

**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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August 25<sup>th</sup>, 2009

Schemes.survey/670/J&K.

Shri. Sham Singh Kapur  
Chief Secretary  
Government of J & K,  
Srinagar 190004

**Sub: Implementation of food and employment schemes in the state.**

Dear Shri. Kapur,

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. In order to assess the status of implementation of these schemes in the state of Jammu and Kashmir, we have conducted a survey in the state, with the involvement of students of the Department of Social Work, University of Kashmir. The greater part of the survey was completed over a period of ten days from 27<sup>th</sup> July to 4<sup>th</sup> August 2008.

The survey was conducted across 50 villages in the state, covering all the ten districts of Kashmir valley. It was found that while some of the schemes are functioning well, others require major improvements. The report is being finalised and will be shared with you. However, we would like to share with you in advance some of the major findings of our study and request you to take necessary steps, as indicated below, to ensure that all the food and employment schemes in the state work effectively providing services to all eligible beneficiaries.

**I. Targeted Public Distribution System (TPDS):**

While the overall functioning of the TPDS was found to be better than in most states of North India, there were some issues of concern that remain. The following are major findings and recommendations in relation to the TPDS:

1. It was seen that most of the households visited during the survey possessed some kind of a ration card. However there was a problem in some villages where several households complained that they did not have a ration card, in spite of many of them having applied for one. These villages are Chitragam in district Shopian, Chaliwan in Bandipora district and Narayan Bagh in district Ganderbal. We would be grateful if you could kindly enquire into the reasons for the same and appraise us about the steps taken to ensure that ration cards are distributed immediately to all households.
2. About 90% of the respondents said that were getting the full quota of 35kgs of foodgrain per month. This is a much better scenario than most other states that we have surveyed in

the past. However two-thirds of the respondents complained that rations were not available to them in instalments. This is against the order of the Supreme Court dated 2<sup>nd</sup> May, 2003 which clearly states that ration should be made available in instalments if the beneficiaries ask for it. It would also be fairly simple to operationalise by the State Government. We would therefore urge you to look into this.

3. It was also found that the records in the ration shop were not maintained properly. There was no public display of all the information related to the PDS in more than 85% of the ration shops visited. The entries in the ration cards were not properly maintained and the recall of the beneficiaries and the entry made in the distribution register did not always match. Only 50% of the respondents said that the ration shop was open everyday. Further almost 80% of the respondents reported paying a higher price of 50p. to Re.1 per kg. than what was declared by the state as the issue price. In order to rectify these gaps in the implementation of the PDS in the state we recommend that the state government issue strict instructions to all the fair price shops to publicly display information such as timings of opening of the ration shop, details of stocks, card holder names and food grain entitlements. Further they must also be instructed to make available all records for public scrutiny. The government should create a website and consider putting all record, documents and monthly progress report down to each PDS shop online regularly. The state government should also constitute vigilance committees in all the villages to monitor the functioning of ration shops in their villages. The details of stocks, allotment order, list of beneficiaries etc. should be made available to this committee. States like Tamil Nadu and Chhattisgarh have already put such transparency measures in place and it should not be difficult for J&K to do so.
  
4. One of the reasons for the success of the PDS in the state of Jammu and Kashmir seems to be that the fact that the ration shops are controlled by the state government with the PDS shops (nodal distribution centers) being run by government directly, rather than by private dealers, as seen in most parts of the country. The employees running the shops get a regular salary from the government and do not depend on the commission from sale of the foodgrains; and therefore have lesser incentives to cheat and to sell the grains in the black market. However, we have learnt that the state government has recently decided to privatize the system by handing over the running of fair price shops to private dealers on a commission basis. This decision should be reviewed on the basis of a systematic study of the functioning of the system as run by government employees compared with the new system of contracting out fair price shops to private dealers. If the shift to private dealers has not already been made in all parts of the state, we recommend that this process be suspended immediately and a study be conducted comparing the districts where the new system is in place with those where this has still not been introduced. We have

documented evidence from a number of States that the privatisation of the PDS outlets led to very large scale leakages and corruption.

5. The different entitlements to different categories of people with prescribed rates, telephone numbers and address for lodging complaints should be written on each ration card. The entries should be clearly marked in the ration card every month with readable dates, quantity of food grains lifted, and the amount paid. A toll free helpline number should be made available to lodge complaints and the complaints should be disposed immediately. These are again steps that many state governments have already undertaken.

