

ITEM NO.65  
(PART-HEARD)

COURT NO.4

SECTION PIL

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

IA Nos.94 & 96 in WRIT PETITION (CIVIL) NO(s). 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)  
(With appln(s) for directions and report submitted by  
Commissioner and Special Commissioenr of Supreme Court directed  
to be treated as IA vide order dt.27.01.2010 )  
[Regarding States of Maharashtra, Assam, Punjab, Haryana,  
Uttarakhand, Chattisgarh, Gujarat, Nagaland, Goa, Tripura,  
Sikkim, Jammu & Kashmir and Kerala]

Date: 18/07/2011 This Petition was called on for hearing  
today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI  
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr.Colin Gonsalves, Sr.Adv  
Mr.Divya Jyoti, Adv.  
Ms.Jyoti Mendiratta,Adv.

applicant(s) Mr.Naushad Ahmad Khan, Adv.  
Mr.Mehbubul Hassan Laskar, Adv.  
for Mr. R.C. Kaushik ,Adv  
  
Dr. Kailash Chand, Adv.

For Respondent(s) Mr.Mohan Parasaran, ASG  
Mr.D.L.Chidananda, Adv.  
Ms.Sunita Sharma, Adv.  
for Ms. Sushma Suri ,Adv  
for Mr. D.S. Mahra ,Adv  
for Mr. B.V. Balaram Das ,Adv  
  
Ms. A.Subhashini ,Adv  
  
Mr. Aruneshwar Gupta ,Adv(NP)

2

Mr. Anil K. Jha ,Adv(NP)

Mr. Anis Suhrawardy ,Adv(NP)  
Mr.Rituraj Biswas, Adv.  
For Mr.Gopal Singh, Adv.

Mr.Manish Kumar, Adv.  
for Mr. Gopal Singh ,Adv

Ms. Hemantika Wahi ,Adv  
Mr.Nupur Kanungo, Adv.  
Mr.Suveni Banerjee, Adv.

Ms. Indra Sawhney ,Adv(NP)

Ms. Kamini Jaiswal ,Adv(NP)

Mr.Vishnu B.Saharya, Adv.  
for M/S Saharya & Co. ,Adv

Mr. Naresh K. Sharma ,Adv(NP)

Mr.Sanjiv Sen, Adv.  
Mr.Ujjal Banerjee, Adv.  
For Mr.Prashant Kumar, Adv.  
for Mr. P. Parmeswaran ,Adv

Mr. Pradeep Misra ,Adv(NP)

Mr. Tara Chandra Sharma ,Adv(NP)

Mr. K.V.Mohan ,Adv(NP)

Mr. Ranjan Mukherjee ,Adv(NP)

Mr.Prabu Ramasubramanian, Adv.  
for Mr. V.G. Pragasam ,Adv

Mrs.D. Bharathi Reddy ,Adv(NP)

Mr. Shivaji M. Jadhav ,Adv(NP)

Mr. Anil Kumar Jha ,Adv(NP)

Mr. Chander Shekhar Ashri ,Adv(NP)

Mr.Vikas Upadhyay, Adv.  
for Mr. B.S. Banthia ,Adv

Mr. Ramesh Babu M.R. ,Adv  
Mr.Ramesh Allanki, Adv.  
Ms.Savita Dhanda, Adv.

3

Mr.Sapan B.Meitei, Adv.  
For Mr.Khwairakpam Nobin Singh ,Adv

Mr.Ritu Raj, Adv.  
for Mr. Anil Shrivastav ,Adv

Mr. Sanjay R. Hegde ,Adv(NP)

Mr. Vishwajit Singh ,Adv(NP)

Mr. Gopal Prasad ,Adv

Mr.Soumitra G.Chaudhuri, Adv.  
Mr. Abhijit Sengupta ,Adv  
Mr.B.P.Yadav, Adv.

