

**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**

1st August, 2008.
ICDS/582/MoWCD.

Shri Anil Kumar
Secretary
Ministry of Women and Child Development
Shashtri Bhawan
New Delhi

Sub: Proposal of the Ministry on ICDS to Expenditure Finance Committee.

Dear Anil,

As you are aware, we have been monitoring the ICDS programme on behalf of the Supreme Court in the case PUCL vs. Union of India (CWP 196/2001).

We are distressed to learn from media reports that the EFC note proposed by the Ministry is seeking to override Supreme Court directions in the PUCL matter.

We would like to share with you some of our concerns regarding the proposal of the Ministry to the ICDS to the Expenditure Finance Committee, as reported widely in the media.

We have learnt that the Ministry proposes to introduce ready to eat fortified food for all children under ICDS under the supplementary nutrition programme [Times of India (17 July 2008, 18 July 2008 and 20 July 2008), Outlook Magazine (28 July 2008)]. We would like to remind you that this would go against the spirit of the order the Supreme Court directing that, *"The contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals."* (Order dated October 7, 2004).

As we have mentioned in our earlier correspondence with you, it has been found that centralized procurement of supplementary nutrition is prone to corruption while on the other providing hot cooked meals in a decentralized manner has many benefits including satisfying hunger for children, improving anganwadi attendance, demonstrating what a 'good' meal should consist of and providing a balanced mix of valuable nutrients that the child requires. Further, following the Supreme Court order many states have already shifted to providing hot cooked meals for children in the 3 to 6 year old age group. A change in the policy of the Government of India at this stage would result in a reversal of the progress made in these states over the last couple of years.

While revising the proposal to the EFC, we request you to consider the following:

1. Existing provisions to state governments such as provision of subsidized grain at BPL rates for SNP should not be curtailed in any manner.
2. State governments that are already providing hot cooked meals should be encouraged to do so and be provided the required infrastructure support for this. Other states should also be motivated to shift to provision of hot cooked meals with immediate effect as failure to do so would constitute a contempt of Supreme Court directions.

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3. No section of the population that is being currently covered under Supplementary Nutrition can be denied the benefits under the new scheme. Universal coverage of adolescent girls needs to be prioritized by the Ministry.

Any major changes to the ICDS scheme should be discussed with the Commissioners to the Supreme Court to ensure that they are not violating the letter and spirit of the Supreme Court orders.

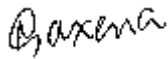
The interim order passed by the Honorable Supreme Court on April 27th, 2004 is unambiguous in this regard and states, inter alia, "*...we direct that no scheme covered by the orders made by this Court including the National Old Age Pension Scheme, in particular Annapurna and National Maternity Benefit Scheme shall be discontinued or restricted in any way without the prior approval of this Court. In other words, it means that till further orders, the schemes would continue to benefit all those who are covered by these schemes...*"

We hope that you will take necessary action to ensure that all new proposals of the Ministry for the ICDS take into consideration the related Supreme Court orders on banning of private contractors in ICDS and universalisation of all six services of the ICDS to all habitations, children under six, pregnant and lactating mothers and adolescent girls.

We regret to inform you that failure to do so will force us to recommend the initiation of contempt of court proceedings against the Ministry for violation of Supreme Court orders.

We would also request you to send us a copy of the original EFC note, the comments received by the Ministry from the PMO, the Planning Commission and the Expenditure Secretary. We would also be grateful if you could kindly send all the file notings pertaining to the finalization of the EFC note within the Ministry.

With regards,



Dr. N.C. Saxena



Harsh Mander

CC:

1. Shri. Montek Singh Ahluwalia, Deputy Chairperson, Planning Commission.
2. Ms. Syeda Hameed, Member, Planning Commission.
3. Shri. K M Chandrasekhar Cabinet Secretary, Government of India.
4. Shri. T K A Nair, Principal Secretary, Prime Ministers Office.
5. Ms. Sushma Nath, Secretary (Expenditure), Ministry of Finance, Government of India.
6. Shri. R Gopalkrishnan, Joint Secretary, Prime Ministers Office