

ITEM NO.19, 20, 21, 22 & 23 Court No.1 (Video Conferencing)
SECTION X & PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).1118/2020

RAKESH VAISHNAV & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No. 98868/2020 - EX-PARTE AD-INTERIM RELIEF and IA No. 136682/2020 - INTERVENTION/IMPLEADMENT and IA No. 136677/2020 - INTERVENTION/IMPLEADMENT and IA No. 136367/2020 - INTERVENTION/IMPLEADMENT)

WITH

W.P.(C) No. 1152/2020 (PIL-W)

W.P.(C) No. 1168/2020 (PIL-W)

W.P.(C) No. 1165/2020 (PIL-W)
(FOR ADMISSION)

W.P.(C) No. 1174/2020 (PIL-W)

(With IA No. 136492/2020 - DELETING THE NAME OF PETITIONER/RESPONDENT and IA No. 103591/2020 - EX-PARTE STAY and IA No. 133320/2020 - INTERVENTION APPLICATION and IA No. 136927/2020 - INTERVENTION/IMPLEADMENT and IA No. 107119/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No.1139/2020

([TO BE TAKEN UP ALONGWITH WP (c) NO. 1118/2020 ETC]
(With IA No. 498/2021 - EX-PARTE STAY)

W.P.(C) No(s). 1240/2020

(FOR ADMISSION.....[TO BE TAKEN UP ALONG WITH ITEM NO. 14 I.E. W.P.
(C) No. 1118/2020])

W.P.(C) No.1404/2020

([TO BE TAKEN UP ALONGWITH W.P.(C) NO. 1118/2020]
(With IA No. 133590/2020 - INTERVENTION/IMPLEADMENT)

W.P.(C) No. 1406/2020 (PIL-W)

W.P.(C) No. 1421/2020 (PIL-W)

(FOR ADMISSION and IA No.130697/2020-PERMISSION TO APPEAR AND ARGUE
IN PERSON)

W.P.(C) No. 1441/2020 (PIL-W)
 (FOR ADMISSION and IA No.132471/2020-PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES AND WITH APPLN.(S) BEING I.A.
 NO.135784/2020 - FOR IMPLEADMENT AND I.A. NOS.3334/2021 & 3324/2021
 - FOR INTERVENTION)

W.P.(C) No(s).23/2021
 (FOR ADMISSION and IA No.3852/2021-EXEMPTION FROM FILING AFFIDAVIT
 and IA No.3851/2021-PERMISSION TO APPEAR AND ARGUE IN PERSON....
 [TO BE TAKEN UP ALONG WITH ITEM NO. 14 I.E. W.P.(C) No.
 1118/2020])

Date : 12-01-2021 These matters were called on for orders/hearing
 today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE A.S. BOPANNA
 HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(S) Mr. K. Parameshwar, AOR
 Mr. V. Mukunda, Adv.
 Ms. A. Sregurupriya, Adv.

Mr. Sukumar Pattjoshi, Sr.Adv.
 Mr. K.K.L.Gautam, Adv.
 Mr. Vijendra Kasana, Adv.
 Mr. A. K. Suman, Adv.
 Mr. Manoj Sharma, Adv.
 Mr. Sandeep Kumar Singh, Adv.
 Mr. Sanjeev Malhotra, AOR

Mr. Vivek K. Tankha, Sr. Adv.
 Mr. Varun Tankha, Adv.
 Mr. Sumeer Sodhi, AOR
 Mr. Prashant Sivarajan, Adv.
 Mr. Ujjawal Anand Sharma, Adv.
 Ms. Jhanvi Dubey, Adv.
 Ms. Suditi Batra, Adv.
 Mr. Hussain Ali, Adv.

Mr. P. Wilson, Sr. Adv.
 Mr. D. Kumanan, AOR
 Mr. Richardson Wilson, Adv.

Mr. M. Shoeb Alam, Adv.
 Ms. Fauzia Shakil, AOR

Mr. Manohar Lal Sharma, Petitioner-In-Person

Mr. Harish N Salva, Sr. Adv.
 Mr. Deepak Goel, AOR
 Mr. Kamal Kumar Pandey, Adv.

Mr. Vipin Kumar, Adv.
Ms. Madhuri Gupta, Adv.

