

**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**

June 12th, 2009

All schemes/638/Maharashtra.

Shri. Johnny Joseph,
Chief Secretary,
Government of Maharashtra,
Mumbai.

Sub: Status of implementation of food and employment schemes.

Dear Shri. Joseph,

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 on 16th June, 2009 to review with you and the concerned Secretaries the progress of the state in the implementation of the schemes and compliance with court orders. We have separately written in detail about the issues that need in depth discussion vide our letters: [Icds.coverage/518/allstates](#); [NREGA/519/allstates](#); [ICDS/525/Maharashtra](#); [NMBS/557/Maharashtra](#); [food schemes/485/Maharashtra](#); [ICDS/572/Maharashtra](#) and [ICDS/601/Maharashtra](#) 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 any replies. We are also enclosing the letters referred above for your perusal.

We had also sent you a letter (Data request/596 /all states) dated November 12th, 2008 and we would also like to request you kindly respond to that at the earliest.

**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**

In particular, the following issues, some of which we had raised in our earlier letters, need in depth discussion and we would like to request you kindly respond to us on these issues within the next two weeks.

Integrated Child Development Services:

1. The number of 0-6 children in the state as per Census 2001 is 13671126 and of this only 5650879 children in the age group of 0-6 years have been reported to be covered under SNP of ICDS for the year 2007-8, which amounts to only about 41.3 % of the eligible children. The coverage of children under SNP has certainly increased by almost 4 percent over a year from 37.4 % in the year 2006-07, but still a large section of the children are left out. 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 50% 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.
2. Also our calculation in our 9th report to be submitted to the Supreme Court shows that the State has not been able to spend the funds on SNP as per prescribed norms, as only Rs. 1.83 have been spent per day per beneficiary. This might be due to the fact that either the attendance is being fudged or quality of SNP is compromised or some part of money is being siphoned away. Therefore, we would like to request you please examine the reasons and send us a report on this.
3. It is a matter of great concern that the percentage of children who are underweight actually *increased* from 54 to 59 between NFHS-2 and NFHS-3. We had written to you in our letter ICDS/525/Maharashtra ,dated January 2nd, 2008 to kindly examine the reasons for this, and let us know the assessment of the state government for this very worrying increase. We haven't received any communication from the State on this. We urge you to treat child malnutrition as a matter of top priority.

**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**

4. The Supreme Court order dated 28th 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 hamlets that have more than 50% SC and/or ST population. Please send us the details of the surveys.
5. 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.
6. 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 requested that necessary steps should be taken to ensure that children of all migrant workers have access to all the six services of the ICDS. Please send us a copy of the state government's instructions in this regard.
7. 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.
8. 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'.

**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**

National Maternity Benefit Scheme:

1. 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".
2. The MoHFW communicated to the Commissioners that during 2007-08 the total number of women who delivered at home in your state were 456164, therefore, all of them were eligible for the benefit under NMBS. However, it was reported that only 156000 beneficiaries have been given benefit which amounts to only 34.2%. We would urge you kindly examine the reasons for this and efforts must be taken to increase the coverage.

Public Distribution System:

3. The offtake (2007-08) of rice allocated under AAY category is around 84.5 % and almost 81 % for BPL. Also the offtake (2007-08) of wheat allocated under AAY is 85.1 % and 86.8 % 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 who need subsidised grains get it.
4. Of the quota for Antyodaya Anna Yojana (AAY) cards in Maharashtra, about 0.41 lakh cards are yet to be distributed. We request you to distribute the entire quota of cards under the AAY without any further delay, since this scheme affects the poorest of the poor.
5. In the interim order dated May 2nd 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:

**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**

- 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?
6. 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 Maharashtra also consider initiating a similar process of identifying homeless populations in urban areas

**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**

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.

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

Indira Gandhi National Old Age Pension Scheme:

8. 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. We have estimated in our 9th report the no. of beneficiaries for old age pensions after universalising the scheme using 36% poverty line and projected population for 2006, would be almost 2329000 but the State government has extended pension to only 828193 old people which amounts to only 35.6 percent of the eligible people. We urge you to look into the reasons for such a big gap exists and efforts must be taken to bring the coverage to the full. Kindly send us copies of instructions issued in this regard and an action taken report within a month.
9. We would like to bring it in your notice that Supreme Court in its order dated 28th November, 2001 has clearly stated that "Payment of pensions is to be made by the 7th day of each month". Therefore, we request you to kindly take steps to ensure that the monthly old age pension reaches the beneficiaries at time.
10. We would be grateful if you could please also send us the details of 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:

11. 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

**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**

but the cumulative number of households which have completed 100 days of employment is just 17.59% 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. Also only **37.98** % of the funds available have been spent under the scheme. Please undertake steps in advance to ensure work is available as per requirements of the people and full utilization of funds.

12. We would also like to know what the system of disbursement of wages under NREGS is to ensure that labourers receive wages on time.

13. Of the total number of households who benefited under NREGA in your state for the year 2007-08, the percentage of persons with disability is just 0.03 (129 beneficiaries). We would like to request the State government to consider increasing the number of available work days to 150 to the households with a disabled member and to take active measures to ensure that work is being provided to disabled persons on demand. The government of Andhra Pradesh has recently issued an 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 prescribed under the national operational guidelines.

Mid Day Meal Scheme:

14. We have calculated in our 9th report that only 92 percent of the children enrolled have been provided MDM for the year 2007-08. Also of the food grains allocated to the state, only 91.4 percent have been lifted. Therefore, we would like to request you to make efforts to fully universalise the scheme among all the school going children and all schools.

15. 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'.

**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**

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.

16. Has the State Government issued guidelines regarding varied menus to the districts and implementing agencies? Please send a copy of the same.
17. Has the costing for the provision of this menu been worked out? Please provide details.
18. If there is any weekly menu prescribed for the MDMS in the State, please send a copy of the same.
19. 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:

20. We have estimated that the no. of families eligible for NFBS in the state would be 50065, however, no. of beneficiaries reported for the year 2007-08 have been 19488 which is just 38.9 percent of the eligible families. We would like to bring it in your notice that this is only scheme available for the poor families to provide immediate support to them after the death of primary bread earner in their families. Therefore, it should be the priority of the state to identify and provide benefits to the eligible families. Kindly send us a report on the reasons for such a low coverage of the scheme in the State.
21. Of the allocation (20199.06 lakhs) for NSAP for 2007-08 ,the state has been able to spend only 58.7 percent of it (11865.00 lakhs).
22. 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?
23. What is the process of identification of the beneficiaries under the scheme? Kindly attach the details outlining the methodology used for such process.

**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**

24. 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.
25. 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.
26. What percentage of the beneficiaries were the families where women had died, for the last year? Please send us the details.
27. 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:

28. We request the state government to kindly take steps immediately to implement the following order of the Supreme Court dated 8 May 2002 relating to establishing a grievance redressal system: "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."
29. 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.
30. 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, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

Saxena

Dr. N.C. Saxena

Hmander

Harsh Mander

CC: Mr. Josantony Joseph, Advisor to the Supreme Court Commissioners, Maharashtra.