

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.94 OF 2019

Rajesh Ankushrao Tope,
Age: 49 years, Occu: Social Work, Agri. & MLA,
R/o : At post Patharwala (Bk), Tq. Ambad,
Dist. Jalna

..PETITIONER

VERSUS

1. The Union of India,
through its Secretary,
Ministry of Agriculture, Cooperation
and farmers Welfare, Krishi Bhavan,
New Delhi 110001
2. The Chief Secretary,
Government of Maharashtra,
Mantralaya, Mumbai-32
3. The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32
4. The State of Maharashtra,
Through its Secretary,
Agricultural, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32
5. The Commissioner,
Agricultural Department,
3rd Floor, Central Building,
Pune-411001
6. The Divisional Commissioner,
Aurangabad Division, Aurangabad
7. The Collector, Jalna,
District Jalna

(2)

8. District Superintendent,
District Agricultural Officer,
Jalna
9. ICICI Lombard General Insurance
Company Ltd.,
Through its Authorized Officer,
Office No.206-219, Saurabh Hall,
Sasun Road, Pune Station,
Pune 411001

..RESPONDENTS

Mr S. S. Tope, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondent Nos.2 to 8

**CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.**

DATE : 11th February, 2020

ORAL ORDER:

Heard Mr Tope, learned Counsel appearing on behalf of the petitioner.

2. Having regard to the cause espoused in the present public interest litigation, vide order dated 23rd August, 2019 notice was issued to respondent Nos.2 to 8, making the same returnable on 18th October, 2019.

3. Mr Tope, learned Counsel for the petitioner invited our attention to the copy of the representation dated 6th July, 2019 submitted to the Honourable the Chief Minister (as then he was). He then submitted that in response to the scheme known as “Pradhan Mantri Fasal Bima

(3)

Yojna (PMFBY), 2017”, large number of farmers deposited the premium so as to protect their crops by way of insurance cover. It is then submitted that, in turn, the farmers could not receive any benefit, but the insurance companies could collect a large-some amount. Then our attention is invited to the Government Resolution dated 24th May, 2018 to submit that the State Government, with an object to continue the implementation of the scheme, namely, “Pradhan Mantri Fasal Bima Yojna, 2017”, took certain decisions and area and crops were notified and also there is a reference to the respective insurance companies as the implementing agencies of the scheme.

4. Mr Tope, learned Counsel for the petitioner then invited our attention to clause (A) to submit that in the cluster of districts, Jalna is placed at Sr.No.3 along with the other districts, namely, Washim, Nagpur, Gadchiroli and Palghar as unit of a cluster of five districts. Then our attention is invited to the other modalities and formalities of the scheme including formation of the State Level Committee. Mr Tope then invited our attention to the order dated 15th July, 2019, passed by this Court in Public Interest Litigation No.141 of 2018 and submitted that in a nearby identical situation, this Court referred to the Government Resolution dated 24th May, 2018 and formation of the State Level Sub-Committee. It is further submitted by Mr Tope that considering formation of the Sub-Committee, the Division Bench of

(4)

this Court, by order dated 15th July, 2019, thought it appropriate to direct the Secretary, Revenue and Forest Department (Relief and Rehabilitation), Mantralaya, Mumbai, to apprise the Cabinet Sub-Committee and in turn, the Cabinet Sub-Committee was directed to conclude the exercise of the deliberations as early as possible and within stipulated period directed by this Court. It was then directed that after the decision being taken by the Sub-Committee within stipulated period, the Cabinet Sub-Committee and/or the concerned department of the State of Maharashtra directed to disburse the amount to the beneficiaries within stipulated period of four weeks.

5. Mr Tope, learned Counsel for the petitioner then by inviting our attention to the Government Resolution dated 31st October, 2018, submitted that considering the acute shortage of water and other factors, the State Government thought it fit to declare that all the Talukas of Jalna district are seriously affected by drought situation. Then Mr Tope submitted that as the directions were issued by this Court in Public Interest Litigation No.141 of 2018, vide order dated 15th July, 2019, the same directions if are issued in the present public interest litigation, would serve the purpose of approaching this Court and this exercise would be a beneficial exercise insofar as the farmers of the Jalna district are concerned, who were facing the serious drought situation. It is also an attempt being made by learned Counsel

(5)

for the petitioner that the inaction of the insurance companies and the helplessness of the State Government adds to miseries of the farmers.

6. Though we are aware of the fact that the aforesaid submissions advanced by learned Counsel for the petitioner were under a bona fide impression, considering the documents placed on record, we are of the opinion that it cannot be stated that the State Government or its authorities are helpless in the matter.

7. In view of his submissions, Mr Tope, learned Counsel for the petitioner invited our attention to the communication forwarded through the District Agricultural Officer, Jalna to the Manager of ICICI Lombard, Jalna, dated 2nd May, 2019 and the communication forwarded to the Commissioner of Agriculture and ICICI Lombard General Insurance Co. Ltd., dated 28th May, 2019 as well as the notice issued by the Collector, Jalna, dated 29th July, 2019. The petitioner had placed on record a copy of the Memorandum of Understanding between the parties, namely, the Commissioner of Agriculture, Maharashtra State, Pune and M/s ICICI Lombard General Insurance Co. Ltd. The signatories to this document are the Director of Agriculture on behalf of the Commissioner of Agriculture and the representative of the insurance company. If this is the fact situation, in our opinion, the parties to the contractual term can certainly agitate an issue of

(6)

non-compliance of the terms by any of the parties before the appropriate forum, including the adjudicatory forum, if so advised and it cannot be stated that the State Government is short of any legal advise in the matter. Be that as it may.

8. Considering the fact that this Court had already taken a view insofar as non effective implementation of the scheme in Public Interest Litigation No.141 of 2018 and had already referred to certain factual aspects in para Nos.5 to 8 and considering the fact that the farmers of Jalna district of whose cause is espoused in the present petition, are identically circumstanced with those farmers of Osmanabad district, who were before this Court in Public Interest Litigation No.141 of 2018, the present public interest is disposed of with similar directions i.e. respondent No.3 - Secretary of Revenue and Forest Department (Relief and Rehabilitation, Mantralaya) to apprise the Cabinet Sub-Committee and the Cabinet Sub-Committee to conclude the exercise of the deliberation as early as possible and not later than three weeks from today.

9. We permit the petitioner to submit a fresh representation to respondent No.2 - Chief Secretary of Government of Maharashtra, Mantralaya with all necessary details within a period of two weeks from today. On receipt of such representation, the Chief Secretary to forward it to the State Level Committee constituted under clause 13 of

(7)

the Government Resolution dated 24th May, 2018. The Cabinet Sub-Committee may deliberate on the issue of the representation and to take appropriate decision expeditiously and not later than three weeks from the date of submission of the representation to the Committee by the Chief Secretary and in case, a positive decision is taken by the State Level Committee, the concerned department of the State of Maharashtra to disburse the amount to the beneficiaries within six weeks.

With the aforesaid observations and directions, the present public interest litigation is disposed of.

Mr Tope, learned Counsel for the petitioner is gracious enough to submit before this Court that the petitioner may not claim the withdrawal of the amount deposited in this Court to show his bona fides and is also agreeable to divert the said amount to any social cause.

Accordingly, the amount of Rs.25,000/- deposited in this Court be diverted in the account of साई ग्रामीण पुनर्रचना संस्था, औरंगाबाद संचालित “आपली मुले”, सातारा परिसर, औरंगाबाद (Registration No. F-12531).

(R. G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

sjk