**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-23835-2017 (O&M)
Date of decision: 02.02.2024

Shri Krishan Kumar and others

...Petitioners

VERSUS

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Amit Dhankar, Advocate for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana
for respondent No.2.

Er. Sandeep Suri, Advocate and
Mr. Raghav Garg, Advocate,
for the respondent No.3-ICICI Lombard.

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VINOD S. BHARDWAJ, J. (Oral)

1. The present petition has been filed for issuance of directions to the respondents to pay the indemnity amount of insurance, for the insured crop under the Pradhan Mantri Fasal Bima Yojna (PMFBY), to the petitioners, in the same manner and on the same terms as paid to other counterparts of the village Chhudani and other nearby villages.

2. Vide order dated 22.11.2023, time was granted to learned counsel for respondent No.3 on his request, to file a detailed reply within a period of two weeks and in the event of non-filing of reply within the said

period, a further grace period of two weeks was also granted to file the same subject to payment of costs of Rs.10,000/- to be deposited with the High Court Legal Services Committee, but till date neither the reply has been filed nor the cost has been deposited. The case relates to the year 2017, no further wait is justified and the case is being heard on merits.

3. Learned counsel for the petitioners contends that the petitioners are the owners of the agricultural land and had sown crops in their land. They are entitled to the benefits of the Pradhan Mantri Fasal Bima Yojna (PMFBY) Crop Insurance Scheme of the Government of India regarding the crop damaged on account of natural calamities. A Notification had been issued by the State Government on 17.06.2016 regarding implementation of Pradhan Mantri Fasal Bima Yojna (PMFBY). As per the Notification for the year 2016, crops such as Cotton, Paddy, *Bajra* and Maize were considered as *Kharif* crops whereas Wheat, Mustared, Barely and Gram were considered amongst the *Rabi* crops for 2016-17 and the same were covered under the said scheme. The premium for each crop in each season had to be 2% of the entire premium payable for the *Kharif* crops and 1.5% of the entire premium payable for *Rabi* crops to be paid by the farmers and the balance premium was to be paid by the State as well as Central Government. As per the Notification and operational guidelines, all the loanee(s) were to be compulsorily covered under the Scheme whereas the non-loanee could seek to be covered as an optional measure. The petitioners are the loanee farmers having obtained loan from the Banks through *Kisan* Credit Cards (KCC). Under the said scheme, the premium amount was required to be paid through

the concerned Bank and the same was to be forwarded to the Insurance Company by the Bank. The petitioners were covered and insured under Pradhan Mantri Fasal Bima Yojna.

4. The crops of the petitioners however got damaged due to heavy rainfall leading to inundation in the fields of the petitioners. Information in this regard was sent to the Insurance Company at their Toll Free numbers. The details of intimation and acknowledgement by them have been reproduced in paragraph No.5 of the writ petition. Pursuant to the said intimation, the State Agriculture Department, along with the official of the Insurance Company, carried out a survey for the assessment of the losses in the affected areas on 07.10.2016 and found 100% damage to the notified crops due to heavy rainfall and inundation of the fields.

5. Despite lapse of more than a year, the claim for damages suffered was not released to the petitioners. Numerous requests were made by the petitioners to the Agriculture Department as well as to the Insurance Company for release of damages, however, all requests went in vain. Finally written complaints were submitted by the petitioners on 08.05.2017, 12.05.2017 and 25.09.2017 to the Deputy Director Agriculture (DDA), Jhajjar, who is also in the District Level Monitoring Committee for the implementation of the Scheme. They also approached the Sub-Divisional Officer (Agriculture), Bahadurgarh and submitted their complaints before him on 22.09.2016, however, neither any relief was extended nor any explanation offered for non-payment of admissible benefits to the petitioners. Some of the petitioners i.e. petitioners No.2 and 3, however,

received a sum of Rs.19,551/- and Rs. 8,168/- as claim payment under the Pradhan Mantri Fasal Bima Yojna (PMFBY) on 31.07.2017, which was not in accordance with the Notification and Guidelines of the Scheme. Other similarly placed farmers had been given a higher compensation by the respondents. Hence demand was made for payment of compensation at par (on the same rates).

6. Even though the above said grievance was espoused time and again before the respondents-authorities, however, no action has been taken by them. The petitioners were hence constrained to approach this Court.

