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ITEM NO.301

COURT NO.8

SECTION PIL

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

I.A. No.129 of 2013 with I.A. No.110 of 2010 in
WRIT PETITION (CIVIL) NO(s). 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions)

Date: 10/07/2013 This matter was 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.
Ms. Jyoti Mendiratta, Adv.
Ms. A. Shukla, Adv.
Mr. R.C. Kaushik, Adv.

Mr. D.M. Nargolkar
Mr. K.L. Janjani
M/S. Hingorani & Associates
Dr. Kailash Chand

For Respondent(s)/ Mr. Ranjit Kumar, Sr. Adv.
(Applicant) Ms. Hemantika Wahi, Adv.

Respondent(s) Mr. P.P. Malhotra, ASG
Mr. Gaurav Sharma, Adv.
Ms. Sushma Suri, Adv.
Mr. D.D. Kamat, Adv.
Mr. T.A. Khan, Adv.
Mr. N. Pasha, Adv.
Mr. Anil Gaur, Adv.
Mrs. Sunita Sharma, Adv.
Mrs. Anil Katiyar, Adv.
Mr. N. Pasa, Adv.
Mr. D.S. Mehra, Adv.
Mr. S. Wasim A. Qadri, Adv.
Mr. G. Sharma, Adv.
Mr. Chetan Chawla, Adv.
Ms. Priyanka Dixit, Adv.
Mr. G. Dua, Adv.

Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. D.K. Sinha, Adv.

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

Mr. Manjit Singh, Adv.
Mr. Tarjit Singh, Adv.
Mr. Kamal Mohan Gupta, Adv.

Mr. Sunil Fernandes, Adv.
Ms. Insha Mir, Adv.
Mr. Raghav Chadha, Adv.

Ms. Pooja, Adv.

Mr. Mukul Singh, Adv.

Mr. Gaurav Dhingra, Adv.

Mr. Chanchal Kr. Ganguli, Adv.

Mr. Avijit Bhattacharjee, Adv.

Ms. Soumi Kundu, Adv.

Ms. A. Subhashini, Adv

Mr. Aruneshwar Gupta, Adv

Mr. Anil K. Jha, Adv

Mr. Gopal Singh, Adv

Ms. Indra Sawhney, Adv

Ms. Kamini Jaiswal, Adv

M/S Saharya & Co., Adv

Mr. Naresh K. Sharma, Adv

Mr. P. Parmeswaran, Adv

Mr. Pradeep Misra, Adv

Mrs Rani Chhabra, Adv

Mr. Tara Chandra Sharma, Adv

Mrs. Kirti Renu Mishra, Adv

Mr. K.V. Mohan, Adv

Mr. D.S. Mahra, Adv

Mr. Irshad Ahmad, Adv

Mr. Ranjan Mukherjee, Adv

Mr. V.G. Pragasam, Adv

Mrs. D. Bharathi Reddy, Adv

Mr. Shivaji M. Jadhav, Adv

Mr. Anil Kumar Jha, Adv

Mr. Chander Shekhar Ashri, Adv

Mr. B.S. Banthia, Adv

Mr. Ramesh Babu M.R., Adv

Mr. Khwairakpam Nobin Singh, Adv

Mr. Prashant Kumar, Adv

Mr. Anil Shrivastav, Adv

Mr. Sanjay R. Hegde, Adv

Mr. B.V. Balaram Das, Adv

Mr. Vishwajit Singh, Adv

Mr. Gopal Prasad, Adv

Ms. Rachana Srivastava, Adv

Mr. Suresh Chandra Tripathy, Adv

Ms. Bina Madhavan, Adv

M/S Corporate Law Group, Adv

Mr. Rajesh Srivastava, Adv

Mr. Jatinder Kumar Bhatia, Adv

Mr. Ravi Prakash Mehrotra, Adv

Ms. Sumita Hazarika, Adv

Mr. P.V. Yogeswaran, Adv

Mr. Ravindra Keshavrao Adsure, Adv

Mr. S. Thananjayan, Adv

Mr. Shibashish Misra, Adv

Mr. Vikas Mehta, Adv

Mr. T.V. George, Adv

Ms. Anjana Chandrashekar, Adv

Mr. Anuvrat Sharma, Adv

Mr. B. Balaji, Adv

Mr. Chandra Bhushan Prasad, Adv

Mr. V.N. Raghupathy

UPON hearing counsel the Court made the following

O R D E R

Heard.

Issue notice.

Mr. P.P. Malhotra, learned Additional Solicitor General, appears on behalf of respondent no.1 (Union of India). Mr. Colin

Gonsalves, learned senior counsel, appears on behalf of the writ petitioners. Copies of the application have already been served upon them. They may file their objections if any within two weeks.

