

**HONOURABLE THE ACTING CHIEF JUSTICE
SRI M.S.RAMACHANDRA RAO**

AND

HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION (PIL) NO.290 OF 2020

ORDER:

(Per Hon'ble The Acting Chief Justice Sri M.S.Ramachandra Rao)

This Writ Petition has been filed as a Public Interest Litigation by the petitioners in the interests of farmers of the State of Telangana who have suffered crop losses on account of excessive and incessant rains in the months of September and October, 2020 and seeking extension of relief/assistance to them in the form of agricultural input subsidy to all the affected farmers in the State of Telangana on the ground that they have not been given any such relief/assistance. The petitioners also complain about the inaction on the part of the respondents in notifying crop insurance scheme and in taking adequate steps to enable the farmers across the State of Telangana to avail any form of crop insurance for the year 2020-21.

The relief claimed in the Writ Petition

2. The following reliefs have been sought in the Writ Petition:

(a) taking steps to enumerate and assess the extensive crop damage that occurred across the State of Telangana due to excessive and incessant rains in the months of September and October, 2020 and to extend the compensation in the form of agricultural input subsidy to all the affected farmers in the State;

(b) notifying crop insurance scheme and taking adequate steps to enable the farmers across the State of Telangana to avail any form of crop insurance scheme for the year 2020-21 as illegal, unconstitutional and consequently direct the respondents,

(i) to immediately take steps for expeditious payment of compensation from NDRF/SDRF under National Disaster Management Act, 2005 to all the farmers, including tenant farmers, across the State of Telangana, affected by the incessant and excessive rains; and

(ii) to take steps for providing additional and appropriate relief to the small and marginal cultivating farmers of Telangana who suffered huge economic loss in the absence of crop insurance coverage.

The parties to the Writ Petition

3. The State of Telangana represented by the Chief Secretary is impleaded as the 1st respondent, State of Telangana represented by Principal Secretary, Revenue Department is impleaded as the 2nd respondent, State of Telangana represented by Principal Secretary, Disaster Revenue Department is impleaded as the 3rd respondent, **State of Telangana represented by Principal Secretary, Agriculture Department is impleaded as the 4th respondent**, the Commissioner and Director, Agriculture Department is impleaded as the 5th respondent, the Union of India represented by its Secretary,

Ministry of Agriculture and Farmers Welfare, New Delhi is impleaded as 6th respondent and the Union of India represented by it's **Secretary, Ministry of Home Affairs, New Delhi is impleaded as 7th respondent.**

The contentions of petitioners

4. The petitioners contend that in the agriculture year 2020-21, there were excessive rains across the country, particularly in the State of Telangana in the months of September and October; that such rain was disastrous to the crops which were graining / ripening or harvesting stage at that point of time; that farmers had made investments in raising such crops but because of the rains, they lost most of their investments and there was crop damage in lakhs of acres as per news reports.

5. They allege that an official Press Note was issued from the Office of the Hon'ble Chief Minister of the State of Telangana on 16.10.2020 stating that as per primary estimates, the State suffered a loss of Rs.5,000 Crores due to heavy rains and flash floods, that he is urging the Central Government to release compensation of Rs.1,350 Crores for relief measures and he had also written a letter to the Hon'ble Prime Minister of India to extend relief to farmers of Rs.600 Crores and to take up relief and rehabilitation measures in Greater Hyderabad Municipal Corporation (GHMC) and other areas of Rs.750 Crores as additional assistance; thereafter an Inter-Ministerial Five Member Central Team was deputed by the Union of India to the State

of Telangana to assess the damage caused by rains and floods, and News Reports dt.22.10.2020 indicate that the Chief Secretary of the State of Telangana (1st respondent) informed the said Committee that the loss suffered by different sectors was over Rs.9,420 Crores *with the agriculture sector bearing the maximum brunt*. The News Reports, according to the petitioners, published in the Hindu newspaper dt.22.10.2020 further indicate that the 1st respondent had stated that there was a considerable damage to public infrastructure and the State Government had made a preliminary assessment of damage; and *while the loss of crops was estimated to Rs.8,644 Crores*, the loss to road network was around Rs.222 Crore and the loss in the GHMC area was estimated to be Rs.567 Crores.

6. They allege that no orders or reports however came out detailing the relief measures taken for the farmers who suffered crop losses due to the said heavy rains either from the State Government or from the Central Government and no funds were released by either of these Governments for the said purpose, which resulted, according to the petitioners, in some of the farmers burning the damaged residue crops or committing suicides, which were widely reported.

7. The petitioners rely on a Notification No.32-7/2014-NDM-I dt.8.4.2015 issued by the Disaster Management Division of Ministry of Home Affairs , Union of India (7th respondent) laying down norms of assistance from the State Disaster Relief Fund (SDRF) and

National Disaster Relief Fund (NDRF) under the Disaster Management Act, 2005 for the period 2015-2020.

8. They contend that the State of Telangana adapted the same *vide* G.O.Ms.No.2, Revenue (Disaster Management.II) Department, dt.15.06.2015; that as per the said norms, *for crop loss to an extent of 33% and more due to any natural calamity, immediate relief in the form of input subsidy has to be provided* .

9. They also contend that amounts are specified for various categories of crops, lands and land holding in item No.5 of the Ministry of Home Affairs letter No.32-7/2014-NDM-I, dt.08.04.2015 and that the said guidelines and norms were adopted for the year 2020-21 also through Notification No.33-05/2020-NDM-1 dt.07-04-2020 issued by the said Ministry of the Government of India.

10. They contend that the State Government did not initiate process of farm level enumeration of crop losses even after a lapse of substantial time and in the absence of such notification and enumeration, the farmers, including tenant farmers, were deprived of the said assistance defeating the whole purpose of the policy of the State Disaster Relief Fund (SDRF) and National Disaster Relief Fund (NDRF) under the National Disaster Management Act, 2005.

11. The petitioners contend that in contrast to the apathy allegedly shown by the State Government and Central Government to the farmers, the State Government had come to the rescue of the people in

the city of Hyderabad immediately who suffered losses due to the same excessive rains and provided the affected households with the relief of Rs.10,000/- each to an extent of more than Rs.600 Crores. They contend that such support was certainly welcome, but non-extension of the same helping hand to the small and marginal farmers in the rural areas, is discriminatory.

12. They therefore contend that the inaction of the both State as well as the Union Governments in adequately compensating the farmers who suffered losses on account of the excessive rains in the above period is arbitrary and violates Articles 14 and 21 of the Constitution of India.

13. An additional contention is also raised by the petitioner that the Union Government had formulated a Scheme called 'Prime Minister Fasal Bima Yojana (PMFBY) which was launched in 2016 to extend insurance cover to the farmers for their crops; this was done to make good the likely loss they suffer from crop failures and crop damages due to the incessant rains or pest attacks or seed failure and any other natural calamities like cyclones and floods; till 2019-20 the State Government used to issue Notification in the month of May i.e. before the start of Kharif season notifying the Mandal / Village wise crops under the insurance scheme; the farmers who take crop loans from the scheduled banks used to be automatically covered under the scheme as their share of premium used to be deducted from the loan amount granted to them; the Central and State Governments used to pay the

remaining premium amount; and non-loanee farmers, particularly tenant farmers, also used to pay their share of premium separately with the assistance of Agriculture Extension Staff so as to get the coverage.