Petitioner-In-Person

Mr. Vikas Singh, Sr. Adv.
Mr. Reepak Kansal, Adv.
Ms. Deepieka Kalia, Adv.
Mr. Arun Adlakha, Adv.
Mr. Kuldeep Roy, Adv.
Mr./Ms. Harisha S.R., AOR

Mr. Omprakash Ajitsingh Parihar, Aor
Mr. Dushyant Tiwari, Adv.
Mr. Yudhvir Dalal, Adv.

Mr. S.Muthukrishnan, Adv.
Mr. S. Mahendran, AOR

Petitioner-In-Person

**For Respondent(S)/
Applicant(S)**

Mr. K.K Venugopal, Ld AG
Mr. Tushar Mehta, Ld SG
Mr. K M Nataraj, Ld ASG
Mr. Kanu Agrawal, Adv.
Ms. Suhasini Sen, Adv.
Mr. Chinmayee Chandra, Adv.
Mr. Ankur Talwar, Adv.
Ms. Vanshaja Shukla, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raj Bahadur Yadav, AOR

Ms. Archana Pathak Dave, AOR

Mr. Ajay Choudhary, AOR

Mr. Chirag M. Shroff, AOR

Mr. Tushar Mehta, Ld. SG
Ms. Garima Prashad, AOR
Mr. Subodh Kumar Pathak, Adv.

Mr. P. Chidambaram, Sr. Adv.
Mr. Atul Nanda, Ag Punjab
Ms. Uttara Babbar, AOR
Ms. Bhavana Duhoon, Adv.
Mr. Manan Bansal, Adv.

Mr. B. V. Balaram Das, AOR

Mr. Prashant Bhushan, AOR (Not Joined VC)

Mr. M.P. Devnath, AOR
Mr. Vivek Sharma, Adv.
Mr. Abhishek Anand, Adv.
Mr. Abir Roy, Adv.
Mr. Ishaan Saran, Adv.
Mr. Vivek Pandey, Adv.

Mr. P. S. Narsimha, Sr. Adv.
Mr. Ekansh Mishra, AOR

Ms. Swati Vaibhav, AOR

Mr. V. Chitambaresh, Sr. Adv.
Mr. Ravindra Sadanand Chingale, AOR
Mr. Ashish Sonawane, Adv.

Mr. Rahul Mehra, Adv.
Mr. Chirag M. Shroff, AOR
Ms. Abhilasha Bharti, Adv.
Mr. Sushant Dogra, Adv.

Mr. AP Singh, Adv.
Mr. VP Singh, Adv.
Ms. Geeta Singh, Adv.
Ms. Richa Singh, Adv.
Mr. Sharwan Kumar Goyal, Adv.
Mr. Sadashiv, AOR

Mrs. Revathy Raghavan, AOR

Mr. Ajay Bansal Adv AAG , Haryana
Mr. Gaurav Yadava, Adv.
Mr. Sanjay Kumar Visen, AOR

Mr. Tushar Mehta, Ld. SG
Mr. Anil Grover ,Sr. AAG
Ms. Noopur Singhal, Adv.
Mr. Rahul Khurana, Adv.
Mr. Satish Kumar, Adv.
Mr. Sanjay Kumar Visen, AOR

Mr. V Shekhar, Sr. Adv.
Mr. Rajeev Kumar Dubey, Adv.
Ms. Sheetal Rajput, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Kamlendra Mishra, AOR

Mr. Sridhar Potaraju, Adv.
Mr. Gaichangpou Gangmei, Adv.
Mr. Mukunda Rao, Adv.
Ms. Shiwani Tushir, Adv.
Ms. Ushasri, Adv.

