

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

May 29th, 2008.
Allschemes/573/Rajasthan.

Shri. D.C. Samant
Chief Secretary
Government of Rajasthan
Government Secretariat
Jaipur
Rajasthan.

Sub: Regarding the Implementation of Food Schemes.

Dear Shri. Samant,

I am grateful that you took time off on 7 May 08, to review and then discuss with me the food schemes that we are designated to monitor on behalf on the Supreme Court of India in the case PUCL v. UoI and Ors. (Writ 196/ 2001). We also had a useful detailed review presided over by the Development Commissioner and Additional Chief Secretary Shri. Ashok Pande, in which various departmental secretaries and the Advisors to the Commissioners of the Supreme Court participated.

In addition to the points already raised in our following letters I summarise the main issues that were discussed, suggestions made and decisions taken.

1). ICDS/537/Rajasthan, dt: 29.01.2008; 2). NMBS/539/Rajasthan, dt: 08.02.2008;
3). icds.coverage/518/allstates, dt: 28.11.2007; 4). NREGA/519/allstates, dt: 29.11.2007
and 5). Allschemes/570/Rajasthan, dated: 05.05.2008,

Integrated Child Development Services:

1. We reiterated our concern that the Supreme Court directive dated October 7 2004 be implemented fully in letter and spirit within 3 months, with an ending of supply of SNP for both 0 to 3 and 3 to 6 year age groups. Instead of contractors and centralised suppliers, for the latter hot cooked meals by SHGs and mothers' committees must be ensured (in which the state government has taken several steps); but the same must be done also for the SNP for the 0 to 3 year age group.

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2. The present decentralised hot meals at AWC level for 3 to 6 years age group is being undertaken by the anganwadi helper (AWH). The state government should please free the AWH from these activities, so she can contribute better to other ICDS activities which are also important for nutrition education, immunisation etc. This would become possible if the purchases and preparation of the hot cooked meal please be done exclusively by SHGs or mothers' committees.
3. We requested that the state government kindly draw up a list (possibly based on the survey by the PHE Department) of all SC ST dominated hamlets, and District Collectors be kindly directed to confirm within 3 months which of these hamlets do not have ICDS centres located within these hamlets. All further expansion of ICDS should please first ensure full coverage of all SC ST hamlets with ICDS centres (or mini AWCs if only this is permissible under ICDS norms).
4. Likewise the state government may please undertake in 3 months a full survey of all slums in urban areas, both authorised and unauthorised, and ensure their full coverage with ICDS centres with a norm of at least one AWC for every 1000 slum population.
5. Clear instructions may please be issued for implementing the orders of the Supreme Court dated 13 December 2006 for 'anganwadis on demand'. The Supreme Court, in its said orders directs, "Rural communities and slum dwellers should be entitled to an "Anganwadi on demand" (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi".
6. In order to ensure that children of migrant workers are not excluded from ICDS centres, please issue guidelines that are unambiguous that no child of the eligible age group will be turned away from any ICDS centre on the basis of her or his place of residence (or any other such ground).
7. We request the state government to start collecting data of coverage with ICDS services disaggregated for gender, SC, ST, Muslims and disability, to ensure full coverage of these categories.

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8. The disaggregated data at the district level shows lot of variations with some districts doing well and others very badly in their performance. Therefore, we request you please ensure that the reasons for poor performance in some states are reviewed and identified, so that all the beneficiaries are reached out in all the districts. We would also like to request you kindly send us the ICDS data disaggregated to the district level.

Mid Day Meal Scheme:

1. The Commissioners' office will study findings from independent studies of centralised kitchens in urban areas, as discussed.
2. We request the state government to consider adopting the Tamil Nadu model of permitting aged destitute people to share in the school MDM, as a final defence against starvation.
3. The Supreme Court order dated 20th April 2004 states, 'In appointment of cooks and helpers, preference shall be given to Dalits, Scheduled Castes and Scheduled Tribes". However, the state does not seem to have even kept a track of the cooks appointed in compliance with the above order. Therefore, we request you please send us the data on the total number of cooks appointed in the state under MDM and the number of the cooks appointed from the above categories.