14. They contend that for the year 2020-21 the Government of India had taken a decision to make the said insurance scheme entirely optional for the farmers; as a result, both loanee and non-loanee farmers had to choose the scheme and company which would insure them against the crop losses and also pay the total premium to the companies on their own; such a decision was taken by the Union Cabinet in February, 2020; but this was not immediately communicated to the farmers in the State and the State Government did not take any alternative measures to build awareness among the farmers or to ensure coverage of maximum number of farmers in the insurance schemes available.

15. They allege that the loanee farmers also did not know that they were not being covered under the said scheme and the State Government did not notify the crop insurance scheme for 2020-21 and had not given any publicity of the said fact among farmers, because of which majority of the farmers in the State of Telangana did not take any insurance coverage for their crops for 2020-21.

16. They allege that no communication or publicity was done by the State Government among the farmers about the lack of any

insurance cover for the agriculture year 2020-21 and the scheme PMFBY being optional and voluntary.

17. They contend that in the light of this, when heavy rains occurred in the months of September and October of 2020 and caused irreparable damage to the crops, the farmers were left remediless, resulting in at least some of them committing suicides; and had they got the benefit of insurance, there would not have been suffering or damage or loss caused to the farmers.

18. According to petitioners, both the State and Central Governments completely abandoned the responsibility of ensuring the insurance coverage for the crops and this inaction on their part is arbitrary and illegal and violates the right to life of lakhs of framers under Articles 14 and 21 of the Constitution of India.

The Stand of the Union of India (respondents 6 and 7)

19. The Ministry of Agriculture of the Union of India, which was impleaded as the 6th respondent in the Writ Petition, filed a counter affidavit contending that it is not concerned with the relief measures for *heavy rain/flood* and only the Ministry of Home Affairs is Nodal Ministry; that it is entitled to coordinate the relief measures necessitated by drought, hailstorm, pest attack, frost/cold wave (but not heavy rain/flood).

20. A plea is also raised that the State of Telangana did not notify the Pradhan Mantri Fasal Bima Yojana (PMFBY) Scheme in Kharif

2020 and the same was not implemented either in Kharif 2020 or in Rabi 2020-21.

21. When pressed for the stand of the Ministry of Home Affairs, Union of India (7th respondent), a Memo dt.7.9.2021 was filed by the learned Assistant Solicitor General appearing for the said Ministry, enclosing a copy of Communication dt.07.09.2021 sent by the said Ministry to him.

22. The said Communication dt.7.9.2021 sent by the Deputy Secretary to the Govt. of India, Disaster management Division, Ministry of Home Affairs, Union of India to the learned Assistant Solicitor General states that:

(i) the primary responsibility of disaster management, including disbursement of relief to affected people, rests with the State Governments;

(ii) that the Central Government supplements the efforts of the State Governments and provides requisite logistics and financial support;

(iii) for providing relief to the affected people in case of 12 notified natural disasters, the State Disaster Response Fund is placed at the disposal of the State Governments in advance in terms of extant items and norms;

(iv) Additional Central Assistance is provided from National Disaster Response Fund in case of disaster of severe nature and beyond the coping capacity of the State; that in case of such a

calamity, an Inter-Ministerial Central Team is deputed to assess the extent of damages caused by a calamity and after it submits a report to the Central Government, additional central assistance is finally approved by the High Level Committee subject to adjustment of 50% of the amount balance available in the State Disaster Response Fund of the State as on 1st April of the financial year. It also states that the financial assistance under SDRF / NDRF in the wake of notified natural disasters is given by way of relief and not for compensation of loss as suffered/claimed.

23. In paras-5 to 7 of the said Communication, the following is stated:

“5. During 2020-21, an amount of Rs.599.00 crore was allocated under State Disaster Risk Management Fund (SDRMF) (after recommendations of 15th Finance Commission which includes SDRF & State Disaster Mitigation Fund (SDMF) in the ratio of 80% and 20% respectively) consisting of Rs.449.00 crore as Central Share and Rs.150.00 crore as State Share. The Central Share of Rs.449.00 crore has been released to the State of Telangana during 2020-21. Taking into account the opening balance of Rs.977.67 crore as on 1st April, 2020, as intimated by office of the Accountant General, Telangana, the availability of funds in SDRF comes to Rs.1456.87 crore including credit of Central and State share of Rs.359.40 crore and 119.80 respectively. As such, an amount of Rs.1456.87 crore was available in SDRF account of State of Telangana during 2020-21 for meeting the expenses on any notified natural disaster, including floods.

6. Further, in the aftermath of Floods-2020, an IMCT visited the affected areas of the State on 22-23 October, 2020 for making an on the spot assessment of damages caused by flood-2020 and projected an assistance of Rs.249.61 crore from NDRF. Based on the report of the IMCT, HLC approved the admissible assistance of

Rs.245.99 crore from NDRF subject to the adjustment of 50% of the balance available in the SDRF account of the State as on 1.4.2020, for the instant disaster as per laid down procedures.

7. Taking into account the opening balance as Rs.977.67 crore as on 1st April, 2020 in SDRF account of State of Telangana, 50% of this amount works out to Rs.488.83 crore. As the amount of Rs.245.96 crore approved by the HLC from NDRF is less than the 50% of the balance available in the SDRF account, the net out go from the NDRF was 'Nil' for instant calamity i.e. floods of 2020 to the State Government. This was informed to the State Government of Telangana on 11.02.2021.”

(emphasis supplied)

24. On 13.09.2021, this Court had directed the 7th respondent to produce the Memorandum submitted by the State of Telangana (**Final Memorandum** on Damages due to Heavy Rains and Floods – October 2020) to the Union of India and also the copy of the letter dt.15.10.2020 addressed by the Hon'ble Chief Minister of the State of Telangana to the Hon'ble Prime Minister of India.

25. Through Memo dt.14.09.2020, the said documents have been filed along with copy of (i) Final Recommendation of Assistance under various heads by the Joint Secretary (MHA) and team Leader of the Inter-Ministerial Central team; and also (ii) a letter dt.21.5.2021 addressed by the Accountant General (A &E). Telangana to the Consultant (DM), Disaster management-I Division, Ministry of Home Affairs, New Delhi.

26. The said **Final Memorandum** submitted by the State of Telangana to the Union of India is dated 19.10.2020.

It records in para 4.3.1 that the cloudburst and floods caused severe damage to 5.97 lakh hectares of agricultural crops; that the assessment, as per the scale of relief provided in the NDRF guidelines, comes to Rs.552.46; that but the damage sustained by farmers is much higher since the severity of the loss is very high; and the monetary loss when calculated at the rate of minimum support price for the said damaged area amounts to Rs.7219.5 Crores; and such amount is required to provide input subsidy.

In Annexure-6 of the said Memorandum, while dealing with the measure of assistance for agriculture input subsidy, a **tabular statement** is given by the State of Telangana to the Union of India setting out the names of the affected Districts, the total agricultural area affected, the total agricultural area where crop loss is more than 33% and the break-up of the assistance sought for rain-fed crops, irrigated crops and perennial crops.

