

**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**

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February 11<sup>th</sup>, 2009

All schemes/614/U.P

Shri. Atul Kumar Gupta

Chief Secretary

Mantralaya

Lucknow

Uttar Pradesh.

**Sub: Status of implementation of food and employment schemes.**

Dear Shri. Gupta,

As you are aware, in our capacity as Commissioners of the Supreme Court in CWP 196/2001, PUCL v. UOI and others, we monitor the implementation of the food and employment related schemes in the country which fall under the purview of the case including the ICDS, MDMS, NREGA, NOAPS, TPDS, NMBS /JSY and NFBS.

We thank you for giving us time in February 2009 to review the progress of the state in the implementation of the schemes and compliance with court orders. However, due to some reasons Mr. Harsh Mander couldn't make it to Uttar Pradesh on that date for the same meeting. This was also conveyed to your office on the phone. We would like to request you for your time on any date between 1<sup>st</sup> to 7<sup>th</sup> March 2009 to meet Mr. Harsh Mander, to review the progress of the state in the implementation of the schemes and compliance with court orders. Mr. Mander will be accompanied by our advisor for Uttar Pradesh, Ms. Arundhati Dhuru.

We have separately written in detail about the issues that need in depth discussion vide our letters: [Icids.coverage/518/allstates](#); [NREGA/519/allstates](#); [Starvation/534/U.P](#); [ICDS/524/Uttar Pradesh](#); and [NMBS/556/U.P.](#), where we had raised several issues of concern regarding the implementation of food schemes in your state. However, we regret that despite repeated reminders, we have not received

replies. In particular, the following issues, some of which we had raised in our earlier letters, need in depth discussion and would like to request you to kindly respond to us on these issues before and during the meeting.

**Integrated Child Development Services:**

1. We appreciate that State government has put up a website for ICDS and we request please also keep it updating from time to time.
  
2. We had written to you vide our letter ICDS/524/Uttar Pradesh about the unacceptable performance of the State in ICDS for 2006-07 and had asked you for the necessary action to improve the coverage of the children under six years under SNP. Again for the 2007-08 the State has not shown acceptable performance. The number of children in the 0-6 age group according to the anganwadi survey register is 18001270 but the number of 0-6 children in the state as per Census 2001 is 31624628. The percentage of children getting SNP (as a % of no. of children as per Census) is only 56.9% for 2007-08 A mapping must please be done to ensure that every habitation and slum has been covered by an anganwadi centre and within each area every child has been reached out to (as per Supreme Court orders). Efforts must be also made to improve the coverage as more than 40% of the children do not receive the benefits of the SNP which is a critical part of the ICDS programme. We would be grateful if you could please also examine and let us know the reasons why such a large gap still persists in this basic element of ICDS operationalisation.
  
3. The Supreme Court order dated 28<sup>th</sup> November 2001 requires the universal coverage under ICDS of all urban slums and SC/ST habitations across the State on a priority basis. In line with this order, we had requested a detailed survey of all urban slums and to find out the population in each urban area under slums (both authorised and unauthorised) in the state. We had also requested to

undertake a survey to list all rural hamlets in the state and within these those that have more than 50% SC and/or ST population. Kindly confirm if such a survey was conducted, and if so what are the outcomes, in terms of a) number of urban slums and total population under slums; b) total number of rural hamlets in the state; and c) within these those that have more than 50% SC and/or ST population We appreciate that the State has put a demand in place for the AWC for SC/ST hamlets and also for urban slums, but we need to confirm that it is based on such a survey to ensure universalisation. We haven't received any further communication on this whether the demand was approved and whether the AWCs were operationalised in the respective SC/ST hamlets and urban slums Please send us a detailed report on this.

We also request you to please let us know, of all the hamlets in the state which have more than 50% SC and/or ST population and urban slums, what per cent have been covered by anganwadi centres? If there is a gap between the list and coverage what are the plans of the State for filling the gap.

