IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2015

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The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.27082 of 2015

M.Appavu, Ex.M.L.A. ..Petitioner

Vs.

1.The Union of India,
rep. by the Secretary to Government,
Ministry of Agriculture and Farmers Welfare,
Krishi Bhavan,
New Delhi-110 001.

2.The Secretary to Government of Tamil Nadu,
Agriculture Department,
Fort St. George,
Chennai-600 009.

3.The Director of Agriculture,
Government of Tamil Nadu
Chepauk, Chennai-600 005.

4.The National Agricultural Insurance Company,
13th Floor, Amba Deep,
No.14, Kasturiba Gandhi Marg,
New Delhi-110 001. ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 1st and 2nd respondents to pass appropriate orders for extending the crop insurance to all individual farmers in Tamil Nadu, without any crop restriction or topographical restriction, within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.N.Anand Venkatesh

For Respondents : Mr. Su.Srinivasan
Asst. Solicitor General for R1 & R4

Mr.P.H.Arvindh Pandian
Addl. Advocate General
assisted by
Mr.STS.Moorthy
Government Pleader for R2 and R3

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ORDER
(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to raise the issue of extending the crop insurance to all individual farmers in Tamil Nadu, without any crop restriction or topographical restriction.

2. The issue of agriculture crop insurance is an important, as agriculture in India is still dependant on the vagaries of nature. Food for teaming millions is a necessity and it would be difficult to countenance a position where the agriculturist finds himself in a position where he even seeks to abandon, this important aspect of use qua the land by the society, to meet the needs of the people. Thus, the security for the agriculturists in respect of the crops grown by them is certainly a matter of concern.

3. The counter-affidavit filed by the Government of India suggests that Comprehensive Crop Insurance Scheme (CCIS) has been introduced in 1985 and was implemented till 1999. It is not a commercially individual insurance aspect and losses are recurrent, with the result that the Insurance Companies are hesitant to underwrite the business on a large scale and on commercial basis. It is in these circumstances that CCIS is sought to be implemented with active participation of the State Governments with subsidy contributions both in premiums and claims in the ratio of 2:1 through the General Insurance Corporation of India (GIC).

4. In view of the experiments obtained, the Government of India widened the scope of CCIS from 1999-2000 with two major modifications, i.e. inclusion of non-loanee farmers and annual commercial and horticultural crops and the compulsory coverage of all farmers availing seasonal agricultural operation loans continued under National Agricultural Insurance Scheme (NAIS), making it optional for those farmers who had not availed of agricultural loan.

5. Weather Based Crop Insurance Scheme (WBCIS) from Kharif 2007, the Modified National Agricultural Insurance Scheme (MNAIS) from Rabi 2011-2012 and Coconut Palm Insurance Scheme (CPIS) from the year 2009-2010 were also implemented on pilot basis in the country. These pilot schemes were stated to be evaluated by an independent agency and changes have been made from time to time with a restructured scheme in the name of National Crop Insurance Programme (NCIP) formulated from Rabi 2013-2014. It may be noted from the counter-affidavit of the State Government that the same pilot scheme on individual yield crop insurance scheme is being followed by the State Government.

6. The nature of coverage under the yield based schemes (MNAIS and NAIS) and WBCIS has been enunciated in paragraph 6 of the counter-affidavit of the Central Government. The crop insurance schemes are, thus, implemented on area wise approach basis and the respondents are stated to have adopted the approach of a broad principle of equity in the crop insurance schemes and dealt with the farmers on group basis to provide compensation. It has been averred that the random sample method adopted by the State Governments for conduct of Crop Cutting Experiments is statistically sound and universally accepted and that under the scheme, the individual losses are not covered for wide spread calamities like drought, flood, dry spell etc. and the claims are settled on the basis of area approach. This scheme is stated to have been examined by the Andhra Pradesh High Court in W.P.No.11882 of 1987, decided on 23.08.1988 as a concept.

7. We may note that even according to the counter-affidavit of the Central Government, the reduction in the unit of insurance to field/individual level will definitely be the ideal situation and lead to more realistic assessment of crop losses and payment of compensation to individual farmer – which is what the petitioner seeks through the present petition. It has been averred that it will require conducting greater number of Crop Cutting Experiments (CCEs)/weather data for assessing the yield of the insured crop at each field level and implementing States are not in a position to undertake additional CCEs because of limited infrastructure facilities with them. The reason for this, as stated by the Statement Government, is due to the inherent deficiencies in the design of these schemes. In the aforesaid context, it would be useful to reproduce paragraph 11 of the counter-affidavit of the Central Government as under:-

> "11. It is respectfully submitted that the Department of Agriculture, Cooperation & Farmers Welfare is aware of the situation and has discussed the matter of individual coverage under the scheme at various for a and meetings with stakeholders including State Governments. Though

> most of the stakeholders supported the idea for implementation of schemes at individual level but they have raised the issue of difficulties at implementation level. The major difficulty is to know the yield of each and every field to assess the losses. Crops in the field are not similar to other properties like car, house etc. where loss can be assessed on the basis of cost of the vehicle, household etc. To know the yield of individual field, past yield data based on the scientific method of Crop Cutting Experiments (CCEs) is required. For which CCEs are required to be conducted on each and every field for assessment of losses, which is a huge task keeping in the view of present level of about 15 lakh CCEs being conducted at block level under General Crop Estimation Survey. 50 lakh more CCEs are required if the scheme would be implemented on village/village panchayat level for all crops. The magnitude of CCEs would increase to crores, if each field is selected for insurance even at the present level of penetration of 21%. Moreover, the total farm holdings in the country are more than 12 crores. Further, it is also stated that no technology/methodology/breakthrough is available, at present, to calculate the yield of each and every field. The experiments to know the yield of each field through improved technologies like Remote Sensing Technology and use of satellites etc., are being conducted by various agencies/departments but are still in a nascent stage and will take some time before they are perfected."

8. The aforesaid, thus, seeks to state that the experimental process in this behalf is on and it may require some more time. The learned counsel for the petitioner submits that the petitioner will give additional suggestions in this behalf, which may be considered by the Central Government.

9. The position enumerated by the Central Government in paragraph 12, is as under:-

> "12. It is respectfully submitted that however, Government has taken various steps like reimbursement of 50% of additional expenses of States on increase in CCEs due to reduction of unit area to village/village Panchayat level by Central Government, provision of calculation and settlement of claims on the basis of individual field/farm for the crop losses due to localized

calamities like hailstorm and landslide under MNAIS component of NCIP and add on/Index cover under WBCIS component of NCIP. It is submitted that keeping in view the large number of fragmented holdings and lack of yield data/weather data of individual farms and the lack of infrastructure and preparedness at State level, it may not be administratively possible at present, to implement crop insurance scheme at individual level on cost effective basis."

10. We are sure that the Central Government will look into all these aspects with the technical assistance of experts to endeavour for the individual crop process as may be feasible as early as possible.

11. The writ petition, stands closed in the aforesaid terms. No costs.

Sd/
ASSISTANT REGISTRAR(CS-II)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

1.The Secretary to Government,
Ministry of Agriculture and Farmers Welfare,
Krishi Bhavan, New Delhi-110 001.

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13th Floor, Amba Deep,
No.14, Kasturiba Gandhi Marg, New Delhi-110 001.

+1 CC to MR.Su.Srinivasan Advocate. SR.NO.67039
+1 CC to MR.N.Anand Venkatesh Advocate. SR.NO.67031
+1 CC to Govt.Pleader. SR.NO.67236

W.P.No.27082 of 2015

CO-SKV
JD 30/12/2015