

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 666/2018
(Earlier O.A. No. 451/2018)

WITH

Original Application No. 835/2018

WITH

Original Application No. 860/2018

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

News Item published in "Indian Express" Authored by Mallica Joshi
Titled

"All fiddle as crop stubble burns, farmers say solutions out of reach"

WITH

News Item published in "The Times of India" Authored by Jasjeev.
Gandhiok

Titled

"Day after Dussehra, air quality dives, slight haze over city"

Date of hearing :12.11.2018

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Vasdev Lalwani, Mohit Gautam, Rohit
Gautam, Advocates

For Respondent (s): Mr. Biraja Mahopatra, Advocate for GNCTD
and Mr. Dinesh Jindal, Law Officer, DPCC
Mr. Amit Tiwari, Advocate for State of UP
Mr. Rahul Khurana and Mishal Vij, Advocates
for State of Haryana & HSPCB, proxy counsel
for Mr. Anil Grover, AAG with Mr. Rajeev Pal,
Asst Ag. Engg. Mr. Manmohan Kalia, Joint
Director, Agric. Engg. State of Punjab
Mr. Ardhendumauli Kumar Prasad, Shashank
Saxena and Deeksha Gera, Advocates for
Ministry of Agriculture, UOI

ORDER

1. The issue for consideration in these proceedings relates to crop burning primarily in the States of Punjab, Haryana and to some extent in the States of Uttar Pradesh and the NCT of Delhi. This leads to deterioration of air quality which in turn leads to deaths and diseases.

2. The issue has been subject matter of consideration before the Hon'ble Supreme Court as well as before this Tribunal on earlier occasions.

3. The Government of India came out with a scheme called "*National Policy for Management of Crop Residue - 2014*". The Scheme provided for assistance to farmers by way of machinery and equipments as a means to avoid crop burning. The *Niti Aayog* also organized a programme for educating the farmers on the subject.

4. In spite of the steps taken, the problem still subsists.

5. On 23.07.2018, in *Original Application No. 451/2018, Smt. Ganga Lalwani Vs. Union of India & Ors.*, the Secretary, Ministry of Agriculture, Government of India was directed to furnish a status report on the subject, after taking necessary feedback from the concerned States.

6. A status report was accordingly furnished to this Tribunal which was considered on 18.09.2018 in *Original Application No. 666/2018, Smt. Ganga Lalwani Vs. Union of India & Ors.* It was noted that target of delivery of machinery/ equipments was not achieved in the States of Punjab, Haryana and Uttar Pradesh. Accordingly, the said States were directed to take necessary steps latest by 20.10.2018 which was required to be monitored by the Ministry of Agriculture, Govt. of India. The States were also directed to frame their own action plans. The Chief Secretaries of Punjab, Haryana, Uttar Pradesh, Rajasthan and NCT of Delhi were directed to review the situation and furnish a report to this Tribunal.

7. At this stage, we may note that on 05.09.2018, the situation was also reviewed in a chamber meeting which was attended by the Members of the Tribunal, representatives of Central Pollution Control Board, Ministries of Agriculture, Road Transport and Highways,

Petroleum and Natural Gas, Heavy Industries, Ministry of Environment, Forest and Climate Change and representatives of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan, NCT of Delhi, apart from the nominees of the Indian Institute of Technology, Delhi, Indian Institute of Technology, Kanpur and NEERI.

8. The matter was again considered on 29.10.2018. We found that the Ministry of Agriculture and Farmer Welfare, Govt. of India had not done the meaningful monitoring as directed by this Tribunal. Commitments of State Pollution Control Boards of Punjab and Haryana to provide training and machinery to the farmers had not been carried out. Reference was also made to the order of the Tribunal dated 08.10.2018 in *Original Application No. 681/2018* wherein it was noted that 15,000 pre-mature deaths took place in Delhi in the year 2016 due to smog, to which crop burning was a contributing factor. The Tribunal also noted the apathy of the States of Punjab, Haryana, Uttar Pradesh, Rajasthan and NCT of Delhi in not responding to the direction of this Tribunal on such a sensitive issue.