## **II. Integrated Child Development Services (ICDS):**

According to the NHFS-3, 29% of children under three years of age in the state are malnourished. The ICDS is the main intervention to address malnutrition among children and is therefore a very critical programme in the state. Unfortunately, the survey found that there were many gaps in the coverage and quality of the ICDS in the state. The following are our main findings and recommendations:

1. We would like to remind you that the Supreme Court in its orders dated 28 November 2001 and 13 December 2006 has directed all state government to ensure that every hamlet is covered by an anganwadi centre. Further the current norms of the Government of India provide for one anganwadi for every 800 population. About 12% of the respondents reported that there is no anganwadi in their habitation. For instance, one hamlet of Lammer in district Kulgam; one hamlet of Lar in district Ganderbal; one hamlet of Chuntwaliwar in district Ganderbal; Mujgund in district Srinagar; Checki badrinath in district Pulwama; Chotipora in district Shopian are villages/hamlets visited by our researchers that have no anganwadi centre. Malangam of district Bandipora has a population of almost 7000 and only one anganwadi. Further, in Neelipora in district Kupwara the researchers found two AWCs have been sanctioned in the village but are operating close to each other in only hamlet called Malik Mohalla and the other hamlet called Bonapora Mohalla there is no AWC even after people have made a demand for it, under the "Anganwadi on demand" order of the Supreme Court.
2. The anganwadi centres also do not function regularly. About 30% of the respondents reported that the anganwadi centre in their village does not open everyday. Further it was found that even where the anganwadi centres are opened regularly it is only the anganwadi helper who is present and the anganwadi worker only visited occasionally. We

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would like to request you kindly issue strict instructions that the AWCs must open regularly and all the anganwadi workers must be present at the AWCs regularly.

3. Eight percent of the children reported getting a take home ration, whereas in most places children are being fed in the centre. Steps must be taken to ensure that hot cooked meals are available in all the anganwadi centres in the state.
4. What is cause for concern is that more than 40% of the respondents said that the supply of nutrition in the anganwadis is not regular. In the villages of Thajiwara, Hugam, Dado, Takiabal and Gadhanjipora in district Anantnag; Yamberzal wari, Chandusa, Hamray and Hajan in district Baramulla; Lar and Chuntwaliwar in district Ganderbal; Lammer in district Kulgam; Anchar and Faqir Gujiri in district Srinagar; Lachampora in district Kupwara; Sangerwani in district Pulwama respondents reported that there has been a disruption in the supply of SNP ranging from a period of one and half months to six months in some cases. We request the state government to immediately look into the reasons for the irregularity in the supply of SNP and set up systems place to ensure that children and other beneficiaries receive SNP for at least 300 days in a year as directed by the Supreme Court.
5. The principal reason for the disruption of supply seems to be the fact that the Department of Social Welfare procures all the supplies, centrally at the district level and this is then supplied to the villages. This contravenes, in letter and spirit, the numerous orders of the Supreme Court which stress on the decentralisation of the supply. Except perhaps a few remote scheduled tribal hamlets where availability of food grains at the local level may be a problem, a decentralised procurement system can very easily be put in place across J&K, with village communities being given this responsibility. Wherever this has been undertaken, we find that the ownership of the ICDS scheme has gone up tremendously.
6. The other activities of the ICDS also seem to be of a poor quality. Less than 50% respondents reported that an anganwadi worker ever made a home visit, more than half of them (50.4%) reported pre-school activities are not being carried out in the AWCs and majority of them (58.4%) reported that their child has never been weighed in the anganwadi. The Supervisors and CDPOs should be issued instructions to monitor regularly the work of the anganwadi workers and take action where necessary.
7. Further, the infrastructure in the centres also seem to be very poor with almost 80% of the anganwadi centres visited running from the homes of either the anganwadi worker or the anganwadi helper, only two anganwadis had drug kits available, only 55.6% of the anganwadis had playing equipments and only 64.8% AWCs had weighing scales available. A thorough review of the infrastructure and quality of services provided by the

ICDS must be undertaken and the state government must make universalisation with quality of the ICDS a priority.

8. More than 50% of the anganwadi centres had no disabled child attending the centre. We urge you please undertake the survey for identifying the children with disability in the all the hamlets regularly every year and undertake a campaign for the inclusion of the children with disability in the anganwadi centres and make all the necessary infrastructural arrangements like ramps, toilets etc to encourage children with disability to regularly attend the AWC for SNP, preschool activities and other services, with priority to those anganwadis where any child with disability has been identified and enrolled in the AWC. In the Annual census that the AWWs does in each village/hamlet, an additional column for the identification of children with disability must be added.
9. Many AWWs reported being trained only once at the time of recruitment and therefore, are likely to be unaware with the new developments in the scheme. The State government should make provisions for regular trainings of AWWs with special focus on growth monitoring and preschool education.
10. The State government should take necessary steps to make documents, reports and all the information related to the ICDS available on the website. This has also been directed by the Supreme Court in order dated Oct 7<sup>th</sup>, 2004.

