

Item No. 01

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

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

Smt. Ganga Lalwani

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 15.10.2019

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

For Applicant (s): None

For Respondent(s): Mr. Ardhendumauli Kr. Prasad, Advocate for UIO  
with Mr. Ashwani Kumar, Joint Secretary,  
Agriculture  
Mr. Amit Tiwari, Advocate for State of UP with  
Mr. Amit Prasad, IAS, PS (Agri.)  
Ms. Anusha Nagarajan, Dy. Adv. Gen. for State of  
Punjab with Mr. K.S. Pannu, IAS Secy.  
(Agriculture)  
Ms. Jyoti Mendiratta, Standing Counsel for  
GNCT of Delhi  
Mr. Anil Grover, AAG, Haryana with Mr. Rahul  
Khurana, Advocate and Mr. Ajit Bala Joshi, DG-  
cum-Secretary, Agri. Dept. Haryana

**ORDER**

1. Remedial action to prevent burning of crop residue resulting in air pollution particularly in the NCR Region has been subject matter of consideration before this Tribunal in the last more than six years.<sup>1</sup> According to certain statistics, 25-30% air pollution in NCR is caused by burning of crop residue in and around Delhi in October and

<sup>1</sup> Earlier proceedings were being conducted in O.A.118/2013.

November every year. Air pollution outside NCR is also a matter of concern. It is reported that burning of crop residue takes places as time gap between the reaping of the paddy crop and the sowing of the next crop is too less. Since the crop is harvested by machines, residue is left and manual removal thereof is time and labour consuming. Burning of the crop residue is perceived to be helpful in preparing the field for sowing next crop. The fact remains that there is adverse impact of burning of such residue on air quality causing air pollution related diseases which at times may be fatal. As per newspaper reports, to which reference will be made later, 15000 deaths took place in the year 2016 in the NCR region on account of air pollution<sup>2</sup>. Statistics may be similar in other years and outside NCR also.

2. Today's hearing is in continuation of hearings which have taken place since 10.12.2015. We may refer to the proceedings of the last hearing on 01.10.2019. A part of the order on the last hearing is as follows:

*"8. On 05.07.2019, the matter was again taken up in continuation of the earlier proceedings and in the light of report of the Ministry of Agriculture dated 21.06.2019. It was noted as follows:*

1-4 xx

xx

xx

*5. We may also point out that need to explore coordination with the ISRO for developing an App through BHUVAN ISRO's Geoportal to alert the village level officers or the local police where crop burning is noticed. The use of drones may be considered apart from satellite imagery to map the hot-spots in the same manner as is done in respect of forest fires and strategies be drawn accordingly. Finally, the monitoring network is required to be effective and more vigilant. Though Bhuvan, which is a geoportal of the ISRO, is said to have been used at macro-level, its use at micro-level so as to generate SMS alert needs to be*

<sup>2</sup> News Item Published in "The Times of India" Authored by Shri Vishwa Mohan Titled "NCAP with Multiple Timelines to Clean Air in 102 Cities to be released around August 15.

explored at the ground level. These suggestions need to be considered by the Ministry of Agriculture in coordination with the concerned States and thereafter, further monitored at the grass root level by the concerned Deputy Commissioners/ Collectors.

6. We may also note a suggestion which has transpired during the hearing and has been put forward by Dr. S. Mukherjee, Registrar, Jobner Agriculture University, Jaipur that the crop residue has huge potential for the organic manure and decentralized composting units could be set up either in the concerned fields or common composting units at community level in a village or in a cluster of villages. At least one such pilot project needs to be considered in each State. This aspect may be further explored in the meeting of the Ministry of Agriculture with the concerned States within one month. We are informed that in the State of Rajasthan, this has been successfully tried by Sri Karan Narendra Agriculture University, Durgapura, Jaipur. Further, the gap analysis study may be undertaken in regard to the current situation, the challenges be identified and the necessary steps taken to mitigate the situation

9. We have for consideration minutes of meeting dated 25.09.2019 on the subject. The meeting was called by the Joint Secretary, Agriculture, Government of India with the representatives of the States of Punjab, Haryana and Uttar Pradesh. Progress of distribution of machinery is recorded as follows:

Name of the State	Physical Progress							
	Physical Targets (Nos.)		Application Received (Nos.)		Application Sanctioned (Nos.)		Machines delivered (Nos.)	
	Individual	CHCs	Individual	CHCs	Individual	CHCs	Individual	CHCs
<b>Punjab</b>	7600	6230	8746	5874	7712	5623	1658	2483
<b>Haryana</b>	15343	784	50598	913	9702	795	4506	4007
<b>Uttar Pradesh</b>	4077	1817	1918	1817	1918	1817	-	-
<b>Total</b>	<b>27020</b>	<b>8831</b>	<b>61262</b>	<b>8604</b>	<b>19332</b>	<b>8235</b>	<b>6164</b>	<b>6490</b>

10. Proceeding further are:

“(ix) After discussion and hearing the comments from all the State Governments, it has been advised as under:-

- (a) As the paddy harvesting season is started in some pockets of the State of Punjab & Haryana, the States should ensure delivery and utilization of these machines to their full capacity.
- (b) Major focus should be on bringing more area under happy seeder which is a major, effective and economical solution to the farmers for paddy residues management

(c) *As the crucial season has already begun, the States and KVKs should take up the IEC activities more vigorously to educate the farmers on ill effects of paddy residue burning and the advantages of incorporation of paddy residue into the soil.”*