27. The **letter dt.15.10.2020** addressed by the Hon'ble Chief Minister of the State of Telangana to the Hon'ble Prime Minister of India mentions that *extensive damage to crops occurred on account of excessive rains in 18 out of 33 Districts in the State of Telangana and crops over 2.04 lakh hectares standing of paddy crop, and over 3.10 lakh hectares of other crops were affected.* A request was made by the Hon'ble Chief Minister to the Hon'ble Prime Minister to provide assistance to an extent of Rs.1,350 Crores (*Rs.465 Crores for relief to*

farmers and Rs.885 Crores for immediate restoration relief and rehabilitation of physical infrastructure).

28. The **Final recommendation of Assistance** under various heads made by the Joint Secretary (MHA) and team Leader of the Inter-Ministerial Central team deputed by the Union of India to assess the losses after the deluge in September and October, 2020 recommended under the head '*Agriculture and Horticulture Input Subsidy*' assistance of Rs.188.23 Crores as against Rs.595.05 Crores sought by the State of Telangana as part of the total assistance of Rs.256.39 Crores recommended.

29. In the **letter dt.21.5.2021 addressed by the Accountant General (A &E), Telangana** to the Consultant (DM), Disaster management-I Division, Ministry of Home Affairs, New Delhi the following table is given :

**“Information in respect of SDRF and NDRF Account
Of the State for the year 2020-21**

Name of State: Telangana

		(Rs. in crore)
1	Opening balance in SDRF Account (both SDRF and NDRF) as on 01.04.2020, as reflected in the Finance Account	977.67
2	Amount released to State Government by GOI under SDRF during the year 2020-21 (Central Share)	449.00
3	State Share's of SDRF credited into this account by the State Government during the year 2020-21 (State Share)	149.67
4	Interest accrued on investment made out of SDRF, if any	..
5	Amount released to State by GOI under NDRF during the year 2020-21, credited if any	
5(a)	Amount credited into SDRF by Secretary & CEO Telangana and Building and Other Construction Workers Welfare Board, Hyderabad	1004.82(#)
6	Total amount available with State Government at the end of the Financial year (1+2+3+4+5+5(a))	2581.16

7	Expenditure reported (out of SDRF/NDRF) by State Government during the financial year 2020-21, (as reflected in the Finance Account)	(*)
8	Balance amount available with the state at the end of the Financial year, as on 31.03.2021(6-7) (as reflected in the Finance Account)	(*)

(#) An amount of Rs.1,004.82 crore was credited into SDRF during April 2020 by Secretary and CEO, Telangana Building and Other Construction Workers Welfare Board, Hyderabad without following proper accounting procedure. The issue is being taken up with the State Government for necessitating action to transfer the amount as reduction of expenditure to the Head of Account under which the expenditure was initially booked.

(*) As the Finance Accounts for the financial year 2020-21 is yet to be finalised, the expenditure reported and the balance amount is not indicated.”

30. The learned Asst. Solicitor General of India thus refuted the allegations of the State of Telangana that there was no crop loss warranting release of relief/assistance as Agriculture Input Subsidy and that the Union of India had denied funds to the State of Telangana.

The stand of the State of Telangana

31. One counter dt.06.04.2021 and an additional counter dt.13.09.2021 were filed by the State of Telangana through its Secretary, Agriculture Department.

32. In the counter affidavit dt.6.4.2021, while admitting that during 2020 rainy season, there was no doubt widespread heavy rains all across the State and also in the country, it is stated that the State has introduced Rythu Bandhu Scheme and Loan Waiver Scheme and from 2018 onwards had introduced Rythu Bima Scheme (insurance scheme) and also providing seed subsidy.

33. It also admitted in the counter affidavit in para 10 that as per input subsidy, crop relief that can be extended per acre for rain-fed crops is Rs.2,700/- per acre and for irrigated crops, it is Rs.5,400/-.

34. However, it was denied that the State Government had not taken any steps to provide any relief to the farmers of the State. It is stated that it had taken up immediate advisory measures to the farmers through extension functionaries and also electronic and print media.

35. It is contended that there could be several reasons for certain farmers committing suicides which are reported in newspapers such as indebtedness, lack of loan facilities, etc.

36. It is also contended that National Crime Records Bureau (NCRB) reported during September, 2021 that the suicides of farmers have come down compared to previous years and that this is because the Government of Telangana had taken farmer oriented activities and created certain irrigation facilities in the State which would otherwise help immensely in sustaining income of the farmers.

37. The allegation of discrimination by the State Government against small and marginal farmers while benefiting households of Hyderabad was also denied and it is stated that such allegation has no relevance to crop losses because there was logging of drainage channels, water logging in low lying areas in the city of Hyderabad.

38. It is stated that the Government of India had framed PMFBY Scheme, but it had made crop insurance optional in 2020-21

agriculture year and had left it to the respective State Governments to decide regarding implementation of the said scheme and several States like State of Telangana had not implemented the said scheme. It is contended that it is not mandatory for loanee farmers also as it was in the past.

39. It is contended that the State of Telangana was a medium risk State due to its geographic location and prevailing weather condition since there is no coastal line; though under the PMFBY Scheme, the Government of India had notified 18 insurance companies consisting of 5 public sector companies and 13 private insurance companies, the actuarial premium rates quoted by them are increasing exponentially year after year, but claims disbursed by the companies are not increasing and they were quoting technical reasons for avoiding insurance payouts to increase their profits.

40. It is alleged that under PMFBY Scheme, crop loss assessment is based on the area approach i.e., Village and Mandal level, but not at individual level so that the actual farmer, whose crop had been damaged, may not get insurance claim.

41. It is stated that a resolution was passed in the Legislative Assembly of the State of Telangana requesting the Government of India to make individual farmer as insurance unit instead of Village / Mandal level as crop loss of individual farmer is not reflected in the scheme.

42. Certain documents relating to the agriculture year 2019-20 including the Rythu Bandhu Scheme, Agricultural Credit Loan Waiver Scheme, 2014-15, Rythu Bima Farmers Group Life Insurance Scheme, 2018-19 and Subsidy Seed Distribution Report of the 15th Finance Commission, etc., are enclosed to this counter affidavit.

43. The contents of the Additional Counter Affidavit filed on 13.9.2021 will be set out after we set out the reply affidavit dt.17.6.2021 filed by the petitioners to the counter affidavit of the 4th respondent.

Petitioner's Reply to the Counter affidavit of the State of Telangana

44. After going through this counter affidavit, the petitioners filed a reply affidavit contending that Rythu Bandhu Scheme under which the State Government is paying Rs.10,000/- per acre does not cover all the farmers and it is only restricted to land owners and not to all cultivating farmers such as tenant farmers. It is stated that the said scheme extends support and a helping hand to the land-owning farmers in the initial investments, but it is not adequate enough to offset the losses being incurred by the farmers due to natural calamities, crop loss and lack of remunerative pricing for their produce.

45. Petitioners assert that notwithstanding the existence of such scheme or other schemes, the State continues to have an obligation to provide input subsidy to farmers whose crops are damaged due to

natural calamities like the incessant rains in October, 2020 and the obligation under Disaster Management Act, 2005 to provide relief to a particular section of farmers who suffered a specific loss cannot be offset by a general scheme which provides support to various sections of farmers who have *not* suffered that specific loss.