Mr.Vishnu Tulashi Menon, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Applications for impleadment and intervention are allowed.
2. We have before us, three categories of petitions, all revolving around the validity or otherwise of three laws *namely*: (1) Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; (2) Essential Commodities (Amendment) Act, 2020; and (3) Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, (hereinafter referred to as the '*farm laws*'), and the protest by farmers against these laws.
3. One category of petitions challenge the constitutional validity of the farm laws. Included within this category of petitions, is a petition under Article 32 challenging the validity of the Constitution (Third Amendment) Act, 1954, by which Entry 33 was substituted in List III (concurrent list) in the Seventh Schedule of the Constitution, enabling the Central Government also to legislate on a subject which was otherwise in the State List.
4. Another category of petitions are those which support the farm laws on the ground that they are constitutionally valid and also beneficial to the farmers. The third category of petitions are those filed by individuals who are residents of the National Capital Territory of Delhi as well as the neighbouring States, claiming that the agitation by farmers in the peripheries of Delhi and the consequent blockade of roads/highways leading to Delhi, infringes the fundamental rights of other citizens to move freely

throughout the territories of India and their right to carry on trade and business.

5. Though several rounds of negotiations have taken place between the Government of India and the farmers' bodies, no solution seems to be in sight. The situation on ground is: (i) that senior citizens, women and children are at site, exposing themselves to serious health hazards posed by cold and covid; (ii) that a few deaths have taken place, though not out of any violence, but either out of illness or by way of suicide.

6. Laudably, the farmers have so far carried on the agitation peacefully and without any untoward incident. But it was pointed out in the course of hearing that a few persons who are not farmers have also joined, with a view to show solidarity with the farmers. An apprehension was expressed that the possibility of some persons creating trouble cannot be entirely ruled out. In fact, a specific averment is made in an intervention application filed by one Indian Kisan Union, in I.A. No.3324/2021 in W.P.(C) No.1441/2020 that an organisation by name "Sikhs for Justice", which is banned for anti-India secessionist movement is financing the agitation. This averment is supported by the learned Attorney General also.

7. A few farmers' bodies who are now protesting, have engaged a team of lawyers comprising of Shri Dushyant Dave, Shri Colin Gonsalves, Shri H.S. Phoolka and Shri Prashant Bhushan to represent their cause. When Shri K.K. Venugopal, learned Attorney General submitted that there are reports that the farmers bodies may take out a tractor rally on January 26, 2021, disrupting the Republic Day Parade and celebrations, the same was stoutly denied by Shri

Dushyant Dave, learned senior counsel appearing for a few of the farmers' bodies on the ground that at least one member of the family of each of the farmers from Punjab is in the Army and that they would not disrupt the Republic Day celebrations. However, today this team of lawyers is absent.

8. Be that as it may, the negotiations between the farmers' bodies and the Government have not yielded any result so far. Therefore, we are of the view that the constitution of a Committee of experts in the field of agriculture to negotiate between the farmers' bodies and the Government of India may create a congenial atmosphere and improve the trust and confidence of the farmers. We are also of the view that a stay of implementation of all the three farm laws for the present, may assuage the hurt feelings of the farmers and encourage them to come to the negotiating table with confidence and good faith.

9. When we put across the above suggestions, the learned Attorney General, even while agreeing for the constitution of a Committee, opposed vehemently, the grant of any interim stay of the implementation of the farm laws. Drawing our attention to the law laid down by this Court in (1) Bhavesh D. Parish & Ors. vs. UOI & Anr.¹; (2) Health For Millions vs. UOI & Ors.²; (3) State of UP & Ors. vs. Hirendra Pal Singh & Ors.³; (4) Siliguri Municipality & Ors. vs. Amalendu Das & Ors.⁴, the learned Attorney General contended that the Court should not stay the implementation of the

¹ 2005 (5) SCC 471

² 2014 (14) SCC 496

³ 2011 (5) SCC 305

⁴ 1984 (2) SCC 436

laws. He argued that none of the petitioners who have attacked the farm laws have pointed out any single provision which is detrimental to the farmers and that the laws enacted by Parliament cannot be stayed by this Court, especially when there is a presumption in favour of the constitutionality of legislation.

10. Though we appreciate the aforesaid submission of the learned Attorney General, this Court cannot be said to be completely powerless to grant stay of any executive action under a statutory enactment. Even very recently this Court passed an interim Order in *Dr. Jaishri Laxmanrao Patil Vs. The Chief Minister & Anr.* (Civil Appeal No.3123 of 2020) directing that admissions to educational institutions for the Academic Year 2020-21 and appointments to public services and posts under the Government shall be made without reference to the reservation provided under the impugned legislation.