Our attention has been drawn to the National Food Security Ordinance, 2013 promulgated by the President w.e.f. 5th July, 2013. A cursory perusal of the Ordinance shows that the same makes several significant provisions for the benefit of children in the age group of six months to fourteen years. The ordinance inter alia makes an attempt to reform the public distribution system in rural and urban areas generally and bring in transparency and accountability apart from creating obligations for the Central Government and the State Governments on issues relating to the food security. Relevant for the present application are the provisions of Section 5 of the said Ordinance under which every child up to the age of fourteen years is entitled to the benefits stipulated therein. As Section 5(1)(a), in particular, enumerates that in the case of children in the age group of six months to six years age an appropriate meal, free of charge, through the local anganwadi shall be provided to meet the nutritional standards specified in Schedule II to the ordinance. The expression "meal" has been defined in Section 2(9) of the said Ordinance to mean "hot cooked meal or ready to eat meal or take home ration, as may be prescribed by the Central Government". Insofar as children up to class VIII or within the age group of six to fourteen years are concerned a mid-day meal, free of charge, every day, except on school holidays, in all schools run by local bodies, government and Government aided schools has been recognised as an entitlement of every child to meet their nutritional requirements. What is significant is that under Section 5(2) every school and every anganwadi is required to have facilities for cooking meals, drinking water and sanitation.

Mr. Ranjit Kumar, learned senior counsel appearing for the State of Gujarat, submitted on instructions of the Secretary, Women and Child Development Department, that the State of Gujarat has already implemented the ICDS scheme earlier prevalent so far as children in the age group of three to six years are concerned. He further stated on instructions that as regards children falling in the age group of six months to three years also the Government had taken steps to implement the scheme earlier formulated in part and to the extent of 16 per cent of the total population of 32 lakhs or so falling in that age group, including 15 lakhs lactating mothers, pregnant women and adolescents covered under the scheme. According to Mr. Kumar 16 per cent of the total beneficiaries are getting their ration requirements under the scheme through Mahila Mandals and Self-Help Groups concerned. He urged that with the promulgation of the Ordinance and in terms of Section 39 thereof the Central government has the power to frame rules to carry out the provisions of the ordinance and in particular provide schemes covering entitlements under Sections 4, 5 and 6 including cost sharing under Section 7 thereof. He also referred to Section 41 of the Ordinance to submit that the schemes, guidelines, orders and food standard, grievance redressal mechanism, vigilance committees will continue till the rules are framed and schemes notified under the Ordinance. He submitted that while the Government of Gujarat shall have to make suitable alterations wherever necessary in the procedures and the methods adopted under the old scheme to fall in line with the provisions of the Ordinance, any such change of procedures, methods and practices may take time, especially because the Central Government shall have to frame rules and formulate schemes under the Ordinance which part has yet to be done. He is, however, unable to say without specific instructions as to the time-frame within which the Government of Gujarat shall be in a position to switch-over from the existing system, practices and procedure to fall in line with the provisions of the Ordinance. He sought two weeks' time to not only study the provisions of the ordinance in depth but also to take instructions and file an affidavit indicating the time-frame within which the Government of Gujarat would be in a

position to take steps and measures requires to implement the provisions of the Ordinance.

Mr. Colin Gonsalves, learned senior counsel appearing for the writ petitioner, on the other hand argued that although the Government of Gujarat had made a statement before the High Court on 14th March, 2011 that they will completely switch-over to the system of providing rations through Mahila Mandals and Self-Help Groups within a period of one year, the Government had not been diligent in doing the needful with the result that the switch-over was achieved only to the extent of 16 per cent. He submitted that the Government had in derogation of the orders of this Court dated 7.10.2004, 13.12.2006 and 22.04.2009 engaged a contractor for supply of nutritional food to the children falling in the age group of six months to three years and that the present application was only an attempt to perpetuate that violation. He submitted that according to his instructions each anganwadi was equipped with pucca/kacha kitchen for many many years and that there was indeed no difficulty in supplying to the targetted age group of children cooked nutritional food in terms of the scheme as directed by this Court.

This position has been disputed by Mr. Ranjit Kumar who submitted that each and every school and every anganwadi is not equipped with a kitchen and that while some schools are equipped with a kitchen for providing breakfasts and mid-day meals in the age groups of three to six years, such kitchens and arrangements were not available for use for children in the age group of six months to three years.

In the circumstances, therefore, and keeping in view the submissions made at the Bar we direct the State Government of Gujarat to file an additional affidavit on the lines indicated above, indicating the time-frame within which it will switch-over to the system of supply of food to the targetted population of children and others entitled to the same in the State of Gujarat under the Ordinance and also indicating the time-frame within which every school and anganwadi may be equipped with facilities for cooking meals within the meaning of Section 5(2) of the Ordinance. Mr. Colin Gonsalves may also file an affidavit in reply and indicate whether anganwadi and schools in the State of Gujarat are indeed equipped with kitchens/cooking arrangements, as stated by him.

Post on 24th July, 2013 at 2 p.m.

The needful shall be done by the learned counsel before that day.

|(Mahabir Singh)
| Court Master

|(Veena Khera)
| Court Master