on 18.09.2014.
18. Having considered the aforesaid request, we are of the view that there would be no necessity of keeping the matter pending before us and accordingly we would dispose of this application directing the State Government to constitute Committees even at the District level and the compliance report for the entire State shall be submitted before this Tribunal within 3 months. The State shall also submit its report by way of compliance on the steps taken pursuant to the decisions taken and recorded in the order dated 25.07.2014 issued by the Ministry of Agriculture, Government of Madhya Pradesh filed before us on 28.07.2014 as well as the implementation of the recommendations made by the Committee which met on 06.06.2014 and 25.07.2014. The said compliance shall be reported before us on or before 28.02.2015.
19. As has been stated above, the Principal Bench of National Green Tribunal, New Delhi is seized of the matter in Original Application No. 118/2013 in

the case of Vikrant Kumar Tongad Vs. Environment Pollution Authority & Ors. and in case any further directions are issued by the Principal Bench in the matter requiring compliance by the Respondents, the Respondents, in the present application, needless to say, shall also comply with the same as per the final orders to be issued by the Principal Bench of NGT in O.A.No. 118/2013.

- 20.** With the aforesaid directions, the Original Application No. 107 of 2014 (CZ) stands disposed of along with the pending M.As. Let the matter be listed for reporting compliance on **4th March, 2015.**

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

Bhopal,
December 2nd, 2014

NGT