- XXXXX                      XXXX                      XXXXXXXXXXX                      XXXXXXXX
11. *The above statistics show that physical targets are not supported by any expert study to be effective enough to neutralize the impact of air pollution caused by burning of crop residue. In any case the said targets have not been achieved. As against target of 27020 individual and 8831 Custom Hiring Centres, machines delivered are 6164 and 6490. Overall average of success appears to be around 35% only*
12. *Thus, it does appear that unless further effective measures are adopted, the problem of air pollution by burning of crop residue may not be remedied. We are of the view that this concern needs to be addressed by effective environmental governance which is inalienable duty of the State. No doubt, the funds have been allocated by the Central Government for the purpose but the Central Government ought to provide further guidance in terms of effective strategies to be used for monitoring the situation. At the level of States, the responsibility may be more onerous and still more onerous at the District level. It may be desirable to have a special cell in the office of the Chief Secretary so that the situation is reviewed on daily basis atleast for next one month, even on holidays. Similar cells may be required at the offices of District Magistrates or at such other levels as may be considered necessary by the State Authorities. Such monitoring mechanism may be finalized by 07.10.2019 and placed on the website of the State which may encourage public participation and enhance awareness.*
13. *We do hope that with sincere efforts at all levels it may not be difficult to contain the problem in the interest of better air quality and public health.*
14. *We direct the concerned Joint Secretary, Ministry of Agriculture, Government of India and Secretaries, Agriculture of States of Punjab, Haryana and Uttar Pradesh (whatever may be the designation in the concerned States) to appear before this Tribunal alongwith their status reports on 15.10.2019 at 10:30 am for further consideration.”*

3. We have heard the Joint Secretary, Agriculture, Government of India and the Secretaries of Agriculture Departments of the States of Punjab, Haryana and Uttar Pradesh.

4. The stand of the Joint Secretary, Agriculture, Government of India is that further review meetings have taken place and are scheduled. There is some further progress in delivery of machines. The target has been achieved for Punjab, Haryana and UP to the extent of 30%, 70% and 32% respectively. The status report filed on behalf of the State of Haryana does not show any further significant initiative. Similar is the position with regard to the State of UP and Punjab.
5. The fact remains that inspite of efforts said to have been made by the Central Government and the State Governments, on the ground level burning of crop is still taking place with all its adverse consequences on public health and environment for which no officer/authority is being held accountable. Even after information from satellite imagery there is hardly any tangible action to stop violations. The Air (Prevention and Control of Pollution) Act, 1981 provides for prohibiting burning of any material which is likely to cause air pollution and enforcing such prohibition in an appropriate manner including prosecution and recovery of compensation. Air pollution has adverse consequences on public health. Pollution free environment is right of every citizen and obligation of every State. This being the legal position, stand of the Central Government and the States that they are helpless is unacceptable. Just like enforcing law to prevent other crimes, the State has to own responsibility to enforce law to prevent pollution. The States are not doing this effectively. The States must take appropriate action against failure of its officers for preventing pollution caused by crop burning in such manner as may be appropriate. The strategy may be creating awareness, giving incentives or taking punitive action. It is

unfortunate that the State have failed to perform its duty and have merely pleaded helplessness on the ground that whatever action was possible have been taken.

6. Even in five years if the State machinery is not able to communicate to the concerned farmers the techniques of sowing crops without burning of the crop residue of the paddy, it is an unhappy situation which needs to be remedied. If an incentive is to be given, it is for the State to decide and provide for the same. Even central funds or schemes are not fully utilized. Status as on 14.10.2019 is reported to be as follows:

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Name of State	Physical Progress							
	Physical Targets (Nos.)		Applications Received (Nos.)		Applications sanctioned (Nos.)		Machines delivered (Nos.)	
	Individual	CHCs	Individual	CHCs	Individual	CHCs	Individual	CHCs
<b>Punjab</b>	7600	6230	7829	5821	7714	5628	2437	4631
<b>Haryana</b>	15343	784	51274	996	16676	811	5113	4662
<b>Uttar Pradesh</b>	4077	1817	1918	1817	1918	1817	1391	979
<b>Total</b>	<b>27020</b>	<b>8831</b>	<b>61021</b>	<b>8634</b>	<b>26308</b>	<b>8256</b>	<b>8941</b>	<b>10272</b>

”

7. It is undisputed that in-situ degradation of paddy residue is useful to the soil fertility while burning of crop results in requiring more fertilizer and less yield and damage to the soil. Such desirable result has to be ensured by the State by proper monitoring. Failure in this regard cannot be a ground not to enforce the mandate of preventing pollution and a mechanism of immediate intervention to stop burning which is not shown to be happening. Linking of failure to demand for more subsidies from Central Government is not justified. The States

have to come out with enforcement or other strategies, including further incentives, if any.

8. It is clear that steps taken are inadequate and do not provide for ground checking and vigilance and extinguishing of illegal fires. Preventive remedies of communicating with the farmers the disadvantages of burning are also unsatisfactory and ineffective. There is no effective incentive mechanism. The effective steps should include successful communication with the farmers, effective prevention of fires, supply of suitable equipment without unbearable cost for the farmer, change of crop patterns, use of labour by Panchayats under Rural Employment Guarantee Scheme, purchase of crop residue for fuel or composting and fixing accountability of officers for the failure.
9. The Central Government as well as States may place on their respective websites the data of fire incidents, responsible officers for the subject for the entire areas and action taken for the failures on daily basis.
10. Let the action plans and enforcement strategies be reviewed. The States may allocate such funds as may be found necessary to take remedial action.

List again on 15.11.2019.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 15, 2019  
Original Application No. 666/2018  
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