46. It is stated that the aspect of creation of irrigation facilities in the State does not address the specific grievance raised by the petitioners in the Writ Petition and the same is not relevant to the issue raised.

47. It is contended that Rythu Bandhu Scheme provides money towards initial investment support to all agricultural land owners across the State; that it is a general scheme which will benefit all agricultural land owners irrespective of occurrence of any natural calamity or crop loss; and existence of such a scheme has no relevance to a situation of crop loss due to incessant rains.

48. Reliance is placed on Disaster Management Act, 2005 and specifically to Sections 12, 13, 18, 19 and 39(f) of the said Act read with the guidelines / norms notified *vide* Notification No.32-7/2014-NDM-I, dt.08.04.2015 and it is contended that the State is mandated to provide input subsidy from State and National Disaster Response Funds to all such farmers who suffered damage to their crops on account of any natural calamity or disaster, such as floods, cyclones, incessant and heavy rains and this is a specific provision in addition to any general welfare scheme existing in the State.

49. It is contended that for compliance with the provisions of the Act, the State is duty bound to conduct necessary timely investigations and enumeration exercises to identify the farmers and the extent of loss they suffer; and based on the said exercise, it is bound to extend relief to the farmers who suffered more than 33% of the crop loss due to the said calamity.

50. It is reiterated that heavy rains and flooding which occurred in September and October, 2020 caused extensive damage to crops and there was no recovery of crops such as maize, cotton, jowar and paddy which were raised by the farmers.

51. It is stated that the State had only provided the first round of crop estimates for 2020-21 and compared it with the fourth round of crop estimates of previous years in the material papers filed along with its counter affidavit, but no specific date of the said estimates is provided and those facts are not revealed to the High Court.

52. It is pointed out that the State had provided Rs.22 Crores as input subsidy to the farmers across the State on account of crop loss which occurred in the year 2018 due to relatively heavy rains in that year, pursuant to the directions given in W.P. (PIL) No.54 of 2019 asking the Principal Secretary, Agricultural Department to appear before the Court *vide* order dt.25.06.2019 and when the matter was next listed on 15.07.2019, the State had stated that on 29.06.2019 by issuing G.O.Rt.No.11, an amount of Rs.22.34 Crores was sanctioned and was being disbursed to those agriculturists who lost their crops

due to heavy rains which occurred on 11th to 23rd August, 2018; and on 16.09.2019 compliance report has been submitted as well.

53. But, when the magnitude of rainfall and crop damage was much higher in 2020, there ought to have been payment of input subsidy also in the year 2020.

54. It is submitted that no amount of agronomical practices can completely mitigate / nullify the crop loss caused due to heavy inundation and they only reduce the loss to a limited extent and the claim of the State that through such practices, all the crops were brought to total normalcy was stated to be impossible and without any basis.

55. It is contended that irrespective of existence of Rythu Bandhu scheme, input subsidy was provided to the farmers on account of crop loss in 2018, but there is no plausible explanation provided by the State Government for not extending the said support for the last 2 years in case of similar natural calamities. So, the contention that Rythu Bandhu benefits were extended does not mean that the State can evade payment of input subsidy.

56. It is submitted by petitioner that no details or supporting documents were placed before the Court with regard to immediate advisory measures provided to farmers to extension functionaries and no copies of material propagated through electronic and print media were enclosed to the counter-affidavit.

57. Petitioners contend that it is unbelievable that there is a zero extent of crop damage after such heavy rains.

58. According to the petitioners, even as per the material submitted by respondents, hardly 40% of the pattadars are provided with crop loans and only 50% of the pattadars enrolled under the Rythu Bandhu Scheme, and the explanation offered that suicides of farmers could be because of indebtedness and not because of loss due to heavy rains, cannot be accepted because crop damage/fall in crop yield due to natural calamities will cause loss of expected income leading to indebtedness,

59. It is also stated that the NCRB data relied upon by the State is only upto September, 2020 as per their own admission and the said data has no relevance due to incessant rains in the months of September and October, 2020.

60. It is also contended that in its letter dt.11-02-2021, the Disaster Management Division, Government of India clearly specified item-wise details of the assistance approved in the form of a table in the Annexure and the largest item in the Central Assistant approved is **Rs.188.23 crores towards Agriculture / horticulture input subsidy.** It is also contended that the letter also states in para-3 that it has been noted that the scale of assistance sought for the damages items are at a much higher rate than what is permissible as per the SDRF / NDRF norms and this shows that the Government of Telangana in its Memorandum claimed a much higher level of crop damages

compared to Rs.188.23 crores and so the statement in para-11 of the counter-affidavit that there was no substantive crop loss and the affected crops came back to normalcy, cannot be accepted.

61. It is also contended that no details are available in the public domain regarding how much and in what manner the said amount of Rs.188.23 crores was spent and when the availability of funds for the instant calamity in the State Disaster Response Fund (SDRF) is Rs.977.67 crores, the State should explain what steps it has taken since approval of this assistance to distribute the sanctioned input subsidy of Rs.188.23 crores to farmers.

62. It is also contended that increase of average yields of crops in the State from year to year pleaded by the State is a totally irrelevant issue in the Writ Petition and even if it is accepted, farmers stands more chance of getting insurance claims even in the case of lesser crop damage in any year because of natural calamity as the average yield will be higher.

63. It is also pointed out that from 2020-21, the PMFBY was made voluntary even for the loanee farmers, but the Government of Telangana did not issue the due notification for the scheme for Kharif 2020-21 and subsequent seasons and thus failed to make the said Scheme operational in the State at all.

64. It is also contended that the State did not make any efforts to create awareness with regard to this and so most of the farmers were

unaware and did not pay premium for the said Scheme and thus lost the opportunity to claim insurance benefits.

65. It is contended that it is the duty of the State to resolve any issues with regard to PMFBY Scheme and accordingly adopt a modified or alternative scheme, and citing technicalities, the State cannot absolve itself from its responsibility of ensuring welfare of the farmers in the event of crop loss due to natural calamities.

66. It is stated that though other States opted out of PMFBY scheme, they established their own insurance scheme and provided relief to the affected farmers, and instance is given of the Government of Andhra Pradesh establishing YSR Free Crop Insurance Scheme, under which Rs.1820 crores to Rs.15.15 lakh farmers for Kharif 2020 season, for the same rains that caused crops loss in Telangana. Similar instances of some State Government Insurance Schemes in West Bengal and Gujarat is also pointed out.

The Additional Counter Affidavit filed by the 4th respondent to the Reply affidavit filed by Petitioners

67. In response to the above reply affidavit filed by the petitioners, additional counter-affidavit was filed by the 4th respondent on behalf of the State of Telangana.

68. It is stated that since the State of Telangana is committed for the welfare of all the people in the State including the farmers, and in the given set of facts of this case, instant PIL should not be entertained

by this Court since not a single farmer/group of farmers are before this Court ventilating their grievances.

69. According to the 4th respondent, this is because there was no crop damage due to various agronomical practices i.e. draining of excess water, spraying of Urea etc which are immediately taken up including the draining of excess water in the fields and coupled with the factor that better yields were obtained during the Kharif season.