9. This is how the matter has been listed today.

10. The Tribunal also considered the matter on 30.10.2018 in light of news items dated 12.10.2018 in 'Indian Express' under the heading "All fiddle as crop stubble burns, farmers say solutions out of reach", news items dated 13.10.2018 in 'Indian Express' under the headings "Why Farmers Say Cheaper to Pay Fine for Crop Burning" and "As crop burning begins, city could see another episode of bad air quality" as well as on 14.10.2018 under the heading "Air quality dips to 'poor' again, to get worse over next 2 days, says SAFAR". Direction was also issued to Chief Secretaries to States of Punjab, Haryana, Delhi and Uttar Pradesh to monitor the situation on day-to-day basis and

furnish weekly reports to this Tribunal. This matter is also being taken up today.

11. Apart from the above, on 01.11.2018, this Tribunal considered news items dated 21.10.2018 in the Times of India under the heading “Day after Dussehra, air quality dives, slight haze over city” and “Eye on stubble burning, city wakes up to waste and leaves burnt in backyard”, news item in ‘The Hindu’ under the heading “City records worst post-Dussehra air quality in 4 years”, News item dated October 21-27, 2018 in ‘The Economic Times, Magazine big story’ under the heading “CROPPING THE FIRE”, news item dated 22.10.2018 in ‘The Hindu’ under the heading “Years to go to stub out crop burning” and news item dated 22.10.2018 in ‘Millennium Post’ under the heading “Delhi’s air quality remains ‘very poor’ and “Stubble burning increases in Punjab and Haryana” and the said matter is also being taken up for consideration today.

12. We have also noticed a news item dated 11.11.2018 in ‘Times of India’ under the heading “Harvesting not yet over but farm fires touch 2017 level”.

13. We have heard Shri Ardhendumauli Kumar Prasad appearing for the Ministry of Agriculture, Government of India, Mr. Manmohan Kalia, Joint Director, Agriculture Engg. State of Punjab, and Mr. Avtar Singh, Scientist for Punjab Pollution Control Board, Mr. Rahul Khurana, Advocate for State of Haryana, instructed by Mr. Rajeev Pal, Assistant Agriculture Engg., Mr. Biraja Mahapatra, Advocate for Government of NCT of Delhi, Mr. Pradeep Mishra, Advocate for the Uttar Pradesh Pollution Control Board and Mr. Amit Tiwari, Advocate for State of Uttar Pradesh instructed by Joint Director, Agriculture.

14. It appears that the problem remains unresolved in the States of Punjab and Haryana. Some part of the problem also persists in the

State of Uttar Pradesh. NCT of Delhi is certainly affected by the crop burning.

15. We make it clear that we do not intend to criticize the working of any of the States or the Central Government. We have perused the affidavits and reports from the States of Uttar Pradesh, Punjab, Haryana, NCT of Delhi and also report of the Ministry of Agriculture, Govt. of India. The fact remains that the problem has not been fully tackled and the adverse impacts on the air quality and consequent impacts on the citizens' health and lives are undisputed. The problem is required to be resolved by taking all such measures as are possible in the interest of public health and environment protection.

16. During the discussion, a suggestion has been considered that those who help the environment by not burning the crop deserve incentive and those who do not do so deserve disincentive. It is clearly permissible and possible as we are told that entries in *Khasra girdawaris* (field inspections) are made which record as to who is indulging in burning and who is not indulging in burning of crop residue. Based on the said records, incentive and disincentives out of the available resources can be worked out so as to dissuade those who indulge in burning and encourage those who do not burn crops on the basis by way of economic incentive and disincentive. We are not at the moment considering the issue of adverse coercive measures like prosecution etc. for offences under the Air (Prevention and Control of Pollution) Act, 1981 or other applicable laws. We, however, do not see any difficulty why such economic incentives and disincentives should not be duly planned or executed. We make it clear that the existing Minimum Support Price (MSP) Scheme must be so interpreted so as to enable the concerned States to wholly or partly deny the benefit of MSP to those who continue to burn the crop residue. If any such disbursements have already been made with

respect to this year's paddy crop, the same can be adjusted in future. Such a scheme may be worked out and notified forthwith preferably by 14.11.2018. The short time is being given on account of urgency of situation with regard to deteriorating air quality prevailing in NCT of Delhi and adjoining areas.

17. We also feel the need for finding out a long lasting solution to the problem and for this purpose, we direct the Secretary, Agriculture, Govt. of India and Chief Secretaries of the States of Punjab, Haryana, Uttar Pradesh and NCT of Delhi to remain present on the next hearing after doing due diligence and strategic planning for action to prevent crop burning. It is open to the Central Government also to organize a meeting on the subject on the same day or any other convenient day.

18. List for further consideration on 15.11.2018 at 10:30 AM at Serial No. 1.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

November 12, 2018

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