We hope that you will review the working of the ICDS in J&K based on the inputs that have emerged from the survey.

**III. Mid-day Meal Scheme (MDMS):**

The survey confirmed the belief that the mid day meal scheme is one of the better run schemes in most parts of the country and is also very popular among parents and children. However, some issues of quality of the meal were brought out by the survey which has to be addressed. The following are the major findings and recommendations in relation to the mid-day meal scheme:

1. It is appreciated that almost all (98%) of the children who were interviewed in the survey responded that they were provided with a mid day meal in school.
2. However, about 10% of the children felt that the quantity of the meal was not sufficient. About 30% of the children also felt that the quality of the meal was not good and 15 percent said there was no varied menu for the mid day meal. This must be looked into. The quality of the meal should be increased and the menu should be fixed for each day

- and the students should know which recipe would be served on each day in advance. The State government should also consider including eggs or cheese or meat in the menu.
3. About 13% said that the meal was not regularly served and a large majority (~70%) complained that the meal was not being given on Fridays. The discussions with the respondents unrevealed many other aspects of irregular serving of mid day meal in the schools. There were complaints of irregularity or disruption in mid day meals from the following villages – Checki Badrinath of district Pulwama; Arampora of district Baramulla; Dadoo of district Anantnag and Laghama of district Baramulla. Therefore, we request you to please issue strict instructions to all the schools that the mid day meal should be served in all the working days including Fridays and examination days and enquiry must be done in the above listed villages about why there was disruption in serving the mid day meal in the schools.
  4. To avoid disruptions in the serving of the meal, money should be allocated to the schools in advance in a way that at any given point the school has the required funds for serving the meal for a period of three months. Opening of bank accounts in the name of Village Education Committee could also be considered as this will increase the accountability to the community.
  5. Almost 76 percent respondents reported that teachers are involved in the organizing, procuring raw materials and cooking of the mid day meal. Further about 80% of the teachers said that they give up to one hour of their time everyday for the mid day meal while the rest give even more. The State government should consider the appointing one additional staff for the mid day meal in the schools, as done by the Gujarat and Tamil Nadu.
  6. The infrastructure for the mid day meal also needs improvement. About a third of the schools visited had no drinking water facilities; a third did not provide plates to the students.
  7. Further, it has been noticed that the Zonal Education Officers procure all the cooking utensils including gas stove, cylinder and containers centrally at the zone level and then the utensils are supplied to the schools. The centralised procurements provide opportunity of money being siphoned away and therefore, any such procurement must happen at the school level by the school staff and village education committee.
  8. Only in 44% of the schools were the cooks from the SC/ST or OBC categories, whereas the Supreme Court order specifies that women from these groups should be given priority in the appointment of cooks for the mid day meal.

**IV. National Maternity Benefit Scheme (NMBS):**

The results of the survey with respect to the functioning of the NMBS/JSY scheme are very disappointing. It seems as if the scheme has still not taken off in the state in spite of repeated orders from the Supreme Court and the high priority given to it under the National Rural Health Mission. The following are the main findings of the survey:

1. Only 6.3% of the eligible beneficiaries reported getting any benefit under the NMBS/JSY schemes. Out of 143 women who had institutional deliveries only 9 women and only 4 out of 60 women (BPL) who had home deliveries have been given benefit under the scheme.
2. Further, of the 9 women who had institutional deliveries; 5 reported getting only Rs. 500 as benefit whereas they should have got Rs. 1400.
3. There is clearly a lack of awareness about the scheme among the beneficiaries and also service providers. The State government must regularly advertise the revised National Maternity Benefits Scheme and Janani Suraksha Yojana on All India Radio and Doordarshan at primetime so that the beneficiaries may become aware of and understand the two schemes. This should be pegged on the themes of nutritional education, and promoting intra family equity in food and health rights.
4. The details of NMBS and JSY schemes must be pasted on all Panchayat buildings, ICDS centres, public health centres, public health sub-centres, and block & district hospitals. Further, a regularly updated list of selected and rejected applicants should be displayed quarterly at the Panchayat Bhavan/ any nominated place and ICDS centres. This should be pegged on the themes of nutritional education, and promoting intra family equity in food and health rights.
5. Women who applied for benefit and were rejected were given reasons such as not being BPL (although they had an institutional delivery and therefore are eligible for the beneficiary since Jammu and Kashmir is a Low Performing State, according to JSY guidelines); having more than two children (the Supreme Court order of November 2007 clearly states that there should be no restriction on the number of children for a woman to be eligible for benefit under NMBS); having a home delivery (again the Supreme Court has repeatedly clarified that Rs. 500 should be given irrespective of place of delivery) and lack of funds. All these reasons indicate that the state government has not given priority to this scheme and the provisions under this scheme have not been adequately conveyed to the district and PHC levels. We request the state government to immediately inform all the districts and PHCs about the provisions under the scheme, including the fact that there is no restriction on age, place of delivery or number of children to receive a benefit under the scheme.