70. It is contended that the instant PIL is a desperate attempt by the petitioners to shake the tree so that the State is compelled to invoke the provisions of Disaster Management Act even though *the State*, after thorough diligence *deemed fit that the said heavy rainfall during the Kharif period of 2020 does not tantamount to disaster/calamity to take up the enumeration of crop damage and to notify the same under the Act.*

71. It is stated that the PIL is not a pill for every ill and it is not a panacea especially when the subject matter falls under the gamut of the wisdom of the Government and the said issues fall within the scope of governing process.

72. It is stated that suitable advisories during the natural calamities are being given through robust extension system and they play a pivotal role to minimize the crop loss to the farmers. It is strenuously contended that *such advisories relates to the agronomical practices*

immediately after heavy rains had played a crucial role in regaining the normal condition of crops despite the heavy rains.

73. As regards the contention of petitioners regarding applicability of Rythu Bandhu Scheme, it is stated that the petitioners are not correct when they state that it is not meant for farmers, and all pattedar farmers in the State are being benefitted under the said Scheme. It is contended that the very purpose of assistance of Rs.10,000/- per acre under the said Scheme is not only for meeting the investment expenses but also for other purposes which the farmer is at liberty to use; and therefore the farmer can use the said money to offsets losses incurred by the farmers in the entire crop cultivation activity.

74. It is contended that the provisions contained in Sections 12, 13, 18, 19 and 39(f) of the Act do not specifically provide for input subsidy on account of crop damage, but deal with other sectors and the petitioners were not correct in relying upon the same.

75. Some advisories issued by the Government Telangana were filed with the additional counter as Annexures - A and B.

76. It is stated that though there was inundation during heavy rainy days during September, October months, the water receded subsequently; that the State had predominantly light textured soils and the State is not prone to floods like other States having coastal areas and when there is recession of water from inundate fields at faster

pace in the State of Telangana, *damage to crops would be limited and chances for near complete revival are brighter. It is contended that during incessant rainy days, though there was inundation of fields due to excess water, after the rains, the water from the fields drained out and the crops regained normalcy.*

77. It is stated that in the initial counter-affidavit dt.06-04-2021 filed by 4th respondent, mention was made of only crop yield estimates available as on that date (i.e., they were preliminary estimates), but by the time of filing the same, 1st advance estimates were available and the same was submitted before the Court. However, subsequently the *final advance estimates* were received from the Directorate of Economics and Statistics, Telangana State, according to which, the yield of major crops are little less 1st advance estimates. According to the 4th (final) advance estimates, the yield of major crops are, though, little less than those of 2019-20, are more than those of 2018-19 in many of the crops.

78. It was admitted that Rs.22 crores was released as input subsidy to farmers on account of crop loss which occurred to heavy rains which occurred during 2018; that during that year, the State Government has taken up crop enumeration and since the loss was more than 33%, payment of input subsidy was made.

79. But in 2019-20 and 2020-21, on account of farmers awareness programme and continuous monitoring with Districts and efforts put in with regard to agronomical practices like draining of water etc., the

crops regained normalcy and satisfactory yields were recorded. It is also contended that the Government Press information said to have been taken by the petitioners from the Government website is the *preliminary information* on inundation and it was based on the *preliminary report* submitted by the District Agriculture Officers, but there was recession of water subsequently.

80. Explanation is offered with regard to the circumstances in which some ryots have committed suicide.

81. It is stated that the State Government had apprised the overall heavy rain scenario of the State to the Central Team about the anticipated crop loss since such scenario was prevailing *at the time* of heavy rains; such information was submitted to the said Team based on the *preliminary report* on inundation of crop fields that happen during incessant rainy days. However, it is contended that the *scenario later changed* after recession of water due to farmers own initiative or the Departments extension activities and normalcy of crop stand was restored.

82. It is also pointed out that though the Government of India approved Rs.245.96 crores from NDRF vide its letter dt.11-02-2021 to the State of Telangana, there is no effective release of these amounts to the State of Telangana and the same fact is evident from the same letter. It is also contended that *Rs.188.23 crores was not released for Agriculture/ Horticulture crop damages as the said amount was not received from NDRF.*

83. It is contended that though PMFBY Insurance Scheme had been made voluntary from 2020, farmers are free to purchase any available insurance product in the market of their choice to cover the losses, if any; interested farmers were therefore not deprived of the opportunity to insure their crops; and there was no obligation on the State Government to compulsorily implement all the Schemes rolled out by the Government of India.

84. It is contended that only 14 to 19% of the farmers enrolled under the Crop Insurance Scheme from 2016-19 which clearly indicates that the farmers are less inclined for enrolling in the scheme and majority of farmers are not interested in the crop insurance.

85. It is however admitted that the State Government has released a part of the state share premium subsidy for 2018-19 and the release of balance state share premium subsidy for 2018-19 and state share premium subsidy for 2019-20 is under consideration by the Government.

Points for consideration

86. In view of the rival contentions of the parties, the following questions arise for consideration:

(a) Whether the instant PIL can be entertained by this Court ?

(b) Whether the material on record would show that there was significant crop loss on account of incessant rains in the State of Telangana in September and October of 2020?

(c) Whether the contention of the State of Telangana that there was no significant crop loss on account of incessant rains in the State of Telangana in September and October of 2020 can be accepted?

(d) Whether the contention of the State of Telangana that the Union of India did not release any funds to provide relief to farmers who suffered crop loss on account of incessant rains in the State of Telangana in September and October of 2020 is correct?

(e) To what relief?

Point (a)

87. In the counter-affidavit filed by the State of Telangana on 08-04-2021, no plea was raised by the 4th respondent about the maintainability of the PIL and an effort was made to meet the contentions of the petitioners on merits.

88. But after the petitioners filed a reply affidavit to the same on 17-06-2021, in the additional counter-affidavit filed on 13.09.2021, this plea regarding entertaining of this Public Interest Litigation (PIL) is raised in para-3.

89. We do not agree with the 4th respondent that since no single farmer / group of farmers are before the High Court ventilating their grievances about relief not being given to them on account of crop loss caused by inundation of crops when very heavy rains occurred in September and October, 2020, this PIL cannot be entertained.

90. The 4th respondent does not seem to understand the scope of a PIL. It is a mechanism evolved by the Supreme Court by relaxing the

concept of *locus standi* and broadening the traditional rule of standing and the definition of the term ‘person aggrieved’.

91. In **State of Uttaranchal v. Balwant Singh Chaufal**¹, the Supreme Court explained the various stages of evolution of the concept of Public Interest Litigation. It explained :

“ 41. The development of public interest litigation has been an extremely significant development in the history of the Indian jurisprudence. The decisions of the Supreme Court in the 1970s loosened the strict locus standi requirements to permit filing of petitions on behalf of marginalised and deprived sections of the society by public spirited individuals, institutions and/or bodies. The higher courts exercised wide powers given to them under Articles 32 and 226 of the Constitution. The sort of remedies sought from the Courts in the public interest litigation goes beyond award of remedies to the affected individuals and groups. In suitable cases, the Courts have also given guidelines and directions. The Courts have monitored implementation of legislation and even formulated guidelines in the absence of legislation. If the cases of the decades of 70s and 80s are analysed, most of the public interest litigation cases which were entertained by the courts are pertaining to enforcement of fundamental rights of marginalised and deprived sections of the society. This can be termed as the first phase of the public interest litigation in India.