4. Further, we had asked you to conduct a campaign to include disabled children under ICDS. For this Anganwadi level survey of disabled children would have been undertaken in a time bound manner, and in future data at ICDS centre upwards to project, district and state levels should be disaggregated for coverage of disabled children. We appreciate that State has taken steps in this direction but we are not sure whether any campaign was launched for this and what is present coverage of the Children with disability in ICDS.
5. We also 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.

6. 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'.

**National Maternity Benefit Scheme:**

7. We would also like to bring to your notice the latest order of the Supreme Court (dated 20.11.2007) which states that, "The Union of India and all the State Governments and the Union Territories shall (i) continue with the NMBS and (ii) ensure that all BPL pregnant women get cash assistance 8-12 weeks prior to the delivery." The above order also states that, "The amount shall be Rs.500/- per birth irrespective of number of children and the age of the women".
8. Based on projected population, birth rates and poverty rates, we had estimated that around 10.7 lakh women in UP would be eligible for benefit under the NMBS each year. The number of beneficiaries of NMBS/JSY in the state in 2006-07 was only 71,456 which is only about 6.7% of eligible beneficiaries.
9. It was also evident from data that with 31.8% percentage of fund utilisation, only a very small percentage of these women would have been covered.

We had requested you to treat this with a sense of utmost priority for state intervention so as to increase the awareness and coverage of the scheme. However, we haven't received any communication on this from the State whether any step was taken towards this.

**Public Distribution System:**

10. We appreciate that the offtake (2007-08) of wheat allocated under AAY is 110.05 % and 107.02 % for BPL. However, the offtake (2007-08) of rice allocated under AAY category is around 90.5 % and almost 82.01 % for BPL. The percentages of BPL and AAY quota are already underestimated, therefore, efforts must be made to ensure that the entire food grain quota allocated for the state is utilised, so that all those need subsidised grains get it.

11. Further, offtake (for 2007-08) under APL quota for rice is only about 74.9%. Here, we would also like to bring to your notice the practice in the Southern states, and more recently Chhattisgarh, where the APL quota is being lifted and used to expand the net of BPL beneficiaries in the state. Since there have been reports that many who are in fact poor are being left out of the BPL category because ceiling set for the state is low, the Government of Uttar Pradesh may like to consider increasing the number of BPL cards in the state. The burden on the state government exchequer can be reduced if the APL quota is entirely lifted and the additional subsidy to be borne is only the difference in the APL and BPL prices. This is however contingent on Government of India restoring the entire APL quota to the State Government.

In case you decide to use the APL quota for subsidising to people at BPL rates, we would urge you to write to the Government of India to restore the State quota for APL.

12. In the interim order dated May 2<sup>nd</sup> 2003, the Honorable Supreme Court had declared that all households belonging to six "priority groups" would be entitled to Antyodaya cards. The Government of India was directed "to place on AAY category the following groups of persons:

- Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;

- widows and other single women with no regular support;
- old persons (aged 60 or above) with no regular support and no assured means of subsistence;
- households with a disabled adult and no assured means of subsistence;
- 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;

We would like information on whether all the categories of people mentioned above have been fully covered under the AAY Scheme. Please send us information on the following questions:

- 1) Did the State Government enumerate the numbers of the above mentioned categories of people by conducting a census survey? If so, could you please share a copy of the order on the Antodaya survey.
- 2) Were all the categories of the above listed groups, provided with Antodaya ration cards in line with Supreme Court Orders? If so, please attach a copy of the administrative instructions that were issued to ensure this process.
- 3) What percentage of Antodaya families was issued Antodaya cards? A copy of the orders detailing the numbers district-wise may kindly be appended to the note.
- 4) Was a grievance redressal mechanism put in place to address those cases where there was a grievance regarding the identification process? If so, a copy of the order setting up the grievance redressal mechanism may kindly be attached with this note?

**13.** The Government of Delhi has started a process of identifying homeless people in the city for allocation of ration cards. We suggest that the Government of Uttar Pradesh also consider initiating a similar process of identifying homeless

populations in urban areas and distributing ration cards among this category of people. We suggest that all urban homeless people should be given Antyodaya cards on a priority basis.

