

ITEM NO.301

COURT NO.3

SECTION PIL

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

I N D I A

I.A. No. 132-134 in Writ Petition(s)(Civil) No(s). 196/2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For extension of time and impleadment and direction and office report)

Date: 01/09/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.
Mr.A.Shukla, Adv.
Mr.Aditya Srivastava, Adv.
Ms. Jyoti Mendiratta,Adv.

For Respondent(s)

Mr. Tushar Mehta, ASG
Ms. H.Wahi, Adv.
Ms. Preeti Bhardwaj, Adv.
Ms. Swati Vaibhav, Adv.
Mr. S.W.A.Qadri, Adv.
Ms. Sushma Suri,Adv.
Mr. Saurav Suri, Adv.
Mr. Gaurav Sharma, Adv.
MS. Sunita Sharma, Adv.
Mr. B.V.Balram Das, Adv.Mr. Manjit Singh, AAG
Ms. Vivekta Singh, adv.

Signature Not Verified

Digitally signed by
Shashi Sareen
Date: 2014.10.11
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Ms. Nupur Chaudhary, Adv.

Reason:

Mr. Irshad Ahmad,Adv.
Mr. Vikas Bansal, Adv.
Mr. Gaurav Dhingra, Adv.

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Ms. Hemantika Wahi,Adv.

Mr. Rajeev M. Roy,Adv.

Mr. Manjit Singh, Adv.
Mr. Vikas Sharma, Adv.

Mr. Suryanarayan Singh, Adv.
Ms. Pragati Neekhara, Adv.

Mr. B.Balaji, Adv.
Mr. R.Rakesh Sharma, Adv.
Mr. S.Anand, Adv.
MS. Shashe, Adv.

Ms. K.Enatoli Sema, Adv.
Mr. Amit Kumar, Adv.
Mr. Balaji Srinivasan, Adv.

Mr. Ajay Bansal, Adv.
Mr. Gaurav Yadav, Adv.
Mr. Kuldip Singh, Adv.

Ms. Asha G. Nair, Adv.
Mr. A.P.Mayee, Adv.

Mr. K.V.Jagdishvaran, Adv.
MS. G.Indira, Adv.

Mr. S.Udaya Kumar Sagar, Adv.

Mr. Rajeev M.Roy, Adv.
Mr. Amol Kumar, Adv.
Mr. Vinay Krishan Pandey, Adv.

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

I.A. No. 132:

It is submitted by Mr. Colin Gonsalves, learned senior counsel for the petitioner that although the initial direction for decentralisation of feeding process to Self Help Groups/Women Coo-operatives for supply of Take Home Ration was issued nearly 10 years back, the State of Rajasthan has not been in a position to achieve A 100% switch over all the years. He submits on the basis of averments made in the application that out of a total of 304 ICDS projects in the State of Rajasthan, the switch over has been achieved only for 107 such projects. He submits that the State is not it appears showing any urgency to expedite the process of decentraliastion as directed by this Court. He further suggests that instead of extending the period by three years as prayed for in the application, the State Government could be granted an extension of one year with the

direction to achieve the desired switch over in respect of at

least 100 such ICDS projects during the extended period.

We find

merit in the suggestion made by Mr. Gonsalves.

The direction of

this Court have over the past 10 years resulted in a switch over

of decentralisation of the feeding process to Self-Help Groups

and Women Co-operatives only in 107 such projects as against 304

projects spread over in the entire State.

The pace of switch over

is very slow and needs to be increased by the authorities

concerned. We are further of the view that instead of extending

the entire process to be completed over a period of three years as

proposed by the State Government, it would be more appropriate to

extend the period by one year with a direction that the State

shall endeavour to decentralise the feeding process through

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Self-Help Groups/Women Co-operative in respect of atleast 100 ICDS

projects during this period.

We order accordingly and permit he

State Government to invite fresh bids for a period of one year

from bonafide manufacturers for supply of Take Home Ration in

respect of ICDS projects where such switch over has not so far

taken place. The application is

to that extent allowed and

disposed of. The State of Rajasthan shall file a report as to the

progress made by it immediately after expiry of the period.

I.A. No. 133:

Issue notice.

Learned counsel for the opposite side to file their objections within four weeks.