42. The Indian Supreme Court broadened the traditional rule of standing and the definition of “person aggrieved”.

43. In this judgment, we would like to deal with the origin and development of public interest litigation. We deem it appropriate to broadly divide the public interest litigation in three phases:

- *Phase I.—It deals with cases of this Court where directions and orders were passed primarily to protect*

¹ (2010) 3 SCC 402

fundamental rights under Article 21 of the marginalised groups and sections of the society who because of extreme poverty, illiteracy and ignorance cannot approach this Court or the High Courts.

- *Phase II.—It deals with the cases relating to protection, preservation of ecology, environment, forests, marine life, wildlife, mountains, rivers, historical monuments, etc. etc.*
- *Phase III.—It deals with the directions issued by the Courts in maintaining the probity, transparency and integrity in governance.”*

92. After elaborating in detail in the said judgment about the various phases, the Supreme Court also cautioned the High Courts and laid down certain guidelines to prevent misuse of the PILs.

93. It held :

“181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

(2) Instead of every individual Judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the rules prepared by the High Court is sent to the Secretary General of this Court immediately thereafter.

(3) The Courts should prima facie verify the credentials of the petitioner before entertaining a PIL.

(4) The Courts should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The Courts should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The Courts should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The Courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The Court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation.

(8) The Courts should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.”

94. In the instant case, the petitioners are espousing the cause of number of farmers, who according to them suffered crop losses on account of very heavy rains in the months of September and October, 2020 and complain of inaction by the State and the Central Governments in granting any assistance / relief to them and coming to their aid in their hour of need. They are also complaining about the failure of the State of Telangana to give adequate publicity about the Central Government making the Prime Minister Fasal Bhima Yojana (PMFBY) introduced in 2016 being made voluntary and optional so that farmers, both loanee and non-loanee, would have to choose the Scheme, Insurance Company and pay the total premium, without any contribution from the State Government, on their own; that this failure on the part of the State Government to make it known to the farmer

community that they are not being covered by the PMFBY Scheme any longer and also the failure of the State Government to notify its own farmer specific crop insurance Scheme, according to the petitioners, has caused misery to the farmers who did not take any insurance coverage for their crops for 2020-21.

95. The farmers who suffered crop losses are undoubtedly falling in the class of poor persons and it is undeniable that a large number of them are from marginalized sections of the society, illiterate and vulnerable. So the issues raised by the petitioners are undoubtedly in Public Interest. Moreover the credentials of the petitioners and their involvement in farmers' related causes/activities and their efforts to address the problems of the farmers have not been doubted by the 4th respondent.

96. Therefore we are of the opinion that this plea about entertainability of this PIL is only an afterthought raised more than 10 months after this PIL was filed and there is no substance in this contention.

97. Accordingly, we hold on Point (a), that this PIL is certainly entertainable by this Court.

Points (b) and (c)

We shall now consider point (b) and (c) which are :

“(b) Whether the material on record would show that there was crop loss on account of incessant rains in the State of Telangana in September and October of 2020?”

“(c) Whether the contention of the State of Telangana that there was no significant crop loss on account of incessant rains in the State of Telangana in September and October of 2020 can be accepted?”

98. Before we deal with the above point, we shall first see whether there is any dispute as to the fact that there were heavy rains on across the State of Telangana in September and October, 2020.

99. There is a clear admission in para-9 of the counter-affidavit filed on behalf of the 4th respondent / State of Telangana that in 2020, *‘during the rainy season, there was no doubt wide spread heavy rains all across the State of Telangana’*. There is a similar admission in para-15 of the said counter-affidavit stating *‘it is a fact that there were heavy rains, particularly during the months of September and October, 2020 which resulted in submergence /inundation of crops across the State.’* In para-10 of the additional counter-affidavit filed by the 4th respondent also, it is stated *‘though there was inundation during heavy rainy days during September, October months, the water receded subsequently’*.

100. From these admissions in the counter-affidavit and additional counter-affidavit filed by the 4th respondent, there is no dispute that there were heavy rains in the State of Telangana in the months of

September and October of 2020 which caused submergence / inundation of crops across the State.

101. The petitioners have relied upon certain Press reports and also an official Press release on the Telangana State Portal dt.16-10-2020 and a news item reported in 'The Hindu' English daily newspaper dt.22-10-2020 in the PIL.

102. In the Press release dt.16-10-2020 made by the State of Telangana it is stated that *'the officials explained the losses suffered in their Departments' jurisdiction due to heavy rains and floods. ... Crops in 7.35 lakh acres in the State were submerged. Even if there is 50% of damage to crops, the loss would be to the tune of Rs.2,000 crores. ... The C.M. declared that as per the primary estimates, the State suffered Rs.5,000 crore loss due to heavy rains and flash floods. He urged the Centre to release immediately Rs.1350 crores for relief measures. In this regard, the C.M. wrote a letter to P.M. Sri Narendra Modi to extend relief to farmers of Rs.600 crore ...'*

103. In the news paper report of the Hindu dt.22-10-2020, it was stated that the State Government had informed the 5 Member Inter Ministerial Central Team deputed to Telangana to assess the damage caused by rains and floods, that the loss suffered by different sectors was over Rs.9,420 crores *with the agricultural sector bearing the maximum brunt. ... While the loss to crops was estimated at Rs.8,633 crore, the loss to road network was around Rs.222 crores. ...'*

104. When the learned Advocate General disputed that there was any crop loss at all on account of such incessant rains, we had asked the learned Assistant Solicitor General of India representing respondent Nos.6 and 7 (Union of India) on 13-09-2021 to produce the State Government Memorandum submitted to the Union of India in relation to the damages due to rains and floods in October, 2020 by the Revenue (Disaster Management Department) and also the letter addressed by the Hon'ble Chief Minister for the State of Telangana to the Hon'ble Prime Minister Sri Narendra Modi ji.

105. The learned Assistant Solicitor General filed on 15-09-2021, a Memo dt.14-09-2021 enclosing the above documents. Annexure-I to the said Memo is a **Final Memorandum on Damages due to heavy rains and floods – October, 2020** submitted by the Government of Telangana to the Union of India seeking financial assistance for relief and restoration activities in the areas affected by floods caused due to heavy rains during October, 2020.

This document contains a statement at para-4 under the heading 'Financial Assistance Required' stating :

*“The continuous cloudburst and accompanying heavy rains for 4 days caused floods in many river systems and inundation of both urban properties and agricultural lands. These rains and floods caused by the low pressure in the Bay of Bengal affected all 33 districts of the State of Telangana.
...”*

Para-4.3 has a Heading ‘Cloud Burst and Floods Damages (Sector-wise)’. Para-4.3.1 deals with ‘Agriculture – Input subsidy’. This para states :

‘The cloudburst and floods have caused severe damage to 5.97 lakhs ha. Of agricultural crops. The assessment as per the scale of relief provided in the NDRF guidelines comes to Rs.552.46 crores.

However, the damage sustained by farmers is much higher since the severity of the loss is very high. The monetary loss when calculated at the rate of minimum support price for the above said damaged area amounts to Rs.7219.5 crores.

An amount of Rs.7219.5 crores is required to provide input subsidy. The details are given in Annexure –VI, VII, VIII and VIII-A.”