11. As a matter of fact, some of the farmers' bodies who are opposing the Farm Laws and who are represented before us through counsel, have agreed to go before the Committee. Mr. P Wilson, learned senior counsel representing one section of farmers from Tamil Nadu welcomed the proposal to stay the implementation of the Laws and the constitution of the Committee and stated that his client would go before the Committee. Similarly, Mr. A.P. Singh, learned counsel appearing for *Bhartiya Kisan Union [BHANU]* also submitted that the representatives of the Union will participate in the negotiations. He even went to the extent of saying that elders, women and children will be dissuaded from being there at the site of protest. Mr. Ajay Choudhary, learned counsel for Kisan

Maha Panchayat, submitted that the farmers from Rajasthan, who are protesting at the border of Rajasthan, are willing to appear before the Committee and air their grievances.

12. Mr. V. Chitambaresh, learned senior counsel, appearing for Bhartiya Kisan Sangh, the applicant in IA No. 136682/2020 in WP[C] No. 1118/2020 submitted that the Union which he represents is not aggrieved by the Farm Laws. Mr. Sridhar Potaraju, learned counsel appearing for the the Consortium of Indian Farmers Association (CIFA) submits that his client represents 15 farmers' unions across 15 States and that they will be badly affected if a stay of the implementatoin of the Farm Laws is ordered. This is for the reason that the farmers whom he represents, cultivate fruits and vegetables and that about 21 million tonnes of fruits and vegetables will rot, if anything is done at this stage.

13. Insofar as the apprehension regarding MSP [Minimum Support Price] being done away with, it is submitted across the Bar that the same may not be dismantled. The learned Solicitor General also confirmed that there are inherent safegeguards, in-built in the Farm Laws, for the protection of the land of the farmers and that it will be ensured that no farmer will lose his land.

14. Having heard different perspectives, we deem it fit to pass the following interim Order, with the hope and expectation that both parties will take this in the right spirit and attempt to arrive at a fair, equitable and just solution to the problems:

- (i) The implementation of the three farm laws 1) Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; (2) Essential Commodities (Amendment) Act, 2020; and (3)

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, shall stand stayed until further orders;

(ii) As a consequence, the Minimum Support Price System in existence before the enactment of the Farm Laws shall be maintained until further orders. In addition, the farmers' land holdings shall be protected, i.e., no farmer shall be dispossessed or deprived of his title as a result of any action taken under the Farm Laws.

(iii) A Committee comprising of (1) Shri Bhupinder Singh Mann, National President, Bhartiya Kisan Union and All India Kisan Coordination Committee; (2) Dr. Parmod Kumar Joshi, Agricultural Economist, Director for South Asia, International Food Policy Research Institute; (3) Shri Ashok Gulati, Agricultural Economist and Former Chairman of the Commission for Agricultural Costs and Prices; and (4) Shri Anil Ghanwat, President, Shetkari Sanghatana, is constituted for the purpose of listening to the grievances of the farmers relating to the farm laws and the views of the Government and to make recommendations. This Committee shall be provided a place as well as Secretarial assistance at Delhi by the Government. All expenses for the Committee to hold sittings at Delhi or anywhere else shall be borne by the Central Government. The representatives of all the farmers' bodies, whether they are holding a protest or not and whether they support or oppose the laws shall participate in the deliberations of the Committee and put forth their view points. The Committee shall, upon hearing the Government as well as the representatives of the farmers' bodies, and other stakeholders, submit a Report before this Court containing its recommendations. This shall be done within two months from the date of its first sitting. The first sitting shall be held within ten days from today.

15. While we may not stifle a peaceful protest, we think that this extraordinary order of stay of implementation of the farm laws will be perceived as an achievement of the purpose of such protest at least for the present and will encourage the farmers bodies to convince their members to get back to their livelihood, both in order to protect their own lives and health and in order to protect the lives and properties of others.

16. List the matters after eight weeks.

I.A. No.4714/2021 in WP(C) No.1441/2020 AND I.A. NO.4719/2021 IN WP(C) NO.1118/2020

Taken on Board.

Issue notice returnable on 18.01.2021.

(SANJAY KUMAR-II)
ASTT. REGISTRAR-cum-PS

(INDU KUMARI POKHRIYAL)
ASSISTANT REGISTRAR