

ITEM NO.44

COURT NO.4

SECTIONS PIL, X

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 (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES ... PETITIONER(S)

VERSUS

UNION OF INDIA & ORS. ... RESPONDENT(S)

(Regarding reports submitted by Justice D.P. Wadhwa, Retd. Judge,
Supreme Court of India)

[REGARDING PLANNING COMMISSION OF INDIA]

WITH

I.A. Nos.90, 93, 98, 102 to 108, 110 & 111 in W.P.(C) NO. 196/2001
(For permission on behalf of respondent No.17 i.e. State of
Maharashtra, modification and directions, intervention on behalf of
West Bengal M.R. Dealers Association and All Bengal Price
Shop Dealers Welfare Association, impleadment and exemption
from filing O.T., direction and extension of time on behalf of
State of Rajasthan and for modification of Court's order dated
22.4.2009, impleadment on behalf of Karnataka State Taluka Co-
operative Marketing Society Association to be impleaded as
Respondents)

WITH

CONTEMPT PETITION (CIVIL) No.99/2009 in W.P.(C) No.196/2001
(With appln. from exemption from filing O.T.)

W.P.(C) No. 277/2010
(With office report)

Date: 10/05/2011 These Petitions were 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.
For Ms. Jyoti Mendiratta, Adv.

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Dr. Aman Hingorani, Adv.
Ms. Priya Hingorani, Adv.
Mr. Sumit Prashant, Adv.
Ms. Swati Sumbly, Adv.
For M/s. Hingorani & Associates, Advs.

Mr. A.K. Singh Tarun, Adv.
Mr. Kumar Rajeev, Adv.
For Mr. Debasis Mishra, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG
Mr. S.W.A. Qadri, Adv.
Mr. D.L. Chidananda, Adv.
Mrs. Sunita Sharma, Adv.
Ms. Supriya Jain, Adv.

For Ms. Sushma Suri,Adv.
For Ms. Anil Katiyar,Adv.
For Mr. D.S. Mehra,Adv.

Plng.Commn. Mr.Gopal Subramanium, Sol.Genl.of India
Mr.Sunil Ferndandes, Adv.
Ms.Astha Sharma,Adv.

Mr. Jana Kalyan Das,Adv.(NP)

Mr. Ranjan Mukherjee,Adv.

Ms. Hemantika Wah,Adv.
Mr.Ashwini Kumar, Adv.
Mr.S. Banerjee,Adv.

Mr. P.V. Yogeswaran,Adv.(NP)

Ms. Indra Sawhney,Adv.

Mr. Milind Kumar,Adv.

Mrs.Aruna Mathur, Adv.
Ms.Megha Gaur, Adv.
For M/s.Arputham, Aruna & Co.,Advs.

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Mr. Khwairakpam Nobin Singh,Adv.
Mr.Sapam Biswajit Meitei, Adv.

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Mr.S.J.Aristotle, Adv.
Mr.S.Prabu Ramasubramanian, Adv.
For Mr. V.G. Pragasam,Adv.

Mr. Jatinder Kumar Bhatia,Adv.

Mr.Pramod Swarup, Sr.Adv.
Mr.R.K.Gupta, Adv.
Mr.Rajeev Dubey, Adv.
Mr.Anil Kr.Jha, Adv.
For Mr.Kamlendra Mishra, Adv.

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

Mr.Gopal Singh, Adv.
Mr.Rituraj Biswas, Adv.

Mr. Abhijit Sengupta,Adv.
Ms.Anima Kujur, Adv.

Mr.Manish Pitale, Adv.
For Mr. C.S. Ashri,Adv.

Mr. Tara Chandra Sharma,Adv.
Ms.Neelam Sharma, Adv.

Mr. Anil Shrivastav,Adv.
Mr.Rituraj, Adv.

Mr. T. Harish Kumar,Adv.
Mr.P.Prasanth, Adv.
Mr.V.Vasudevan, Adv.

Mr. P. Parmeswaran, Adv.

Mr. Prashant Kumar, Adv.

Mr. Gopal Prasad, Adv.

Ms. Anjana Chandrashekar, Adv. (NP)

Mr. I. Venkatanarayana, Sr. Adv.

Mr. Ramesh Allanki, Adv.

Ms. Savita Dhanda, Adv.

for Mr. D. Mahesh Babu, Adv.

Mr. Ramesh Babu M.R., Adv. (NP)

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Mr. Vishwajit Singh, Adv. (NP)

Ms. Asha G. Nair, Adv.

Mr. K.V. Mohan, Adv.

Mr. Atul Jha, Adv.

For D.K. Sinha, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. K.N. Madhusoodhanan, Adv.

For Mr. R. Sathish, Adv.

Mr. Jawaid Hussain Khan, Adv.

Mr. V. Elanchlien, Adv.

For Mr. R.C. Kaushik, Adv.

Mr. Pradeep Misra, Adv. (NP)

Mr. Venkateswara Rao Anumolu, Adv. (NP)

Mr. B.S. Banthia, Adv.

Mrs. Beena Prakash, Adv.

For Mr. G. Prakash, Adv.

Mr. Riku Sarma, Adv.

Mr. Navnit Kumar, Adv.

For M/s. Corporate Law Group, Adv.

Mr. Anil Kumar Jha, Adv.

Miss Chhaya Kumari, Adv.

Mr. Vikas Mehta, Adv.

Mr. Naresh K. Sharma, Adv. (NP)

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Mr. Anis Suhrawardy, Adv. (NP)

Mr. S.M. Jadhav, Adv.