Public Distribution System:

1. We attach a copy of the Raipur declaration for reforms in PDS and request the government to consider adopting these reforms.
2. We regretted that the order for coverage of specified social categories by AAY has not been implemented by the state government, except in relation to PTGs. We would like to bring it in our notice that On 2nd May 2003, the Supreme Court declared that all households belonging to six "priority groups" would be entitled to Antyodaya cards. More precisely, the Government of India was directed "to place on AAY category the following groups of persons:

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- 1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;
- 2) Widows and other single women with no regular support;
- 3) Old persons (aged 60 or above) with no regular support and no assured means of subsistence;
- 4) households with a disabled adult and assured means of subsistence;
- 5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;
- 6) primitive tribes."

Therefore, all subsequent AAY allocations should be made only in strict compliance with this order. In the first phase, a special drive may please be undertaken to cover single women headed households and urban homeless people. One of our advisors, Ms Ginny Shrivastava has done remarkable work to help set up organisations of single women. Her assistance may please be taken to frame instructions for universal AAY coverage for single women.

Grievance Redressal Mechanisms and Social Audits:

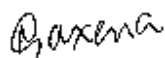
1. We requested that the state government kindly takes steps immediately to implement the following order of the Supreme Court dated 8 May 2002 relating to establishing a grievance redressal system has not been implemented.

"Gram Sabhas are entitled to conduct social audits of SGRY (and indeed of all food-related schemes). On receipt of any complaint of misuse of funds from the Gram Sabhas, the implementing authorities shall "investigate and take appropriate action in accordance with the law."

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2. In particular, we request that the next gram sabha of 15 August 2008 (and so every year) is used to conduct a social audit of all food and livelihood schemes (ICDS, MDM, NREGA, PDS, AAY, pensions, NMBS/JSY, NFBS).
3. Also, a register may please be opened to receive complaints in every district collector's office, and the receipt and disposal of the complaints posted on a website.
4. Further the District Magistrate's office and the Gram Sabha should put on their notice boards all the complaints received and the redressal undertaken for the complaint.

With Regards,



Dr. N.C. Saxena



Harsh Mander

CC: Shri. Ashok Khandelwal and Dr. Ginny Shrivastava, Advisors to the Commissioners of the Supreme Court (CWP 196/2001).

(Sent as an Attachment).

Raipur Declaration on the Public Distribution Systems

India bears a disproportionate share of the world's hunger and undernutrition burden which is unfavorable even in comparison to sub-saharan Africa. A majority of the people in India suffer from protein, calorie inadequacy, and micronutrient deficiency, which have debilitating consequences for health and wellbeing throughout life and inter-generationally. Only about 30% of children have both protein and calorie adequacy and almost half the children are underweight. International evidence points to the fact that in developing country contexts like India's, investments in reducing hunger and meeting basic food needs will have greatest immediate and long-term impact on nutritional status, health and other development outcomes.

The role of the Public Distribution System should be seen in this context of widespread hunger and malnutrition in the country. The first step towards improving nutrition status is to ensure that people have access to sufficient food. The PDS should play the role of ensuring food security for all. Towards this end the PDS needs to be considerably strengthened.

Related issues such as adequacy of foodgrain production, agrarian and land use policies should be suitably reviewed in light of these food security objectives. The country is heading towards a situation of food deficit because the overall foodgrain production has stagnated. This has resulted in higher prices and unavailability of foodgrains affecting the most vulnerable groups. Recognizing that the institutional response of the state would be through progressive agricultural policies and increase in investments in agricultural sector, the state also needs to create stronger protective mechanisms for the poor. In the short term measures such as banning of exports, and importing of food grains is necessary. Further, the PDS should be expanded and strengthened to offer greater food protection to the poor.