Mr.Manjit Singh,AAG  
for Mr. Kamal Mohan Gupta ,Adv

Mr.Rahul Verma, Adv.  
for Ms. Rachana Srivastava ,Adv

Mr. Suresh Chandra Tripathy ,Adv

Mr.Riku Sarma, Adv.  
Mr.Navnit Kumar, Adv.  
for M/S Corporate Law Group ,Adv

Mr. Rajesh Srivastava ,Adv(NP)

Mr. Jatinder Kumar Bhatia ,Adv(NP)  
Mr. Ravi Prakash Mehrotra ,Adv(NP)  
Ms. Sumita Hazarika ,Adv(NP)  
Mr. P.V. Yogeswaran ,Adv(NP)  
Mr. Ravindra Keshavrao Adsure ,Adv(NP)  
Mr. Kuldip Singh ,Adv  
Mr. S. Thananjayan ,Adv(NP)  
Mr. Vikas Mehta ,Adv(NP)  
Mr.T.V.George ,Adv(NP)  
Ms.Anjana Chandrashekar ,Adv(NP)  
Mr. Anuvrat Sharma ,Adv

4

Mr.Sunil Fernandes, Adv.  
Mr.Suhaas Joshi, Adv.  
Ms.Astha Sharma, Adv.

Mr.Edward Belho, Adv.  
Ms.K.Enatoli Sema, Adv.  
Mr.P.Athuimei R.Naga, Adv.  
For Mr.S.Balaji, Adv.

Mr.K.N.Madhusoodhanan, Adv.  
For Mr.Sathish, Adv.

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

Mr.Sanjay V.Kharde, Adv.  
For Ms.Asha G.Nair, Adv.

Mr.Vijay Verma, Adv.  
For Mr.Milind Kumar, Adv.

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

In re : State of West Bengal:

In pursuance to the direction of this Court, comprehensive affidavit has been filed by the Chief Secretary to the Government of West Bengal. Rapid assessment surveys in three cities of Kolkata, Howrah and Asansol with more than five lakh population were conducted during the period February - March, 2011 to identify the number, location of concentration and other relevant details of homeless population. The survey in three cities have been conducted by engaging civil society organizations having through knowledge, understanding and experience of working on the issue of homeless in urban areas with active involvement of youth groups. Survey data of Kolkata and Howrah were checked and validated during Census operation on the night of 28 February, 2011. The Rapid Assessment Survey took into account populations living in 'open air' and 'under plastic cover' in all three cities. While the first group was considered most vulnerable, the population groups (mostly families) living for years together under plastic roof was also covered in the survey, albeit separately. An overview of the findings of the Rapid Assessment Surveys on

populations living in open air in three cities is given below:

5

Sl.No.	City	Male homeless	Female homeless	Total homeless
1	Kolkata	9534	6769	16303
2	Howrah	1237	239	1476
3	Asansol	58	27	85

The State also formulated a policy. According to the policy :

a) The goal of the State Government is to set up shelters on a 24x7x365 basis for homeless population in cities with arrangements for running, managing and overseeing so as to ensure their right to life with dignity;

b) The State shall strive to establish one shelter for every lakh of city population within reasonable period of time with a maximum 100 inmates per shelter separately for women and men. In particular, the following measures shall be adopted in a time bound manner towards the attainment of provision of basic amenities in these shelters :-

1. Mattresses/be-rolls, blankets
2. Potable drinking water
3. Functional latrines
4. Electricity
5. First Aid
6. Primary health services with tie-up with existing facilities;
7. De-addiction link up with existing centres
8. Reasonable recreation facilities.

It is also mentioned in the affidavit that Special efforts will be made to take care of the needs of children, women, mentally retarded, old and infirm inmates with opportunities explored for bringing them under purview of existing State run or supported homes.

c) In formulating schemes for providing shelters for homeless in the cities, priority shall be given to :

I) Location of shelters in places of high concentration

6

of such population subject to availability of unused, vacant government buildings or rented accommodation in space-starved cities like Kolkata;

II) Developing a public-private mode of operation, management and oversight mechanism with scope of consultation and discussion with homeless persons/organizations representing them.

d) The Government shall endeavour that adequate resources are provided for setting up of shelters for homeless population in the cities. At the same time Civil Society Organizations and voluntary organizations engaged in the field

of shelter for homeless will continue to have the opportunity to set up or run, either on their own or with State assistance, such shelters for homeless so that the endeavour of State and voluntary efforts complement each other.

e) To achieve the above aims, the State will provide necessary legislative and administrative support.

It is also mentioned in the affidavit that a Model Scheme on shelter for homeless with financial implications, taking 40 persons as a unit, has been prepared by the State of West Bengal. The main objectives of the scheme are a) encourage non-government organizations/civil society organizations to set up and run shelters for the urban homeless by providing them necessary institutional and financial support, b) formulate structures and frameworks for engagement of organizations and monitoring and evaluation of running of the shelters. As per the Model Scheme there could be two types of shelters :

1. General shelter, with segregation between different categories of people, I.e. men, women, children, physically handicapped, mentally challenged, people involved in substance use.
2. Specialized shelter for special categories of people I.e., women, children, physically handicapped, mentally challenged, people involved in substance use.

