

(1999) 02 KAR CK 0051
In the Karnataka High Court
Case No : Writ Petition No. 17909 of 1998

Srinivasa Rao Kashimpurkar

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 18-02-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 4 KarLJ 1

Hon'ble Judges : Y. Bhaskar Rao, Acting C.J.; A.M. Farooq, J

Bench : Division Bench

Advocate : Sri Mohandas N. Hegde, for the Appellant; Sri D'Sa, Government Advocate, for the Respondent

Judgement

Y. Bhaskar Rao, Actg. C.J.

1. A farmer and a social worker of the Bidar District has filed this writ Petition seeking a writ of mandamus directing the State of Karnataka to extend the benefit of the Government Order No. AHD 120 AMS 98, dated 25-5-1998 to all farmers who had suffered the loss irrespective of the fact as to whether they had grown Tur crop or any other crop.

2. The brief facts of the case are that due to scanty rainfall in Bidar and Gulbarga Districts and. due to pest attack on the standing crops in the districts have failed. Due to the failure of the crops, some of the farmers also committed suicide, as they could not meet the financial commitment and repay the loans borrowed by them. The farmers have not received any tangible assistance for controlling the pests for their crops. It is stated that there were more than 22 suicides in Bidar District. The petitioner and several other social workers made representations along with the Member of the Legislative Council to the Government and Deputy Commissioner to extend financial assistance. It is their case that on 7th of March, 1998, farmers gathered in large number in Bidar and requested the Government to come to their rescue. The Legislative Member also brought to the notice of the Government, the miserable plight of the farmers. The Minister in-

charge of the Bidar District visited and he had noticed the pathetic conditions of the farmers. Thereafter, a Joint House Committee was constituted comprising of 15 Members of Legislative Assembly and 5 Members of Legislative Council and the matter was referred to them. The Committee visited Bidar and Gulbarga Districts and submitted its interim report, wherein it is found that the failure of Tur crop was 80% and other crops, that is, Greengram 91%, Blackgram 94%, Til 92%, Rabi Jower 71%, Bengalgram 60% and Sunflower 70%. But, the State Government has sanctioned Rs. 500/- per Hectare only to the farmers who had grown Tur crop subject to the maximum of Rs. 2,000/- per farmer, thereafter, it was enhanced subject to a maximum of Rs. 3,000/- per farmer. It is contended that the Committee has reported failure of the other crops other than Tur crop and percentage of loss of some of the crops other than Tur crop is more than 90%. Therefore, the Government ought to have extended the same benefit extended to the farmers of Tur crop. As the State has not extended the benefit, this writ petition is filed seeking writ of mandamus.

3. In the statement of objections, it is stated that the decision of the State Government to restrict the benefit of compensatory payments to Tur growers was a well considered policy decision made in the best interests of all concerned and not intended to benefit one class of farmers to the arbitrary exclusion of other classes. The Government has taken all the relevant factors into account while making its decision. The categorisation and classification of the beneficiaries of the compensatory payments is in accordance with law and not violative of any constitutional right of the non-Tur growing farmers. The yield of Tur crop constituted about 49% of the total production of pulses in the State during the Kharif season. Gulbarga and Bidar Districts together constituted about 36% and 23% respectively of the total kharif pulse production in the State. The two districts together contributed 72% of the total Tur production in the State. The Tur crop is a long duration crop of about 6 to 7 months, grown under rain-fed conditions. The other crops like Blackgram, Greengram, Cowpea, Horsegram, Til, Jawar and Sunflower are comparatively of a shorter period of about 2¹/₂ to 3¹/₂ months. If Tur crop fails, the farmers will have no other alternative crop to grow, since there will be no rains during January, February and March of the year. If short duration crops fail, there is possibility of rising other crops utilising the residual moisture and rains, and derive income from them. The investment for Tur cultivation is more than many other crops. The incidents of insects and other pest attacks is also more in Tur cultivation compared to the other crops. So, the cultivation of Tur crop is highly risky. Therefore, when the Tur crop fails, farmers are not able to withstand the loss. Due to heavy rains in the month of November 1997 and pest attacks, Tur crop yield was severely affected to the prejudice of the farmers. Unexpected rains during the month of November 1997 combined with cloudy weather, which prevailed for long duration caused the tur pod borer to multiply at an alarming rate. Infestation was thus severe on Tur crop only, as there were no other crops which were in flowering and pod formation stage during that period. In addition, Tur crop is cultivated extensively in two districts.

The State Government taking all the above facts into consideration have taken a decision to give assistance only to Tur crop growing farmers. The example of Maharashtra Government is not relevant and not binding on this Government. The Government also made it clear that the communication of the Human Rights Commission is also not binding on the Government. The Government has taken up a policy decision and there is no discrimination or unconstitutionality in the decision. Therefore, there are no grounds made out to issue a writ of mandamus and writ petition is liable to be dismissed.