I.A. No. 134:

We had by our order dated 06.08.2013 permitted the

Government of Gujarat to continue the system under which it was

procuring for distribution Take Home Ration as EFBB from the

original manufacturers by inviting competitive bids for a period

of one year. We had done so on a specific assurance given to us

by learned counsel appearing for the State Government and

Child Development that three pilot project units one at Banas

Kantha Milk Dairy, Dhoraji Block, the second at Rajkot and

the

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third at Surenderanagar District shall be completed by the

Government expeditiously and within a period of one year from the

date of the order. The successful setting up of the said units

was according to the learned counsel for the State going to help

the Government in replicating the exercise elsewhere so that the

entire State had the advantage of the new system over a period of

five years or so. We had while recording that assurance directed

the Government to file a status report regarding the completion of

the three pilot projects mentioned above, but made it clear that

setting up of other such projects need not be deferred till the

completion of these pilot projects referred to earlier.

The State Government has now filed a status report, from a

reading whereof it is clear that project at Dhoraji block has

been commissioned on 21.01.2014 while that at Wadhawan block,

Surendernagar District has been commissioned on 01.03.2014. The

project at Banas Dairy, Banaskantha District has not however made

any substantial progress inasmuch as the process of land of

allotment itself has not been completed sofar. The status report

also refers to 13 other projects which have been sanctioned by the

Government, two out of which namely one at Chanasma Block, Patan

District and the other at Waghodia Block, Vadodara District have

already been commissioned and have started the manufacturing

process. The status report at the same time fairly concedes that

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even if all the 13 projects which have been sanctioned by the

Government were commissioned the total manufacturing capacity

will not exceed 675 metric tons p.m. as against a total

requirement of nearly 12,000 metric tons p.m. for the whole State.

Mr. Tushar Mehta, learned ASG, appearing for the State of

Gujarat submits that pilot project at Bansas Dairy Banas Kantha

will take some time to be commissioned but once operational will

manufacture nearly like 4,000 metric tons p.m. meeting a substantial part of the requirement of the State. Although Banas Dairy project is still at its infancy and nothing appears to have happened except the process of allotment of land for the unit, yet even if the unit comes up in due course, the requirement of the State will remain substantially higher and dependent upon supply from commercial manufacturers unless the State Government takes steps to set up the required number of similar projects. Mr.

Mehta submitted on instructions that as at present advised there should be as many as 200 more projects in the State depending upon the capacity of such projects. It is fairly conceded that the State Government has not so far undertaken any study in regard to the total number of such projects required or decided on their location or capacity. Mr. Mehta submitted that given two months'

time that exercise can be undertaken and a status report submitted. He urged that the State is committed to switch over

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to the new system as directed by this Court and that it is only a matter of time before the switch over is completed to the advantage of children and lactating mothers who are beneficiaries under the scheme.

Mr. Gonsalves, learned counsel for the petitioner urged that at current pace the State would take 12 years to complete the process of setting up of the projects and 100% switch over from the current system of purchasing the supply from a manufactures.

There is no manner of doubt that the State has undertaken steps in setting up of pilot projects four of which projects have already been commissioned, no matter the capacity of the project is limited. There is also no manner of doubt that the thirteen additional sanctioned projects will not be sufficient to cater to the States of its requirement of 12,000 metric tone. In that view therefore we are inclined to extend the time fixed for completing the switch over but impress upon the State to expedite the process of switch over for otherwise it can go on indefinitely for

decades. We are assured by Mr. Mehta who is instructed by the Secretary to Government, Women and Children Development present in the Court that the State would spare no effort in setting up these unit as early as possible and filing a status report to ensure that the process of purchasing the food grains from private manufacturers is brought to an end as early as possible.

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In the circumstances therefore we extend for a period of two years the system of purchasing food grains from the manufacturers concerned on the basis of competitive bids. We at the same time direct the State Government to file six monthly status reports regarding the progress made in regard to setting up of similar projects in the State of Gujarat and in particular the progress made by the State Government in undertaking a study to assess the requirement of the total number of such units their capacities and locations. The application is disposed of with the above directions.

(SHASHI SAREEN)
COURT MASTER

(VEENA KHERA)
COURT MASTER