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COVER STORY

Judicial rap

ANUPAMA KATAKAM

The Bombay High Court directs the State government to take more responsibility regarding farmers' suicides.

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AT WAIFAD VILLAGE in Vidarbha, a farmer shows his electricity bill of Rs. 14,870 and documents for the Rs. 99,000 he took as loan.

"The Constitution guarantees the right to life and to personal liberty. The values which underlie Article 21 of the Constitution are seriously eroded by deaths on such a systemic scale, as the facts before the court in relation to the State of Maharashtra demonstrate... . The suicides that have occurred are as much due to the failure of social and economic development to reach the poor, the landless and those on the margins of existence as it is due to natural calamities."

Judgment of the Bombay High Court in response to a public interest petition filed in 2004.

BEFORE the Maharashtra and Central governments became proactive, or at least seemingly so, in handling the increasing number of cases of suicide by cotton farmers in Vidarbha, there appeared little hope that the crisis would ever be given any attention.

As the State's callousness grew and the suicides continued unabated, farmers' organisations and concerned citizens began to put pressure on the government to do something. Eventually, in December 2004, the Indore-based All India Biodynamic and Organic Farming Association wrote to the Bombay High Court expressing concern over the farmers' situation. The court treated it as a petition under Public Interest Litigation (PIL) and began proceedings.

In May 2006, the court came out with a judgment, which contained a set of instructions to the State on how to mitigate the distress of farmers. Observers say it is shameful that it took a High Court to tell the government what its duties are.

The right to life is threatened and that is a threat to a person's constitutional rights. Therefore, the court believes it is justified in intervening, the Judges reasoned while delivering their verdict. Among the many observations, the judgment said the State must recognise Article 21 (the Protection of Life and Personal Liberty) of the Constitution as inviolable. It observed, "Occurrence of suicides on such a large scale by cultivators of the soil raises constitutional questions that travel beyond emotive appeal."

Suicides among farmers have been occurring across the country for several decades. This was perhaps the first time a case for them was fought in court. Recently a PIL petition on the suicides was filed in the Supreme Court. Unfortunately, while the judiciary recognises the enormity of the problem, the Doctrine of Separation of Powers between the judiciary and the executive is a constraint on the court intervening too deeply, says a lawyer closely connected to the case. Most of these issues lie within the jurisdiction of the executive. In fact, in the judgment, the Judge went to great lengths to explain the court's inability to interfere in the executive's territory. However, the court hoped that the State would take cognisance of its observations.

If the State does not comply with the directives, it can be held to be in contempt of the court, but someone would have to file another PIL petition for this, says the lawyer. "So whether the High Court should have gone through all this trouble is debatable." The State government was unwilling to comment on the judgment, saying it was doing as much as it could.

Essentially the court instructed the administration to start keeping an accurate account of the number of suicides and the causes for them in every region in the State and set up district-level committees, each comprising an agriculture representative, a non-governmental organisation (NGO) member, the District Collector, the chief executive officer of the Zilla Parishad, the Superintending Agriculture Officer, and the Superintendent of Police. It had, earlier, issued interim directions to the government to constitute district-level committees to investigate the causes of suicides in their areas and take appropriate decisions on the disbursement of relief within a period of 15 days of the occurrence of an incident. The court reiterated the importance of these committees.

The court also said the State must widen the scope for providing compensation. It advised the government to re-evaluate the Rs.1 lakh compensation that was being given from the Chief Minister's Relief Fund. In the months that followed, a separate Chief Minister's package did increase the compensation amount. But that may have happened because of the media's exposure of the deaths and the heat on the government from the Centre.

The court said extension activities by the government mechanism to advise farmers were practically non-existent and called for a systematic and efficient method to impart knowledge to farmers. Furthermore, it told the State government to create an insurance safety net for cultivators

and their production system as a whole. With regard to the Minimum Support Price issue, which kept cropping up during arguments, the court said it was unable to pass a judgment as it was a policy matter.

"The only good that may have come out of this case," says Vijay Jawandhia, leader of the Shetkari Sanghatana, "is that the State had to prove in several instances to the court that it was doing something." For instance, the setting up of district-level committees was supposedly done as per the State's orders. In some areas they do exist. How effective the committee is is another matter as compensation is definitely taking more than 15 days, if at all it comes.

Many of the court's directives and recommendations were based on a report prepared by the Tata Institute of Social Sciences (TISS). The court had appointed TISS as a consultant to the case and requested it to research and submit its findings on the possible causes of the suicides.

The TISS report, titled "Causes of Farmer's suicides in Maharashtra - An enquiry", is a comprehensive paper documenting the number of suicides in Vidarbha and the range of reasons responsible for the recurring deaths (*Frontline*, July 15, 2005). The report focussed mainly on socio-economic variables such as family composition, education, history of agriculture, cropping pattern, landholdings, input costs incurred, expected output, holding capacity, history of loans, causes for loans, mental state of the person, addictions and any other information the family shared.

After verifying the information with secondary data, the TISS team presented its findings to the court. The report found that the suicides had occurred among large landholders and down to the landless. It pointed out that "understanding the profile of the victims in their social and economic contexts helps gauge the depth and spread of the tragic phenomenon". The causes, however, were common across categories: repeated crop failure, inability to meet the rising cost of production, and indebtedness due to a host of reasons ranging from a daughter's marriage to digging a well which eventually bore no water.

But the report was emphatic that these causes arose out of a larger picture - that of globalisation and the neglect of the agricultural community in India as a result of it.

In its final ruling the court implored the State to pick up some of the TISS report recommendations and apply them to the problem at the earliest. Some suggestions were: immediate compensation given on a priority basis to families of victims; an ex-gratia payment of Rs.2.5 lakh for families to meet loan repayments and live with some level of dignity; a comprehensive insurance plan; and the dissemination of information such as agricultural prices and methods of low-cost organic farming. The long-term recommendations included a fundamental policy change to factor in the fluctuating production cost in the Minimum Support Price mechanism.

Agricultural experts and others concerned with the issue have been making similar demands for years. The judiciary has also come to the same conclusions. Clearly, those framing the rules are not listening or do not want to.