In Annexure-6, dealing with assistance for Agriculture Input Subsidy, a table is given showing with regard to each affected District, the total agricultural area affected (in Hectares), the total agricultural area where crop loss is more than 33% and the calculation of the assistance sought. By way of illustration, it is indicated at Sl.No.1 that in Vikarabad District, the total agricultural area affected is 36,619.60 Hectares and this entire area had a crop loss more than 33%. Likewise, 15 other Districts are mentioned wherein the entire agricultural area affected is said to have crop loss more than 33%.

There is no dispute that as per Notification No.32-7/2014-NDM-I issued by the Ministry of Home Affairs (Disaster Management Division), Revised Norms of assistance from the State Disaster Response Fund (SDRF) / National Disaster Response Fund

(NDRF) specify that for agriculture, where crop loss is 33% and above, input subsidy should be given at the rate of Rs.6800/- per hectare in rainfed areas and restricted to sown areas, and Rs.13500/- per hectare in assured irrigated areas, subject to minimum assistance of not less than Rs.1,000/- and restricted to sown areas. Rs.18,000/- per hectare is the input subsidy for all types of perennial crops subject to minimum assistance of not less than Rs.2,000/- and restricted to sown areas.

106. The letter dt.15.10.2020 addressed by the Hon'ble Chief Minister of the State of Telangana to the Hon'ble Prime Minister of India mentions that *extensive damage to crops occurred on account of excessive rains in 18 out of 33 Districts in the State of Telangana and crops over 2.04 lakh hectares standing of paddy crop, and over 3.10 lakh hectares of other crops were affected.* A request was made by the Hon'ble Chief Minister to the Hon'ble Prime Minister to provide assistance to an extent of Rs.1,350 Crores (*Rs.465 Crores for relief to farmers and Rs.885 Crores for immediate restoration relief and rehabilitation of physical infrastructure*).

107. These two documents disprove the plea of the State of Telangana in the counter-affidavit and additional counter-affidavit that though crops were affected due to heavy rains and there was submergence, the water receded and *normalcy* was restored due to adoption of agronomical practices like draining of excess water,

spraying of urea, fungicides and MOP which were immediately taken up.

108. Had this contention been true, the State Government would have informed the Union of India *not to send* in the first place the Inter-Ministerial Central team for assessing the losses, and it also would not have submitted to the Union of India the detailed **Final Memorandum on Damages due to Heavy Rains and Floods – October, 2021 dt.19.10.2020** with the details of damages to crops and would not have sought assistance for providing input subsidy of Rs.7219.5 Crores to the affected farmers.

109. We agree with the contention of the Counsel for petitioners that no amount of agronomical practices can completely mitigate / nullify the crop loss caused due to heavy inundation, that they might only reduce the loss to a limited extent, and the claim of the State that through such practices all the crops were brought to *total normalcy* is not possible to accept and is without any basis. We can take judicial notice of the fact that a crop like a cotton crop or maize crop, once inundated, is impossible to salvage and be restored to normalcy.

110. The statistics being relied upon by the State to show only marginal reduction of yields in 2020-21 from the previous year cannot be relied upon because such statistics give details on a State wide basis and include areas which were not affected by the heavy rainfall during September and October, 2020.

111. Even otherwise, a comparison of the provisional fourth advance estimates filed by 4th respondent along with his additional counter affidavit of area, production and yield of crops for 2019-2020, when compared to a similar statement for 2020-21 shows that as regards (i) paddy crop *the yield in Kgs per acre decreased from 1485 kgs/per acre to 1223 Kgs per acre* and (ii) for cotton crop, the yield in Kgs per acre *decreased from 221 kgs per acre to 169 kgs per acre.*

112. These figures represent the overall picture of the State and include areas which were *not* affected by the heavy rainfall during September and October, 2020. If the average crop yields have *come down* in the entire State, the reduction would be even more drastic if statistics were made available to show the difference in yields between the areas which were affected by crop loss in 2020-21 with the yields in 2019-2020. But the State has not done enumeration of farmers who suffered losses though it identified the districts which were affected and it ought to have disclosed the village and Mandal wise details of affected areas as well.

113. The further plea in the additional counter-affidavit filed by the 4th respondent that the Government Press Release Information filed by the petitioners is only a *preliminary information on inundation, that there was recession of water subsequently; that the State of Telangana appraised the Central Team about the anticipated crop loss only; that the scenario changed subsequently after recession of water due to farmers' own initiative, the Department's extension activities and*

normalcy of crop was restored, cannot therefore be believed and they are contrary to record.

114. We also reject the contention of the learned Advocate General that though the State and its officials imagined a huge loss on the basis of preliminary estimates, ultimately no farmer suffered crop loss in excess of 33% as the same is contrary to record since the State of Telangana itself gave the '**Final Memorandum on Damages Due to Heavy Rains and Floods- October, 2020**' dt.19.10.2020 to the Union of India making the plea of assistance to farmers on account of heavy rains and floods in September and October, 2020 on the basis of a **Final** Estimate (and not a preliminary estimate), the details of which are given by the State Government on 19.10.2020 in the above Memorandum to the Union of India.

115. More importantly, in the letter dt.15.10.2020 addressed by the Hon'ble Chief Minister of the State of Telangana to the Hon'ble Prime Minister of India, it is stated that there was "*extensive damage of crops over 2.04 lakh hectares standing of paddy crop and over 3.10 lakh hectares of other crops I would like to request you to provide assistance to an extent of Rs.1350 crores (Rs.465 crores for relief to farmers and Rs.885 crores for immediate restoration, relief and rehabilitation of physical infrastructure.*"

116. No subsequent communication has been admittedly addressed to the Union of India by the State of Telangana that it had made a mistake in assessing crop damage and loss or its magnitude on

account of heavy rains and floods in September and October, 2020, and there was no necessity for the Central Government to send any Inter Ministerial Team to visit the State to assess the loss, that there is no significant crop loss at all to any farmer, and the State does not require any funding from the Central Government under the Disaster Management Act, 2005.

117. Had the story set up in the counter-affidavit and the additional counter-affidavit about normalcy being restored after the heavy rains due to water recession etc been true, the State would have certainly written to the Central Government subsequently that there is no need for any assistance or relief to farmers in the State at all.

118. Therefore, we hold on points (b) and (c) that there is material on record to show that there was significant crop loss on account of incessant rains in the State of Telangana in September and October of 2020 and the contention of the State Government to the contra, cannot be accepted.

Point (d)

119. We shall now consider point (d) :

“Whether the contention of the State of Telangana that the Union of India did not release any funds to provide relief to farmers who suffered crop loss on account of incessant rains in the State of Telangana in September and October of 2020 is correct?”

120. In the Notification No.32-7/2014-NDM-I issued by the Ministry of Home Affairs (Disaster Management Division), Union of

India dt.08.04.2015 it is laid down that *'50% of SDRF balance as on 31st March of the preceding Financial Year will be adjusted while releasing the assistance from NDRF for the first disaster in a Financial Year. In case, the same State faces another severe disaster during the same year, no adjustment will be made while releasing NDRF assistance'*.

