

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P (PIL) No. 171 of 2012****With****I.A Nos. 2482 & 2345 of 2013**

Court On Its Own Motion Vs. The State of Jharkhand & Ors.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MRS. JUSTICE JAYA ROY**

For the Appellant/Petitioner : Mr. Piyush Poddar, Amicus Curiae

For the Respondents : M/s.M.S.Anwar,AG, S.Verma JC to AG

For the Intervenors : Mr.R.Raj, Mr.D.K.Roy

Order No.9**Dated 8th May, 2013**

In pursuance of the order of this Court dated 22nd April, 2013, the Principal Secretary of Health, and Director-In-Chief (Food), Government of Jharkhand, are present along with learned Advocate General.

2. We perused the supplementary counter-affidavit filed by the respondents on 6th May, 2013. From this affidavit as well as earlier filed affidavits, it appears that after taking cognizance of this matter by this Court suo motu, now the State machinery is showing that they have started working on the subject. In the affidavit dated 6th May, 2013, it has been submitted that proposal for creation of 279 posts and sanction for purchase of 40 vehicles for the Food Safety Commissioner's office has been approved by the Advisor to the Governor of the State and sent to the Finance Department and after concurrence of the Finance Department, the matter will be placed before the Council of Advisers for approval.

3. Now the draft Service Rules for appointment, promotion and other service conditions of Food Safety and Standards Cadre has been framed by the Department and sent to the Adviser to the Governor for his approval and after approval, it will be placed before the Department of Law, Personnel and Finance for their concurrence and thereafter before the Council of Advisers for approval. This process is likely to take three month time.

4. Five additional posts have been sanctioned for the State Food Testing Laboratory at Namkum, vide resolution no.24(16) dated 22.4.2013. It is stated that the aforesaid posts will be filled up soon.

5. It is also submitted that one more Food Testing Laboratory has been sanctioned for Dumka to cater the need of Santhal Pargana area and budgetary provision has been made in this financial year.

6. Training schedule for the newly appointed Food Safety Officers-cum-In-Charge Medical Officers of all PHCs has been finalized, vide letter no.14(F) dated 4.5.2013. Food Safety Officers of MADA have been relieved by the Managing Director, MADA, vide order no.76 dated 17.4.2013.

7. It is submitted that IEC activities are being taken for propagation of the provisions of Food Safety and Standards Act/Rules.

8. It is further submitted that Panchayati Raj Institutions have been delegated powers for registration of food business operators having annual turn over less than Rs.12 lacs, vide notification no.46(5) dated 25.3.2013.

9. So far as collection of samples of food articles is concerned, it has been stated that 112 samples of food products have been collected, out of which 98 samples have been tested and only 22 have been found sub-standard, misbranded or unsafe. The process of examination of 14 samples has not yet been completed.

10. It is submitted that Rs.11,07,000/- has been sanctioned under NRHM in 2012-13 and Rs.63 lacs are proposed under NRHM for 2013-14 for functioning of the State Food Laboratory and Enforcement Agencies.

11. In addition to the above, a proposal for sanction of Rs.1,33,17,75,220/- has been sent to the Government of India for smooth functioning of Laboratory and Enforcement Agencies for the 12th Five-year Plan (2012-2017), vide letter no.40(F) dated 1.12.2012.

12. In para 17 of the affidavit, certain actions have been proposed.

13. Since the State started addressing to the issue now, after taking cognizance of the issue by this Court suo motu and registration of this Public Interest Litigation, some time is required to be given to the State. However, it is essential to monitor the progress because the State has to take several steps to check the problems of food adulteration and sale of misbranded articles etc.

14. We are, thus, of the considered opinion that in spite of registration of this Public Interest Litigation, efforts for checking of adulterated food articles cannot be said to have reached nearer to satisfaction because of the reason that this Court is of the opinion

that the problems are not fully redressed by the details of the samples collected and testing results obtained but problems are much more grave. We hope that the concerned persons, particularly the higher officials, shall take responsibility to do justice to the public and will make serious efforts to check the food adulteration and sale of misbranded articles.

15. Report regarding the progress of the proposed steps be submitted by the State.

16. Heard learned counsel for the parties on I.A Nos. 2482 & 2345 of 2013. The applicant of I.A Nos. 2482/2013 is Sanitary Inspector, whereas the application of I.A No. 2345/2013 is Laboratory Technician. Both of these persons submitted that they have been given training to discharge the duties of Food Inspector and they have already discharged the duties of Food Inspector.

17. However, so far as holding the post is concerned, training is given for holding the post of Food Inspector. It is submitted that in fact, total 37 posts of Food Inspector are there in the State of Jharkhand and against 37 posts, only 4 Food Inspectors are working and applicants' service are not being utilized by the Department. It is submitted that in view of the above situation, it is of no consequence of the step that now the Department has moved for creation of large number of posts, i.e. 279 posts.

18. In this Public Interest Litigation, the issue has its own limitation and we are concerned with proper functioning of the Government in the matter of prevention of food adulteration etc.

Since the steps are now being taken by the Government and the steps have been taken for intervening period for which certain powers have been assigned to other Officers, we are of the considered opinion that it is for the administration to take decision about the applicants of I.A Nos. 2482/2013 & 2345/2013, where their services can be utilized on the post of Food Inspector or not and therefore, we are not issuing any direction. It is for the administrator of the office to take a decision who should be where. Be that as it may, in view of the above reasons, I.A Nos. 2482 & 2345 of 2013 are disposed of with above observations.

19. The Principal Secretary, Department of Health, has assured that he will take special care and will see that all steps are taken in time as well as if possible, expeditiously and even before the scheduled time and they will see that not only the posts are created but they are filled up in time.

20. Steps taken in this regard be shown in the status report and the matter be placed in Court on 2nd July, 2013. The Principal Secretary of Health and Director-In-Chief (Food), Government of Jharkhand, need not be present on that day.

Copies of this order be given to the counsel for the State and to amicus curiae.

(Prakash Tatia, C.J.)

(Jaya Roy, J.)