Mr. Ashok Kr. Sharma, Adv.

Mr. Avinash Kr. Jain, Adv.

Mr. Suresh Chandra Tripathy, Adv.

Mr. V.N. Raghupathy, Adv.

Mr. Edward Belho, Adv.

Ms. K. Enatoli Sema, Adv.

Mr. P. Athuimei R. Naga, Adv.

Ms. Vijaya, Adv.

For Mr. Balaji Srinivasan, Adv.

Mr. Navin R. Nath, Adv. (NP)

M/s. Saharya & Co., Advs. (NP)

UPON hearing counsel the Court made the following

O R D E R

In pursuance to the directions of this Court,

Joint

Secretary, Government of India has filed an affidavit on 18th

April, 2011 in which it is indicated that the Government is

committed to computerisation of entire Public Distribution

System (for short 'P.D.S.') and to end computerisation of

the operations under P.D.S. is being undertaken in order to

make the system transparent and minimise leakages or

diversion so that the intended benefits of subsidized

foodgrains actually reach the targeted population. This

would inter alia involve :

I) Computerisation of Supply Chain Management through a

Common Application Software (CAS) starting from the

allocation of foodgrains made under Targeted Public

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Distribution System (TPDS) to States/UTs to the stocks

of foodgrains moved out of FCI Depots to intermediary

warehouses in the respective States/UTs and then to the

Fair Price Shops (FPS);

II) Computerisation of the operations at FPS level, all

transactions at FPS level, up to date position of availability of stocks at all FPSs details of lifting of goodgrains and other PDS items by beneficiaries, etc.

III) Computerisation of database of beneficiaries under TPDS

and issue of smart cards in place of existing ration cards to beneficiaries after proper identification. This is intended to reduce to a large extent the existing errors of inclusion and exclusion, bogus ration cards, etc.

Thereafter another affidavit has been filed by the Joint Secretary, Government of India on 06.05.2011. In this affidavit it is mentioned that a High Powered Committee under the Chairmanship of Justice (Retd.) D.P.Wadhwa, Chairman, Central Vigilance Committee vide order dated 3.5.2011 to expedite the process of computerisation of P.D.S. The Office Memorandum dated 3.5.2011 indicated the position and terms of reference of the H.P.C. During the hearing of 20th April, 2011 this Court directed learned Additional Solicitor General to take instructions to allocate additional foodgrains to eradicate or at least to

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reduce the problem of malnutrition to a large extent.

In the affidavit he mentioned that the Government of India has been making allocation of foodgrains to families under TPDS from Antyodaya Anna Yojana (AAY), Below Poverty Line (BPL) and Above Poverty Line (APL) families. The allocations of foodgrains are made under TPDS at highly subsidized prices to meet the requirements of food security of the people, in particular, the poorest of the poor. In the affidavit it is also mentioned that in addition to foodgrains under TPDS, the Government also makes allocations of foodgrains under Other Welfare Schemes on the basis of requirements received from the concerned Departments/Ministries. In the affidavit it is also

mentioned that allocation of foodgrains under TPDS and Other Welfare Schemes, additional allocations of foodgrains have been made by the Government from time to time based on requests from States/UTs and depending upon the availability of foodgrains in the Central Pool. The Department and Food and Public Distribution has been apprising this Court about the additional allocations made so far. In pursuance to the directions of this Court, the Government of India has decided to make further additional allocations of 50 lac tonnes of rice and wheat to States and U.T.s for distribution to B.P.L. Families at B.P.L.prices. Learned

A.S.G. Submits that the allocation of additional 50 lac tonnes of rice and wheat to all States and U.T.s shall be

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distributed within two weeks.

Learned counsel appearing for the petitioner has brought to our notice about the incident which happened in Punjab where huge stock of foodgrains were destroyed in fire because it was lying in open for several years. Learned counsel for the petitioner has also submitted that it is imperative that further allocation of foodgrains should be made available because the situation is very grave in certain parts of India particularly in the 150 poorest districts in the country.

Mr.Gonsalves further submits that the National Family Health Survey of Government of India under 5 mortality rate in India is 74 for every 1000 live births.

There are 2.4 crore live births in India each year. The total number of deaths of children under the age of five (with a mortality rate of 74/1000) is 17.8 lacs. Since the

child malnutrition rate of India according to the NFHS 3 is 46%. According to Mr.Gonsalves we can directly attribute at least 46% of child deaths in India to malnutrition. Thus

8.8 lakh children die every year in India due to malnutrition. This roughly translates to 75,000 (seventy

five thousand) children dying every month due to malnutrition and an astounding 2,500 child deaths every day. More than a hundred children are dying every hour across the country due to malnutrition. These facts may be verified by the learned counsel appearing for the respondents.

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Both learned Solicitor General and learned Additional Solicitor General assured the Court that the Union of India would do all what is possible to eradicate the problem of malnutrition as early as possible.

Learned Solicitor General has placed on record the affidavit filed by the Planning Commission of India, a copy of the same has been given to learned counsel for the petitioner. Learned counsel appearing for different States/U.T.s may also collect the copies of the same from learned Solicitor General's office and may file their replies, if necessary, before the next date of hearing.

List this matter for further directions on 13.05.2011.

I.A.NO.98(Mentioned by learned A.S.G.)

To be taken up on 21.07.2011.

(G.V.Ramana)
Court Master

(Neeru Bala Vij)
Court Master