6. Further since the Government of India is providing the funds for this scheme in advance, there should be no reason why funds are not available at the PHC level to be given to the women on time. The state government should review the bottlenecks in the flow of funds from the state to the district and PHC levels and take steps to ensure that funds are available at the lowest level and women are paid the benefit in time.
7. The Village Health and Sanitation Committees under the NRHM should be made functional and empowered to review the status of these schemes and give feedback to the officials if the NMBS and JSY schemes are not functioning effectively.

**V. National Old Age Pension Scheme:**

It has been over a year since the National Old Age Pension Scheme has been extended to cover all old people above 65 years and below the poverty line. However the results of the survey show that this expansion is yet to take place in the ground level. As can be seen below, there needs to be efforts to improve coverage and implementation of the old age pension scheme:

1. Of the eligible people who were interviewed almost 65% were not receiving any pensions. Further almost 90% of those getting pensions were getting Rs. 200 or less as pension per month, with the rest getting Rs. 325 per month. With the enhanced scheme (Indira Gandhi National Old Age Pension Scheme) in operation since November 2007, we request the state government to take immediate steps to cover all the old people who are BPL under the pension scheme and to also enhance the pension amount to Rs. 400 as the contribution of the Government of India has been increased to Rs. 200 per person per month.
2. The responsibility of identifying and selecting the eligible old people for the pension scheme lies on the state government and there are often delays. Therefore, the old people who are eligible but aren't provided pensions for any time due to any reason should be provided arrears equal to amount they could have received if identified on time.
3. The system of payments of pensions in the state as reported by the beneficiaries is through banks. While this is a better system compared to cash payments, it is important that the payments are made on time and that the old people do not have to make repeated visits to the bank to get their pensions. Almost 30% of the respondents reported having to travel long distances to get the pension and also many complained that when went to the bank once in three months, the pension was not yet deposited. Further, there were complaints of the banks allowing the pensioners to withdraw their money only on a fixed day leading to overcrowding and long waits. The State Government should send instructions to the banks to allow the old people to withdraw their pension money on any day of the month, as other customers of the bank can do, and not necessarily on one day of a month or a quarter. This should be written clearly on the entitlement card (pass book)



and should also be displayed on a notice board in each bank where pension is being distributed.

4. We further recommend that to prevent delays the amount of one quarter should be deposited in advance in the accounts of each beneficiary and if the pension amount for any quarter is not being deposited by the State government before a specified date, the branch managers should enjoy authority to pay the pensions to the beneficiaries from the advances as a credit to the government which has to be settled immediately.
5. The amount of pension and age of the person should be clearly written on the entitlement cards (pass books) of the old people with clearly marked entries in the pass book with details of dates and amount withdrawn.

**VI. National Family Benefit Scheme (NFBS):**

It is unfortunate that the National Family Benefit Scheme which provides a small support to poor families at a difficult time, seems to be almost non-functional in the state. We urge the state government to take this scheme seriously and ensure that it is implemented according to the guidelines of the scheme and the orders of the Supreme Court.

1. Of the eligible beneficiaries identified in the survey, 92% reported not getting any benefit under the NFBS.
2. Even the few people who received the cash benefit received this amount at least a year or a more after the death of bread winner.
3. The State government must regularly advertise the provisions of the scheme on All India Radio and Doordarshan at primetime so that the beneficiaries may become aware of. The details of scheme must be pasted on all Panchayat buildings, ICDS centres, public health centres, public health sub-centres, block & district hospitals and block development offices. Further, a regularly updated list of selected and rejected applicants should be displayed quarterly at the Panchayat Bhavan/ any nominate place in village and ICDS centres.
4. The state government should put in place a proper and transparent procedure to identify beneficiaries for this scheme. The procedure for application for benefit under the scheme must be simplified. The payment (by cheque) should be made immediately within a period of one month of the death and should be delivered at home of beneficiaries.
5. As the State government receives a consolidated amount from Government of India under NSAP to be spent on NOAPS and NFBS, therefore, the State government should make

clear allocation separately for both schemes based on the estimates and ensure that all the money allocated for NFBS is spent under this scheme and not diverted to IGNOAPS or any other State scheme.