In the context of this overall framework, The national workshop on 'Food Security through Public Distribution System – Prospects and Challenges held in Raipur between March 25th and 26th 2008 made the following recommendations:

1. The current poverty line used by the Planning Commission to determine the poverty ratios is highly flawed. The current poverty line is defined as per capita per month consumption expenditure of Rs. 49 for rural areas and Rs. 57 for urban areas at 1973-74 prices to meet per capita daily intake of 2400/2100 calories. To meet similar calorie requirement poverty line in 2004-05 should have been Rs 650/1000 per month per capita. However, for the 2004-05 survey the line was roughly Rs. 360 for rural and Rs. 550 for urban areas and thus a large number of poor were left out of the BPL lists.
2. The poverty line should therefore be increased to MPCE levels of Rs. 650 per capita per month for rural areas and Rs. 1000 per capita per month for urban areas(both at 2004-05 prices). This would roughly translate into 70% of the population being covered under BPL for both rural and urban areas.
3. We need to recognize that food entitlements need to be delinked from other benefits extended to BPL families. The ration card, therefore, should solely be a food entitlement card and not used for targeting for other schemes.
4. The current system of identification of the poor, based on the 13-point system, is deeply flawed. It results in both inclusion and exclusion errors, with a large number of deserving poor being left out of the BPL net. Given that deprivations of food is linked to criteria beyond incomes alone, the identification of BPL families should instead be based on social and economic categories and deprived communities as well.

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5. The Supreme Court has already defined certain social categories, which have to be covered under the Antodaya Anna Yojana. The most vulnerable groups such as widows, old people, disabled, people with stigmatized ailments, urban homeless, primitive tribal groups, destitute and other such excluded groups must be covered under the Antodaya Anna Yojana. The list of most food deprived categories needs to be systematized and AAY needs to be expanded and carefully focused on full coverage of these groups.
6. Even in the case of identification of the poor in urban areas income criteria alone must not be used, and as in rural areas the poor must be identified based on social categories and those most deprived of elementary public services, such as homeless populations, those living in slums, street children, people in begging, women headed households and so on.
7. It must be further recognized that there remains a small segment of the population that cannot even afford to buy grains at the AAY prices. These groups, such as those severely disabled, destitute, old people, are unable to work and are most vulnerable to starvation. Such groups should be identified and arrangements should be made to ensure their food security free of cost through programmes such as food transfers or entitlement feeding programmes.
8. To address the issue of malnutrition it is imperative that pulses and oils be included into the subsidized provisions of the PDS along the lines that some State Governments are already doing.
9. Local coarse millets should also be included in the PDS.
10. There is a need to retain the current entitlement of wheat, wheat should not be given as flour. There is no sectoral consensus on the scientific evidence on the effectiveness of fortification of flour. More importantly flour has a considerably lower shelf life than wheat and it is also not possible for consumers to ascertain the quality of the wheat used for making the flour.
11. All ration shops in the country should be de-privatised and hand over to panchayats, cooperative societies, existing grain banks and other public bodies. Working capital provision should be made available at zero interest rate and a long term basis to these public bodies and arrangements to store and disburse the food grains should be made in a public building. The FPS should be made economically viable.
12. Door step delivery of food grains should be the sole responsibility of the State Corporation and no intermediary institution should be used for reaching food grains to the FPS.
13. The entire quota of grain should be made available to the FPS and reach it in the first week of every month.
14. Commission should be increased adequately to make the FPS economically viable.
15. Social Audits of all ration shops should be made statutory and the renewal of the PDS shop should be based on the recommendation of the social audit, approved in the Gram Sabha.
16. The Essential Commodities Act should be suitably modified to ensure that all offences under the PDS should be made cognizable and non-bailable. Further, when lapses occur both departmental action under PDS Control Order, 2001 and criminal action under Essential Commodities Act should be initiated.
17. Shop level vigilance committees need to be strengthened and should include beneficiaries from all beneficiary groups including AAY and BPL. Fifty percent of the vigilance committee representatives should be women. The vigilance committees should have the powers to take disciplinary action.
18. Government must mandatorily make proactive disclosure of information, as required under Section 4 of the Right to Information Act and put in the public domain all information pertaining

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to the card holders, offtake and distribution data from the State Godowns upto the FPS shop level and on the vigilance proceedings against erring FPS.

19. End to end automation of the entire PDS chain starting from the procurement to the distribution to the beneficiary at the FPS must be implemented in all the States.
20. States that have not been lifting even the BPL quota from the FCI, must be incentivised by the Central Government to recruit the state staff needed and the trucks required to lift at least the BPL quota from the FCI – with the objective of TPDS functional in such states.