However, emphasis would be given to set up more number of general shelters. The Model Scheme envisages three options for land and building premises for setting up of shelters :

- a. land and building owned by the Government/Government agency/Urban Local body;
- b. Land and building owned by applicant Non-Government Organization/Civil Society Organization.
- c. Rented property.

It is also mentioned in the affidavit of the Chief Secretary that the government would provide financial assistance for setting up and regular maintenance of homeless shelters. Taking an average of 40 inmates in a shelter in space-starved cities like Kolkata and Howrah, a framework of financial assistance has been provided in the Model Scheme. It is also mentioned therein that an approximate budget provision of Rs.58 lacs, excluding renovation/repairing work, has been earmarked for setting up of 10 shelters for homeless population in the State during the financial year 2011-12. A comprehensive set of guidelines has been prepared for the implementing and partner organizations who will maintain, manage and oversee the shelters including maintenance of daily records of inmates.

In case of able-bodied men using the shelter, there could be a nominal fee to be charged by the implementing partner organization and the revenue earned would be utilized to meet part of operation and maintenance cost.

We are happy to learn that the State of West Bengal has properly comprehended the problem of the homeless people and would make necessary efforts to solve the problem in right earnest. We request the State to ensure that all these shelter homes are constructed as expeditiously as possible and submit the status report on or before 31st October, 2011.

In re : State of Gujarat:

In pursuance to the direction of this Court, the Chief Secretary, Government of Gujarat has filed an affidavit. In the said affidavit, it is mentioned that the State has undertaken to build one night shelter against the population of one lac in each of the four cities I.e. Ahmedabad, Surat, Vadodara and Rajkot. According, the State Government would build forty five (45) night shelters in Ahmedabad city, twenty eight (28) in Surat city, fourteen (14) in Vadodara city and nine (09) in Rajkot city. In view of above, total ninety-six (96) night shelters would be built within six (6) months pursuant to the directions given by this Court vide order dated 9.5.2011. The Action plan showing the details of 96 night shelters to be set up is furnished as under:

8

Sr.No.	Details of Name of city	Number of night shelters
	shelters to Ahmedabad Surat Vadodara Rajkot	Number of night shelters
	be set up	
1.	Number of 06 03 03 03	15
	night shelters completed	
2.	Number of 18 07 06 --	31
	night shelters proposed to be completed within four months	
3.	Number of 21 15 05 06	50
	night shelters proposed to be completed within six months	
	Total 45 28 14 09	96

Necessary facilities like arrangement of beds, blankets, and, if necessary, medical health will be created in the above night shelters. Periodical vigilance and supervision of the maintenance and function of night shelters is very important with a view to ensuring decency and maintenance of discipline. For this purpose, an officer of the concerned Municipal Corporation will be made in-charge with the responsibility to alert the administration for taking suitable steps for up-keeping the shelters.

We are happy to note that now there is definite change in the stand of the State and we are sure that the State would promptly comprehend the problem in proper perspective and seriously endeavour to address the same.

In some parts of Gujarat winter is quite severe and that is why we are constrained to direct the State to construct these night shelters as expeditiously as possible particularly in those cities where winter is severe on a priority basis and submit a report on or before 31st October, 2011.

In re : State of Maharashtra:

We have perused the affidavit filed by the Chief Secretary, Government of Maharashtra on 16th July, 2011. We have also carefully perused the guidelines for operation and

9

maintenance of the night shelters prepared by the Urban Development Department, Government of Maharashtra on 14th July, 2011. Undoubtedly, the guidelines are comprehensive but the State must properly implement the guidelines in letter and spirit.

Learned counsel appearing for the State of Maharashtra submits that 58 night shelters will become operational by 31st October, 2011. Learned counsel for the State of Maharashtra further assures the Court that the State would try to implement the guidelines in letter and spirit. The affidavit giving the status report be filed on or before 31st October, 2011.