14. Further, we recommend that all slum dwellers, both authorised and unauthorised, should be given BPL cards.

**Indira Gandhi National Old Age Pension Scheme:**

15. The NOAPS has been extended to cover all the BPL aged persons above 65 years with effect from November 2007, therefore, the eligible beneficiaries would increase to almost double and all the old people who were covered under Annapurna scheme would be now covered under IGNOAPS and are entitled to pension. However, our advisor for Uttar Pradesh, Ms. Arundhati Dhuru has received a letter from DM of district Jaloun which signifies that the old people who were earlier beneficiaries of Annapurna scheme are neither covered under IGNOAPS nor Annapurna after expansion of the scheme to all the old people who are above 65 years and BPL. We are enclosing the letter herewith for your perusal.

We appreciate the DM of the said district has taken steps to cover all the old people above 65 years and BPL under IGNOAPS but has also pointed out the possibility of similar situation of non coverage of beneficiaries under IGNOAPS in other districts. We would, therefore, like to know what steps have been taken to cover all the old people above 65 years and BPL under old age pension and whether any systemic survey was conducted to cover all such persons and please send us an action taken report on this within 3 months.

16. We would like to request you please send us the information on the following points and please attach the copies of instructions issued in this regard:

1. What was the coverage of the old people under NOAPS for the 2007-08 year ?
  2. What is the number of the eligible people after universalising the scheme among all the old people who are BPL and above 65 years of age ?
  3. What steps have been taken to cover all BPL aged persons with pensions?
  4. The scheme was universalised in November 2007 which increased the beneficiaries to double but the funds are allocated in March and also the identification of beneficiaries is done in March, therefore, what steps have been taken to fill the gap ?
  5. Please send us the data on the coverage of beneficiaries from November 07 to March 08.
17. We would like to bring it in your notice that Supreme Court in its order dated 28<sup>th</sup> November, 2001 has clearly stated that "Payment of pensions is to be made by the 7<sup>th</sup> day of each month". Therefore, we request please take steps to ensure that the monthly old age pension reaches the beneficiaries at time. We would like to recommend you if you could please consider disbursement of pensions through money order or post office accounts each month which would ensure that the beneficiaries would receive pension every month and on time.
18. We would be grateful if you could please also send us the details about the total number of the widows in the state and the present coverage of the widows under the widows' pension scheme of the state government. We would also be grateful for details of the procedure that State has been following for the identification of widows as beneficiaries for the widow pension scheme.

**National Rural Employment Guarantee Scheme:**

19. Of the number of households who have demanded wage employment for 2007-08 the number of households that have been provided employment show



acceptable coverage but the cumulative number of households which have completed 100 days of employment is just 10.6 % which might be due to the reason that the state government hasn't been able to provide and make sufficient work available under NREGA from time to time and on demand. Please undertake steps in advance to ensure work is available as per requirements of the people and full utilization of funds.

20. Also out of the total individuals application who were provided employment which is 2563999 only 17.6 % were women (453021). Therefore, we request please examine the reasons for this and take immediate steps to ensure equal participation of women under NREGA.
21. We would also like to know what is the system of disbursement of wages under NREGS to ensure that labourers receive wages on time.
22. Please also let us know what steps are taken by state government to ensure that all the job applications are accepted at all levels and workers get duly signed receipts for them.
23. We have received number of reports and complaints regarding the absence of the facilities that are supposed to be available at the work sites. We believe these facilities are very important and encourage people to participate in the NREGA work. More importantly the provisions of shade and crèche/deputation of one woman to look after the children in case the number of children under six accompanying women working at any worksite are five or more, facilitates the participation of women in NREGA work.

In this regard we had requested you vide our letter: NREGA/519/all states, that if you could kindly send us a detailed report about the work site facilities that are

being provided in your state within ten days time. Please refer to that letter and send us the information in the format appended as annexure in the letter.