4. The learned Counsel for the petitioner contended that other farmers are equally hit by the failure of the rains and the pest and when the Committee has reported regarding that failure, the Government ought to have extended the same benefit as extended to the farmers who had grown Tur crop. The action of the Government in not extending the same benefit is discriminatory and arbitrary.

5. On the other hand, the Government Advocate contended that the decision of the Government is a policy decision taken up considering the report of the Joint Committee consisting of M.L.A.s and M.L.Cs and according to all the prevalent circumstances. The other farmers cannot be put on the same line as that of farmers who had grown Tur crop. Further, policy decision is not amenable to writ jurisdiction, unless the same is arbitrary or discriminatory. Farmers also committed suicide since they could not withstand the agony due to calamity. Therefore, writ petition is liable to be dismissed.

6. The facts of the case show that there was failure of rain and attack of pest on the crops grown in Bidar and Gulbarga Districts and some of the farmers also committed suicide due to calamity. The Government had also given Rs. 1.00 lakh each to the family of the deceased. On representation of several other social workers and the M.L.C., a Joint Committee consisting of M.L.As and M.L.Cs was appointed to give the report. The Committee visited the two districts and gave a report stating that there is failure of crops of 60 to 94 per cent. Thereafter, the Government after considering the report of the Committee and other factors has taken a decision to give compensatory assistance to the farmers who had grown Tur crop. The decision of the Government is a policy decision which depends on the different factors, that is failure of the crop, extent of the failure, extent of the area grown, the financial position of the farmer, duration of the crop, possibility of growing second crop and so many other factors. The decision of the Government is an administrative decision involving the policy of the Government. The Government has given reasons for awarding compensation only to farmers who had grown Tur crop and not awarding compensation to other crop growers. Such decision, on the face of it cannot be stated to be arbitrary or discriminatory. This Court will not sit in appeal over the decision of the Administrative Authorities, particularly of the Government when it has taken all the factors into consideration and has taken a policy decision. The jurisdiction of the High Court under Article 226 of the Constitution is very wide and judicial arm can be extended to remedy any grievance, which as a result of discrimination or

arbitrariness or violation of fundamental rights or other rights. In the present case, though there is failure of crops other than Tur crop, it cannot be said that the action of the Government in not providing assistance is violation of any statutory right or constitutional right. Further, decision of the Government is only a policy decision. It is settled principle of law that the Court will not generally interfere into the policy and administrative decisions.

7. The Supreme Court in *Vidharbha Sikshan Vyawasthapak Mahasangh Vs. State of Maharashtra and Others*, , has considered the policy decision of the Maharashtra Government directing 36 D. Ed. Institutions not to admit the students to I Year during the academic year 1985-86. The Supreme Court upholding the decision of the High Court held that in view of the averments in the affidavit of the respondents, it is difficult to accept the contention of the appellant that the impugned order or the policy decision of the Government is arbitrary or unreasonable. There is also no question of interference with the right to education of any citizen and held that Courts will not interfere into the policy decision of the Government when it is not arbitrary or unreasonable or not violative of any right of any student into the policy decision of the Government.

8. The Supreme Court in *Shri Sachidanand Pandey and Another Vs. The State of West Bengal and Others*, , was considering regarding the ecological imbalance, where the Government has taken the administrative action. The Court while considering the action of the Government has held as follows:

"Where an administrative action or order of the Government involves the problem of environment and the Government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account, it may not be for the Court to interfere in the absence of mala fides. However, this will not bar the interference of the Court where relevant considerations are not borne in mind and irrelevant considerations influence the decision".

The above principles squarely applies to the present case. In the present case, the Government has taken into consideration the report of the Committee and all other relevant facts as stated supra. Therefore, it cannot be said that the policy decision of the Government is hit by not considering the relevant considerations and influenced by irrelevant considerations.

9. The learned Counsel for the petitioner relied on the judgment in *State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc.*, . In this case, the Supreme Court considering the facts of the case in para 31 of the judgment held:

"Answer to question whether the modification of the policy by the State by deleting its earlier decision of permitting reimbursement at the rates charged by the Escorts and other designated hospitals, is justified or not, will depend upon the facts and circumstances. The Court would not interfere with any opinion formed by the Government if it is based on relevant facts and circumstances. The Court would not interfere with any opinion formed by the Government if it is

based on relevant facts and circumstances or based on expert advice".

Therefore, this judgment is of no avail to the petitioner.

10. The learned Counsel for the appellant relied on the judgment in National Buildings Construction Corporation Vs. S. Raghunathan and Others, , wherein the Doctrine of "Legitimate Expectation" was considered. The facts of that case are quite different. In this case, the Doctrine of "Legitimate Expectation" do not arise at all. Even in this case, the Supreme Court held that the policy decision cannot be interfered unless same is arbitrary.

11. In view of the above stated circumstances, we do not see any ground to interfere with the policy of the Government. Writ petition is therefore dismissed.