IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1156 of 2015
Date of Decision.29.01.2015

Haryana Seed Producers Association ....Petitioner

Versus

State of Haryana and others ......Respondents

Present: Mr. Rahul Gautam, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner is aggrieved at the directions given by the Director General, Agriculture Department, Haryana that a subsidy which is granted for supply of a particular brand of fungicide would be gradually phased out and presently 80% of subsidy alone would be given and remaining 20% will be initially borne by HSDC and other seed producers and they may recover the same from the farmers. The petitioner would contend that the State cannot phase out subsidy in the manner in which the impugned communication suggests, especially in view of the fact that the seed producers are compelled to use only one particular brand of fungicide.

2. The counsel for the petitioner himself admits that the particular brand which is required to be used is already a subject matter of challenge before a Division Bench and the case is pending. He would still argue that the present challenge is on a different ground that the

State cannot phase out the subsidy when there is a compulsion to use a particular brand of fungicide.

3. As regards the issue of whether the Government could force the use of a particular brand when the matter is already in lis before this Court, there is no point that should be urged in this case that they cannot be compelled to use the particular brand. The residual point that would fall for consideration would be only whether the State would be justified in withdrawing 100% subsidy which was originally given. Subsidy is never a vested right and it is a manner of providing for encouragement by absorption of costs by the State in public interest and to make the end user consume it without taking the burden of the additional cost. In this case, the petitioner himself cannot be put to any prejudice, for, even if the subsidy is withdrawn, the incidence of burden will be borne only by the ultimate farmer. Neither seed manufacturing company nor association could be aggrieved by the withdrawal of subsidy.

4. There is also another challenge by the petitioner to a clause under Annexure P-3 which says that the DDAs i.e. Deputy Directors of Agriculture shall be obliged to take steps to ensure that the certified wheat of particular varieties shall not be allowed to go out of State. I will not find this to be available for challenge to the petitioner so long as the subsidies are given. A decision to phase out subsidy may not give a vested right again for the petitioner to contest the condition that it cannot be sold outside the State. Any benefit obtained by a seed manufacturing by way of subsidy initially could always be attached to reasonable conditions and if the decision taken is on the ground that they are latest high yielding varieties of wheat and the Agricultural

Department had decided to promote those varieties to increase wheat productivity in the State, it should be taken to foster the State interest and the Government should be competent to impose restrictions, as well, when they are giving some benefits. In a situation where the subsidies are still being availed by seed manufacturers till it is completely phased out, the condition cannot be a matter for challenge. It would be premature to make an intervention now. The petitioner will have the liberty to bring a challenge to this condition regarding the seeds not to be permitted to go out of the State when the subsidy is completely withdrawn. The right of the petitioner will be preserved for a challenge at an appropriate time but not now.

5. The writ petition is dismissed.

(K. KANNAN)
JUDGE

January 29, 2015
Pankaj*