24. We would like to request you that State government should also consider the increase in the number of work days to 150 to the households with a disabled member and should ensure that work is being provided to disabled persons on demand. The government of Andhra Pradesh has recently issued order in this direction. A listing of all the light tasks like carrying drinking water for labourers, looking for the children accompanying nursing mothers, maintaining muster rolls and attendance register etc. should be done before the work actually begins at the worksite and allocated to the disabled persons. And also the data on the coverage of the disabled persons under NREGA should be collected separately for disabled persons as provided under the national operational guidelines.

**Mid Day Meal Scheme:**

25. For 2007 -08 (upto December 08) the total number of children enrolled in different schools including Govt, local bodies, government aided, EGS and AIE centres in Uttar Pradesh is 18376148 ,however, only 13760021 children out of the total enrolled are availing MDM which is just 75 %.
26. Also, of the grain allocated for the mid-day meal scheme only 78.3 % was actually lifted by the state government. Since the allocations are based on estimates of enrolments and attendance, this means that either not all institutions/children were covered under the mid-day meal scheme or that the quality of the mid-day meal was compromised in the sense that not enough quantity of food was given to the children or that mid-day meal was not provided on all working days.

27. With regard to the utilisation of funds, only 61.7 % of the allocated funds including the state contribution have been utilised. This also points out that either that quality of meal is being greatly compromised.
  
28. The Supreme Court order dated 20<sup>th</sup> April 2004 states, 'In appointment of cooks and helpers, preference shall be given to Dalits, Scheduled Castes and Scheduled Tribes". Therefore, we request you please let us know the total number of cooks appointed in the state under MDM and the number of the cooks appointed from the above categories. Kindly attach the orders and guidelines issued in this direction by the State.
  
29. We have also received complaints that there have been few cases in the State where teachers have incited students not to eat food cooked from cooks belonging to above categories. We would like to know what steps were taken by administration to handle such precarious situations.
  
30. Has the State Government issued guidelines regarding varied menus to the districts and implementing agencies? Please send a copy of the same.
  
31. Has the costing for the provision of this menu been worked out? Please provide details.
  
32. If there is any weekly menu prescribed for the MDMS in the State, please send a copy of the same.
  
33. 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.

**National Family Benefit Scheme:**

34. Of the estimated eligible beneficiaries for NFBS only 47.4% have been given the benefit amount for 2007-08 (upto Dec. 08). Therefore, we request you please examine this and let us know what are the reasons for such a gap.
35. We would like to bring it in your notice that that Supreme Court in its order dated 28<sup>th</sup> November, 2001 has clearly stated that "BPL families are to be paid Rs 10,000 within four weeks through the local Sarpanch when the breadwinner dies". Therefore, we request please take steps to ensure that the benefit under this scheme reaches the beneficiaries at time.
36. As there have been issues of misidentification of beneficiaries due to the underestimated ceiling, therefore, we would like to know how the distribution of funds allocated collectively by Government of India, is done for NOAPS and NFBS?
37. What is the process of identification of the beneficiaries under the scheme? Kindly attach the details outlining the methodology used for such process.
38. What kind of investigation is conducted into the deaths of adults of the BPL families to determine whether the person who died was primary bread earner in the family? Please send us the details of the same.
39. How is the primary bread earner defined and whether the definition equally applies to the single women headed households? Please send us a copy of the guidelines.
40. What percentage of the beneficiaries were the families where women had died, for the last year? Please send us the details.
41. What is the mode of payment and process for ensuring that payment is made within four weeks of time as per the Supreme Court orders? Please send us the details and guidelines of the same.

**Grievance Redressal Mechanisms and Social Audits:**

42. We request to 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.”
43. 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.
44. 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.

We would be grateful if you could kindly look into the above listed matters and respond to us at the earliest.

Warm Regards,

Dr. N.C. Saxena

Harsh Mander

CC: Ms. Arundhati Dhuru, Advisor to the Supreme Court Commissioners, Uttar Pardesh.