**VII. National Rural Employment Guarantee Act :**

The results of the survey on the rural employment scheme are discouraging. There is low level of awareness about the provisions of JKREGS and how to demand work, among the general masses.

1. People haven't been provided job cards, as also reflected in the survey and it was difficult to find five persons with job cards in many of the villages surveyed.
2. More discouraging was the fact that even the people who were aware of JKREGS and have secured job cards don't make demand for the work. Also among those who need work and had made demands for work under JKREGS haven't been provided work within a period of 14 days as guaranteed under JKREGS. Almost 74 % of the respondents said they couldn't get work within 15 days of making the demand for work under JKREGS. Further, not a single respondent reported getting unemployment allowance. Therefore, a campaign must be launched to make people aware and to issue job cards to all the households in rural areas. We also request you please take steps to ensure that the work is made available to the people who made demand for the work under JKREGS within a maximum period of 14 days of making the demand, as prescribed under the scheme.
3. One main reason for the lack of enthusiasm for the scheme is that the minimum wage of Rs.70 per day prescribed by the State under JKREGS is very low compared to the prevailing local wage rates in the state. Government of India is willing to pay upto Rs.100 for NREGS. We would strongly recommend that the Government of J&K revises the minimum wage of the State to at least increased to Rs. 100, as done by many states.
4. Also the JKREGS in the state hasn't been able to provide employment during the winters which is off season of employment for daily wage workers. Therefore, the JKREGS scheme has been designed to fail in the State. We request you to please make necessary arrangements and ensure that some kind of work is available in the winters to the people under JKREGS, which would have a drastic impact on the reducing the migration of people from Kashmir to other states during winters.
5. The state government should take further steps to ensure that the wages are strictly paid on time, as prescribed under JKREGS, work is provided on demand and within the time frame, attendance is marked on the muster roll and worksites facilities including shades,

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safe drinking water, first aid and crèches for children under six are be made available on each worksite under JKREGS.

6. We further recommend that a campaign be launched to make people aware and issue job cards and to include women under JKREGS.
7. As there are no panchayats in the State, therefore, the State government should strictly make it mandatory for each VLW to organize the meeting of the village community once in three month for formulating plans and their implementation under JKREGS in the State. The village level worker should also visit each village in his list for a full day not less than once every week. The date and the place where village level worker could be approached by the community should be intimated to them in advance since there are no panchayat premises in the most villages of J&K which could have been used for this.
8. Creation of water harvesting structures in rainfed areas is a great opportunity in the State that can be explored to make work available under JKREGS, as a higher percentage of agriculture in the State is dependent on rainwater availability and this as high as 84 percent in Jammu division. This would be also useful for the State to increase the water availability for the agriculture which will lead to increase the production of food grains and would also serve as an incentive to the farmers to work under JKREGS.
9. The State government must institutionalize the social audit under JKREGS and for other food schemes. This is a provision though provided under NREGA but hasn't translated into reality and practice. We are willing to assist in the process of institutionalisation of the social audit as an integral part of the JKREGS if the Government of J&K requires assistance.
10. Lastly, Government of India has already notified that NREGS funds can also be used for land development activities in the private lands of Scheduled Castes/ Scheduled Tribes and Below Poverty Line (BPL) households. This provides an unique opportunity to create durable assets in the private lands of vulnerable groups and is likely to lead to an increase in productivity of these lands in the long run.

We hope that the state government reviews all the above concerns related to the different schemes with the respective departments and plans actions to ensure that the gaps that remain in the implementation of the food and employment schemes in the state are addressed.

We would be grateful if you kindly respond to us with a plan of action within the next one month. We would be happy to assist you further with any further inputs that you may need and our colleagues could come to Srinagar to meet the concerned department officials, in case of need.

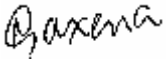
We would also like to take the opportunity to remind you of our earlier letters -- Allschemes/584/J&K, dated Novemeber 07, 2008 and Allschemes/613/J and K, dated

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February 3<sup>rd</sup>, 2009-- sent to you but we regret we haven't received any correspondence from the State. We urge you kindly respond to these letters within the two weeks time.

With Regards,



Dr. N.C. Saxena



Harsh Mander