In re : Delhi :

We have perused the affidavit filed by the Additional Secretary, Department of Urban Development, Government of NCT of Delhi on 13th March, 2011. There have been twelve unfortunate incidents of accidental firing in shelter homes. This is a matter of great concern. Learned Addl.Solicitor General appearing for the NCT of Delhi has assured the Court that the Department of Urban Development would carry the survey of un-used buildings which could be utilised for night shelter after some renovation. He undertakes to file an affidavit to this effect by 31st August, 2011.

In re : Daman & Diu, Dadra & Nagar Haveli:

Affidavits have been filed by Daman & Diu and Dadra & Nagar Haveli. In the affidavit it is mentioned that there are no homeless persons reported in Union Territory of Daman & Diu, Dadra & Nagar Haveli, still to meet the future needs of homeless persons one night shelter will be started in both the Union Territories with all the basic amenities like drinking water, toilet, bathing security and emergency medical check up etc.

In re : State of Punjab :

Mr.S.C.Agrawal, Chief Secretary to Government of Punjab has filed an affidavit in which they have identified 1301 homeless people in urban areas of Punjab/

In Civil Hospital, Amritsar, a ward having more than 20 rooms was lying vacant and this building had been adopted as night shelter for the homeless. The basic facilities of water supply, electricity and toilet are already available in this building and food is also served by the Red Cross Society, Amritsar to the urban homeless.

10

In Jalandhar, the Municipal Corporation has sanctioned a sum of Rs.57.26 lacs for the construction of night shelters at the following sites :

I) Shri Devi Talab Mandir

ii)Near Bus Stand

iii)Near Damoria Bridge, Railway Station, Jalandhar.

The tendering process for construction of night shelters at the above sites is complete and work order is issued to the contractual agency on 25.01.2011 and the construction work is in progress.

Immediate measure:

As an immediate measure, the pucca buildings at the below mentioned sites had been earmarked for use as night shelters :

I) Dharamsala Devi Talab Mandir

ii) Zonal Office, Municipal Corporation - Garha Road

iii) Zonal office, Municipal Corporation, Madan Floor Mills.

In Ludhiana the Municipal Corporation has passed the resolution no.6154 dated 29.3.2011 for construction of permanent arrangement of night shelter for urban homeless people at the following two sites :

I) Plot measuring 2000 sq.yds. Adjoining JNNURM flats in village Dhandhari Kalan.

ii) Plot measuring 2000 sq.yds. Backside Haibowal Diary Complex in village Barewell Awana.

Immediate measure:

Three pucca buildings mentioned below had been identified and earmarked for use as night shelters :-

I) Parking complex of Municipal Corporation - Zone "A";

ii) Dispensary building, near fish market, Jagraon Bridge.

iii) Building of Octroi lying vacant near Zonal Office building, Zone "C".

11

In Patiala, the Municipal Corporation has passed the resolution of estimate amounting to Rs.5.54 lacs for construction of permanent night shelter for the urban homeless people and has earmarked the land measuring 250-300 sq.yds. Backside Sri Kali Devi Temple.

Immediate measure :

The accommodation as night shelter is being provided to Urban Homeless in the following four pucca buildings having all basic amenities and food is also served there to the needy :-

(I) Gurudwara Dukh Niwaran Sahib

(ii) Sri Kali Devi Mandir

(iii) Sri Ravi Dass Dharamsala

(iv) Shri Charnjiv Aashram.

In Bathinda, since majority of homeless people are around the railway station, the Municipal Corporation authorities vide their letter no.1464 dated 31.3.2011 have requested the Railway authorities, Bathinda city for providing the land for construction of night shelter for homeless people. The Deputy Commissioner, Bathinda has also written to the Station Superintendent, Bathinda Railway Station to provide land to the Municipal Corporation, Bathinda vide memo No.420 dated 8.4.2011.

Immediate measure:

Sixteen different Sarais/Dharamsalas run by NGOs are providing night shelter to urban homeless and are also serving food.

In the cities of Pathankot, Barnana and Sas Nagar Mohali, lands have been identified and efforts are being made to construct night shelters.

We direct the Chief Secretary to file further affidavit on or before 31st October, 2011 about the progress of these night shelters in the State of Punjab.

Mr.Gonsalves, learned senior counsel appearing for the petitioner prays for some time to file an application for some directions. Let the same be filed within one week with an advance copy to learned counsel for the parties, who would be at liberty to file reply to the same within three weeks thereafter.

12

List this matter again for further directions on 6th September, 2011.

(G.V.Ramana)  
Court Master

(Neeru Bala Vij)  
Asstt.Registrar