

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

1) **C.W.P.No. 10138 of 2006**

Captain Sarabjit Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

2) **C.W.P.No. 7501 of 2007**

Jagmohan Singh Bhatti, Advocate

....Petitioner

Versus

Union of India and others

...Respondents

Date of decision : April 16, 2012

**CORAM:-HON'BLE MR. JUSTICE RANJAN GOGOI, CHIEF JUSTICE
HON'BLE MR. JUSTICE MAHESH GROVER**

....

Present : Mr.S.S.Behl, Advocate for
the petitioner in CWP No.10138 of 2006.

Mr.J.S.Bhatti, Advocate, petitioner in person
in CWP No.7501 of 2007.

Mr.H.S.Sidhu, Additional Advocate General, Punjab.

Mr.Arun Walia, Advocate for Haryana Pollution Control
Board.

Ms.Meghna Malik, Advocate

.....

MAHESH GROVER, J.

This order will dispose of CWP Nos. 10138 of 2006 and 7501 of 2007, as both these petitions raise a common but an important question pertaining to the formulation of a policy by the States to ban the burning of wheat stubble/paddy straw/dry fallen leaves as such a process pollutes the environment.

Having found the issue to be of importance and in public interest the Court sought the response of the States of Punjab and Haryana and it appears therefrom that both the States are alive to the situation and some studies and research reports have been undertaken, but it seems that even though such exercises have been undertaken, yet it is the cohesive thrust which is lacking in the implementation of the measures identified.

The petitions have remained alive in the Court for as long as six years which has seen the exchange of various reports, studies, suggestions and action taken.

The evaluation of the above measures indicates the convergence of the minds involved, that burning of wheat stubble/paddy straw indeed contributes to the pollution in the environment and needs to be curbed.

After having considered the contentions and the material on record, we are of the opinion that a time has come to close the writ petitions as there cannot be a situation of monitoring the measures eternally and the Court is satisfied that both the States involved in the exercise are sufficiently sensitized to the issue and the only remaining

area is to implement the identified long term and short term measures.

We will firstly underline that this is an issue where promulgation of a law banning such activity possibly may not yield the desired result. A fiat or a diktat by an authority necessarily involves penal consequences upon its violation and booking the farmers for violating the ban of burning of wheat straw/paddy straw would hardly be a situation which any government or a citizen would want.

It has also to be understood that a farmer feeds a nation and, therefore, holding him responsible alone would not be a relishable idea.

The issue, therefore, has to be seen from the perspective where the society and the government, who are beneficiaries of the industrious activity of a farmer, take proactive measures by providing solutions to a farmer which are affordable and readily available and thus save both the farming community as also the general public from the hazards ensuing the polluting activity of burning straw.

This is important because in today's scenario the agricultural land is not remotely situated but exists on fringes of the towns and cities and, therefore, any prejudicial activity being practised there is not likely to keep itself confined to the remoteness of a village but is likely to permeate to the adjoining towns and cities and thus resulting in serious health hazards, like skin and eye allergies and asthma to name a few known hazards of such pollution.

Having observed earlier that the States are sufficiently

sensitized to the issue, it is now for them to reach out to the farmer at the grass-root level who are not only to be educated but are to be given alternatives to get rid of the residue of agricultural activity i.e. straw.

Technical measures : Easy availability of rotavator, zero-till drill and happy seeder.

These are measures which provide alternatives to burning but are expensive and, therefore, the governments are required to take steps to make such machines available to the farmers.

It is to be kept in mind that the majority of the farmers are small farmers and even if they have a complete permissible holding under the law, yet the dependents in the family may make sufficient finance available for purchase of these machines individually very scarce. Thus the Governments can formulate and grant subsidies, long term loans and encourage manufacturers in making these machines more competitive which will result in fall of prices and make the machines more affordable. The Government can consider giving them incentive to manufacture the machines at affordable prices.

These measures also require intensive training of the farmers by expert agricultural staff since the operation of this zero-till technology requires guidance, the lack of which may result in the loss of few crop which a farmer can ill-afford.

The availability of subsidy and financial assistance has to be broadly publicized and after the harvesting the agricultural Inspectors are required to be mobilized to visit the fields and educate

the farmers in this regard.

The feasibility of setting up of bio-mass power projects which may use the straw should be encouraged. The farmers may not find the use of reapers very conducive considering the facility of combine harvesters and thus straw collector and bailer is a suggestion which needs to be publicized. The straw and bails collected in this manner can be used by the paper and cardboard industry. Cash intensive activities such as mushroom cultivation by using compost from the paddy and wheat straw is an extremely good idea which needs to be publicized.

Wheat straw is distinct from paddy straw and is used as fodder locally and the technology of making straw with machines even where combine harvesters have been operated should be encouraged.

The cardboard industry/paper industry/packaging industry can be encouraged to open some centers in rural areas where the farmers can be tapped to sell the straw which can then be collected by the industry through its operatives for its industrial use.

Since the paddy straw and wheat straw both can be used as fodder, setting up of cattle feed industry can be encouraged which in turn will provide another opening for absorption and use of the straw.

Having indicated some of the suggestions which are not necessarily all inclusive since there may be a scope of more such measures which may either be existing or may have been researched and also keeping in view the constraints of the Court which is not

equipped with technical know-how, we feel that these writ petitions can be closed with an expectation that all the stakeholders would proactively engage themselves and earnestly strive for a situation which is conducive and beneficial for both the farmers and the society.

With the aforesaid observations the writ petitions are disposed of.

(RANJAN GOGOI)
CHIEF JUSTICE

(MAHESH GROVER)
JUDGE

April 16, 2012
dss

NOTE: Whether to be referred to the Reporter or not? _____