121. According to the learned Assistant Solicitor General the primary responsibility of Disaster Management including disbursal of relief to affected people rests with the State Governments and the Central Government supplements the efforts of the State Governments and provides requisite logistics and financial support. For providing relief to the affected people in case of 12 notified natural disasters, SDRF is placed at the disposal of the State Governments *in advance*. Additional Central Assistance is provided from the NDRF in case of disaster of 'severe nature' beyond the coping capacity of the State. The additional Central Assistance is finally approved by High Level Committee after assessment by the Inter Ministerial Central Team after spot visit to affected areas and on the basis of Memorandum submitted by the State Government concerned *subject to adjustment of 50% of the amount balance available in SDRF of the State as on 1st April of the Financial Year*.

122. He contends that during 2020-21, an amount of Rs.599-00 Crores was allocated under State Disaster Risk Management Fund (SDRMF) (after recommendations of 15th Finance Commission which

includes SDRF & State Disaster Mitigation Fund (SDMF) in the ratio of 80% and 20% respectively), consisting of Rs.449-00 Crores as Central Share and Rs.150.00 Crore as State share; that the Central Share of Rs.449.00 crore has been released to the State of Telangana during 2020-21; taking into account, the opening balance of Rs.977.67 crores as on 1st April, 2020, as intimated by office of the Accountant General, Telangana, the availability of funds in SDRF comes to Rs.1456.87 crores including credit of Central and State share of Rs.359.40 crores and 119.80 respectively. As such, an amount of Rs.1456.87 crores was available in SDRF account of State of Telangana during 2020-21 for meeting the expenses on any notified natural disaster, including floods.

123. He contends that in the aftermath of Floods-2020, an IMCT visited the affected areas of the State on 22-23 October, 2020 for making an on the spot assessment of damages caused by flood-2020 and projected an assistance of Rs.249.61 crores from NDRF. Based on the report of IMCT, HLC approved the admissible assistance of Rs.245.96 crores from NDRF subject to the adjustment of 50% of balance available in the SDRF account of the State as on 01.04.2020 for the instant disaster as per laid down procedures.

124. He further contends taking into account, the opening balance as Rs.977.67 crores as on 1st April, 2020 in SDRF account of State of Telangana, 50% of this amount works out to Rs.488.83 crores. As the amount of Rs.245.96 crores approved by the HLC from NDRF is less

than the 50% of the balance available in the SDRF account, the net out go from the NDRF was 'Nil' for instant calamity i.e. floods of 2020 to State Government. This was informed to the State Government of Telangana on 11.02.2021.

125. He made this submission on the basis of the letter dt.07.09.2021 addressed to him by the Deputy Secretary to the Government of India, Ministry of Home Affairs.

126. This version of the Union of India is somewhat corroborated by the letter dt.21-05-2021 addressed by the Office of the Accountant General (A & E), Telangana, Hyderabad to the Consultant (DM), Disaster Management-I Division, Ministry of Home Affairs, New Delhi.

This letter mentions that the total amount available with the State Government at the end of financial year was Rs.2581.16 crores including *Rs.977.67 crores as on 01.04.2020* in the SDRF, Rs.449 crores released to the State Government under SDRF during 2020-21 (Central Share), Rs.149.67 crores being the State's share of SDRF credited into the account by the State Government during 2020-21 and Rs.1004.82 crores credited into SDRF by Secretary and CEO, Telangana Building and other Construction Workers Welfare Board, Hyderabad.

127. From this statement it is clear that the State Government had an opening balance in the SDRF account (both SDRF and NDRF) as on

01.04.2020 amounting to Rs.977.67 crores in addition to Rs.449.00 crores being the Central share released to the State Government by the Union of India under SDRF apart from Rs.149.67 crores being the State's share of SDRF credited into this account by the State Government.

128. When such substantial funds are available with the State Government to provide relief to farmers, and a major portion of it has been released even as on 01.04.2020 by the Union of India, it is not proper for the State Government of Telangana to contend that no assistance was released to it by the Union of India for providing relief to farmers, cannot be accepted.

129. In fact the Inter Ministerial Committee had recommended Rs.188.23 crores as against Rs.595.05 crores projected by the State for temporary measure in relation to agriculture and horticulture input subsidy. This amount, being far less than the amount available with the State Government already, could have been utilized by it to provide relief to farmers.

130. The Office of the Accountant General states in its letter dt.21.05.2021 to the Consultant (DM), Disaster Management-I Division, Ministry of Home Affairs, New Delhi that the Finance Accounts for the Financial Year 2020-21 is yet to be finalized and the expenditure reported and the balance amount in the SDRF and NDRF account of the State of Telangana for the year 2020-21 *is not indicated.*

This implies that details of expenditure incurred by the State Government for providing relief to farmers on account of crop losses caused by the heavy rains in September and October, 2020 is, by 21.05.2021 not even disclosed to the Accountant General by the State of Telangana. For what purposes the money available with the State Government in the SDRF was utilized by it is thus not known and the learned Advocate General also did not place any material in that regard.

131. Therefore we hold on point (d) that since substantial amounts were available with the State Government of Telangana in the SDRF to provide relief / assistance to farmers who suffered crop losses caused by the heavy rains in September and October, 2020, that such funds included sums made available by the Union of India of Rs.977 Crores on 1.4.2020 itself, and so it cannot blame the Union of India for not providing funds to it for the said purpose.

132. Since the Final Memorandum dt.19.10.2020 contains in Annexure-7 details of District wise agricultural area where crop loss is more than 33%, number of farmers other than small and marginal farmers who would be entitled to input subsidy for agriculture, and such details would have been compiled on basis of Village and Mandal-wise data available with it, it is not too late for the State of Telangana to come to their aid and provide relief to prevent distress to such farmers.

133. We also hold that the Rythu Bandhu Scheme providing Rs.10,000/- per acre to land owner farmers cannot be pleaded as a defence by the State to deny input subsidy to the affected farmers because such a Scheme confers benefits only on landowner farmers even if they did not suffer any crop loss; and agriculture input subsidy was given to the tune of Rs.22.00 crores upon directions made by this Court in W.P.(PIL) No.54 of 2019 *in addition* to the Rythu Bandhu Scheme payment in 2018 when there was crop loss then.

134. As regards the failure of the State of Telangana to inform the farmers in the State about the Prime Minister's Fasal Bhima Yojana being made voluntary in 2021 is concerned, we hold that it was its duty to inform the farmers through its extension facilities about it so that they may chose to take insurance individually by contracting for the same with their own monies.

Point (e)

RELIEF:

135. Therefore the Writ Petition (PIL) is allowed; and a Writ of Mandamus is issued to respondents 1 to 6 to:

(i) take steps *in 3 months* to enumerate and assess the extensive crop damage that occurred across the State of Telangana due to excessive and incessant rains in the months of September and October, 2020;

(ii) extend, within one month thereafter, the relief/assistance in the form of agricultural input subsidy from NDRF/SDRF under National Disaster Management Act, 2005 to all the farmers, including tenant farmers, across the State of Telangana, affected by the incessant and excessive rains; and

(iii) to take steps for providing additional and appropriate relief to the small and marginal cultivating farmers of Telangana who suffered huge economic loss in the absence of crop insurance coverage *within 4 months*. No costs.

136. Pending miscellaneous petitions, if any, shall stand closed. No costs.

M.S.RAMACHANDRA RAO, ACJ

T. VINOD KUMAR, J

Date: 28-09-2021
Svv/Vsv