

ITEM NO.4

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 55/2003

E.R. KUMAR &amp; ANR.

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

IA No. 1/2014 - APPLICATION FOR IMPLEADMENT, IA No. 174070/2018 - APPLICATION FOR PERMISSION AND IA No. 163328/2018 - APPROPRIATE ORDERS/DIRECTIONS)

WITH

W.P.(C) No. 572/2003 (PIL-W)  
(IA 1/2003 FOR INTERIM DIRECTIONS)

W.P.(C) No. 413/2020 (PIL-W)  
(IA No. 76436/2020 - AMENDMENT OF THE PETITION, IA No. 40224/2020 - EX-PARTE STAY AND IA No. 40222/2020 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 11-10-2022 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MS. JUSTICE BELA M. TRIVEDI

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

On substantive issues the instant matters were dealt with by this Court in its Order dated 11.11.2016, wherein various directions were issued. Consequently, a Committee headed by Justice Kailash

Gambhir, Retired Judge, High Court of Delhi was constituted. The recommendations given by said Committee have been placed on record.

These matters have now appeared almost after three years.

A note submitted by Mr. Prashant Bhushan, learned Advocate, seeks to highlight the existing issues and certain areas of concern which need attention immediately. The note is as under :

"In December 2003, the petitioners had approached this Hon'ble Court for suitable directions to the government, to ensure that every citizen of this country gets practical and realistic access to at least basic shelter in accordance with his fundamental right under article 21 of the Constitution of India. The petitioners had drawn attention to the lack of shelters for urban homeless persons who were forced to live in the open and sleep on the streets in utterly unhygienic and degrading conditions. As a result of this, a large number of homeless people succumb to extreme cold and heat and other vagaries of nature.

The Scheme of Shelters for Urban Homeless was issued by the Government of India, Ministry of Housing and Urban Poverty Alleviation. The scheme refers to the National Urban Livelihoods Mission (NULM) which was launched in 2013 to reduce the poverty and vulnerability of urban poor households. The NULM Mission Document also states that providing shelters equipped with essential services to the urban homeless in a phased manner is a top priority. The location and design of shelters and the funding pattern of the Scheme of Shelters for Urban Homeless is discussed in details in the mission document. The operational Guidelines for the Scheme were issued in December 2013 by the Ministry of

## Housing and Urban Poverty Alleviation.

Thereafter the Court directed States to file affidavits regarding the implementation of the scheme and were directed to state a time frame for the implementation of the scheme. An Executive Committee was constituted in each state, in terms of the NULM mission document and the court directed that where the number of shelters were inadequate, steps be taken to provide at least temporary shelters. While issuing further orders, this Hon'ble Court also noted that there was no monitoring or evaluation of the progress of work and utilization of the money that was released to the State governments. The court noted in further orders in 2015 that the number of shelters were inadequate and many states had not sanctioned any proposals for urban homeless shelters. The Court noted vide order dated November 2016 that the laudable objective with which the National Urban Livelihood Mission and the Scheme for Shelters for Urban Homeless were introduced, is not achieved due to ineffective implementation. With the winter approaching in November 2016, the Court set up a committee headed by Justice Kailash Gambhir, retired Judge, High Court of Delhi to report on the available number of shelters in each state and whether the shelter were in compliance with the operational guidelines for the Scheme of Shelters for the Urban Homeless, under the NULM, the reasons for slow process and the non Utilisation of funds. The Committee thereafter submitted a scathing report on the major factors for the slow progress in setting up shelters for the homeless, including, the lack of will of state and UT administrations, non-availability of land as well as high price of land at the required places for construction of shelters, reluctance to conduct legitimate survey, poor management of shelters, requirement of documents for persons to access shelters, sub-optimal Utilisation of NULM funds, lack of coordination among planning agencies, non utilisation and diversion of allocated funds for the scheme for urban shelters. The committee suggested steps for the effective implementation of the NULM guidelines

with respect to infrastructure, convergence of schemes for the homeless, social audit for monitoring quality, improving shelter occupancy etc.

Thereafter the Court regularly monitored compliance with the Kailash Gambhir committee report especially in terms of the facts stated in court by each State regarding the number of urban homeless and the number of shelters set up, the number of meetings of various committees that have been set up, etc. In various orders the court thereafter noted poor compliance with the recommendations of the Kailash Gambhir report or On 10th January, 2018 and the Supreme Court ordered the setting up of a 3 member committee to monitor the setting up of the shelter and implementation of the guidelines for Shelter of the Urban Homeless, in a time bound manner.

It has now been seen that many of these committees have begun defunct due to the retirement or non availability of members. Besides this most states have reported from the ground that there has been an acute lack of funds allocation, not enough shelters have not been constructed, special needs of the urban homeless have not been factored in where there are functional shelters, overcrowding of shelters, etc. Therefore we request the court to require the States/UT to file a status report providing the following information:

- Whether the committees under the National Urban Livelihood Mission are in position in all States and Union Territories - what is the ambit and functioning of the committee, the members and constitution of the committee, the number of times they have met in the past two years, decisions taken, minutes of the meetings, number of homeless persons and number of shelters functional in each state, the facilities available at each shelter, location of the shelters and capacity, allocation and utilisation of funds, provision of and special shelters for women and others with health recovery

and special needs, comprehensive report from each State/UT committee on the compliance with the Scheme of Shelters for Urban Homeless as of October 2022, etc.

- Whether the Supreme Court appointed three member committee is in place in all States - the members and constitution of the committee, the number of times they have met in the past two years, decisions taken, minutes of the meetings, comprehensive report from the committee on compliance with the Scheme of Shelters for Urban Homeless as of October 2022, etc
- Submission of winter plan for urban homeless by all Northern Indian states as directed by earlier court orders."

As stated in the note, certain questions raised in the penultimate paragraph call for detailed responses from every States/Union Territories. We, therefore, direct all States/Union Territories to respond to the note and particularly to the questions raised in the note.

Let the responses be filed within three weeks from today.

All the responses shall thereafter be compiled in a separate compilation by the office of Mr. Prashant Bhushan, learned Advocate, and the digitized version of the compilation shall be shared with all the learned advocates appearing for various parties.

During the course of submissions, a suggestion was given to all the learned counsel that after having laid down broad parameters by way of policy guidelines, would it not be better to let the issues at the ground level be considered by the concerned High Courts or rather than putting all those issues before the Court in the form of submissions or counter submissions in the matter.

In response, Mr. Prashant Bhushan, learned Advocate and Mr. E.R. Kumar, petitioner-in-person, submit that great progress in the matter has been achieved only because of the intervention by this Court and in order to let the matter achieve finality in the process, the continued interference by this Court would be justified.

At this stage, we are not considering these rival views, which are left to be considered after said compilations are placed on record.

List the matters on 29<sup>th</sup> November, 2022.

(NEETU KHAJURIA)  
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)  
COURT MASTER