7. A written statement had been filed on behalf of Government through Special Secretary to Government of Haryana in the Agriculture and Farmers Welfare Department, wherein the factum of the petitioners being covered under the Pradhan Mantri Fasal Bima Yojna (PMFBY) remains undisputed. Further, acknowledgment and admission regarding the receipt of the complaints from the petitioners and also the constitution of Losses Assessment Committee, which reported the gross losses @ 100%, on account of inundation, is also made. It is submitted that as per the official guidelines of Pradhan Mantri Fasal Bima Yojna (PMFBY), the State Government had constituted and Notified Loss Assessment Committee and had also associated the officials of Insurance Company in the said process. The contents of the petition and the claim that the petitioners are entitled for insurance as per the provisions of the official guidelines and respondent No.3-Insurance Company is liable to pay the insurance claim to the petitioners as per Clause XV (ii) of the Operational Guidelines of the

Pradhan Mantri Fasal Bima Yojna (PMFBY), is also not denied.

8. Despite availing numerous opportunities, respondent No.3-Insurance Company chose not to file reply or to dispute the documents that are relied upon by the petitioners in support of their claim. Hence, the documents submitted by the petitioners have remained uncontroverted by respondent No.3 with respect to the material and particulars stated therein and as regards entitlement of the petitioners for compensation.

9. It is also not in dispute that the cheques issued to petitioners No.2 and 3 have largely remained un-cashed.

10. Vide order dated 02.02.2022, this Court specifically noted the contentions of counsel for respondent No.3 and had given it time to provide necessary chart to the counsel for the petitioners so as to satisfy the grievances of the petitioners that the amount offered by respondent No.3 was in accordance with the loss assessment survey conducted by the Committee and that there was a proper determination of the actual losses suffered by the petitioners.

11. Repeated opportunities were granted to respondent No.3 to file response and/or calculation sheet/chart but to no response. The failure on the part of respondent No.3-Insurance Company to even file the calculation sheets and to establish that the assessment of losses had rightly been done by them despite being given repeated opportunities and the writ petition having remained pending for more than 7 years before this Court, reflects poor functioning and working of respondent No.3-Insurance Company and the only inference which flows from the same is that the assessment of loss has

not been undertaken by respondent No.3, by adhering to the correct formula, area, rate etc. A non-committal in making any statement and/or coming clean before this Court by sharing the data, which undisputedly would be in their possession, deserves to be deprecated. Sufficient opportunity having already been granted, the matter is being decided on merits, without waiting any further, for their reply.

12. The claim of the petitioners has thus remained undisputed by the Insurance Company and admitted as well as acknowledged by the State. The present writ petition is accordingly allowed and following directions are issued:-

(i) Respondent No.3-ICICI Lombard General Insurance Company Ltd. shall recalculate the entire amount of admissible benefits/damages payable to the petitioners herein for the losses suffered by them, as per the losses assessed and reported by the Loss Assessment Committee therein.

(ii) The entire calculation shall be furnished to the District Level Committee for verification and ratification of the calculations made by respondent No.3 by the said District Level Committee **within a period of three weeks of receipt of certified copy of this order**.

(iii) Notwithstanding the ratification and verification, the amount already admitted by respondent No.3 to be payable to the farmers shall be reimbursed, subject to any revision by the District Level Committee about compensation payable, **within a period of two weeks thereafter**.

(iv) The District Level Committee shall take a decision on the information furnished by respondent No.3-Insurance Company within **a period of four weeks**. In the event there is any increase in the amount of compensation to be awarded, as per the decision of the District Level Committee, such enhanced compensation shall also be released by respondent No.3 within a period of 2 weeks thereafter.

(v) The petitioners shall be entitled for interest @ 6% per annum from the date of filing of the present petition till actual disbursement of the compensation in terms of the order. In the event the payment is not made within the time-lines as stipulated above, respondent No.3 shall be liable to pay interest @9% per annum on the withheld amount, after the expiry of the period above and till its disbursement.

(vi) An additional cost of Rs.1 lakh is imposed upon respondent No.3-ICICI Lombard General Insurance Company Ltd. for their misconduct in not approaching this Court with clean hands and avoiding filing its response and delaying the case leading to undue harassment of petitioners. The cost be deposited with the **Haryana Agriculture Development Agency, Account No.100034212111, Indusind Bank, IFSC Code: INDB0000164, Sector-9, Panchkula**.

(vii) The cheques in original issued to the petitioners by respondent No.3-Insurance Company have already been handed over to the counsel for respondent No.3 today in Court.

13. In my opinion, even the District Level Monitoring Committee has failed to discharge its obligations as per the Scheme. A copy of this order be also placed before the Principal Secretary, Department of Agriculture, Haryana to take appropriate action against the defaulting/erring officials who have miserably failed in protecting the interests of the farmers.

14. **Allowed in above terms**.

15. Compliance reports be filed by the respondent-State of Haryana as well as respondent No.3-ICICI Lombard General Insurance Company Ltd., after a period of six months.

(VINOD S. BHARDWAJ)
JUDGE

02.02.2024
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No