

**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**

December 5th, 2009

Minutes/770/Assam.

Shri. P C Sarma
Chief Secretary
Government of Assam
New Secretariat
Assam.

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

Dear Shri. Sarma,

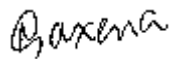
We thank you for giving us time for the constructive meeting to review the food, social security and livelihood schemes with you and other Secretaries, held on 26th October in Guwhatti, and for the hospitality extended by the state government.

We are enclosing the draft minutes of the meeting for your perusal. We would be grateful if you would kindly issue these minutes, with any modifications you may feel necessary.

We request you kindly also issue necessary instructions for proper follow up on the issues of concern discussed in the meeting. We would be grateful if you kindly respond to us with a plan of action within the next one month on each of the points of agreement. We would be happy to assist you further with any further inputs in case of need.

We would be happy to give you feed back in future as well on the improvements of the food and livelihood schemes on the ground.

With Regards,



Dr. N.C. Saxena



Harsh Mander

CC: Dr. Sunil Kaul and Ms. Anju Talukdar, Advisors to the Commissioners to the Supreme Court, Assam.

**Minutes of the Meeting with the Chief Secretary and other State Secretaries
with Special Commissioner of the Supreme Court.**

**26th October, 2009
Guwhatti.**

The Chief Secretary welcomed Mr. Harsh Mander, Special Commissioner of the Supreme Court in the right to food case, and expressed his commitment towards implementing the food and livelihood schemes. Thereafter the discussion on the Implementation of the food schemes started. Mr. Harsh Mander raised issues scheme wise and the concerned Secretaries responded accordingly. The points of agreement reached with the Chief Secretary and other Secretaries are listed below:

Public Distribution Scheme:

1. As there are many problems with the identified list of households under the BPL category, the state will find ways to verify the list and establish a redressal system to include those who though deserve to be BPL but are excluded. The Chief Secretary agreed that transparency would be enhanced, for which BPL lists would be publicised, and these would form the basis for BPL cards distribution.
2. The Supreme Court order dated 2nd May 2003 directs 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:

(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.”

However, in the state of Assam all the deserving categories including the widows, disabled and old people have not been provided AAY ration cards to any significant degree, let alone there being any conscious drive to identify and cover all of them. Therefore it was agreed that all the Deputy Commissioners will identify these categories of people in their respective districts for the AAY categories and the list will be scrutinized in the Gram Sabha/ward. The final list of AAY categories will replace the earlier ones, and will be published in the newspapers and/or pasted on the walls of Panchayat buildings in order to ensure correct identification.

3. It was found during the field visits of the SC Commissioner, Mr Mander, that the ration cards are illegally retained by the store keepers. Therefore, CS strictly directed that it be ensured that ration shop dealers not to retain cards with them, and strict action should be taken in cases this practice is continued.
4. It was found in the study carried out by the Adviser to the Commissioners from Assam, Dr. Sunil Kaul, and this was further confirmed during the field visits that Mr. Mander carried before the meeting on 26th October, that the quantity of ration provided to the card holders varies from place to place in the range of 25 to 32 Kgs .Therefore, CS directed in the meeting that a circular be issued directing strictly the ration dealers to provide the 35 kgs of rice to the beneficiaries, and that strict action be taken against the ration dealers in cases in which complaints are brought to the notice of government. The quantity of ration that each beneficiary is entitled to would be also publicised in the local newspapers.
5. During the field visits of Mr. Mander, people also complained of being charged for rice more than the prescribed rates. The above referred study by the Advisor also found widely that people are being charged much more than the issue price. Also the prescribed rates of rice vary across districts, mainly because the ration dealers are not provided transport cost on time and they compensate it by increasing the price of rice and/or by distributing rice less than is entitled. Therefore, it was agreed that state will decide a uniform rate for rice across the state and will advertise it on the radio, publish it in newspapers, put it on the websites and print it on the ration cards. The state will also ensure that the transport charges are being made on time to the ration dealers.
6. The specific entitlements, rates and phone numbers of the nodal offices and officers where the people can complain will be printed on the ration cards.

Integrated Child Development Services:

7. Mr Mander listed the commonly recognised problems in the implementation of ICDS services in the State of Assam, included the disruption of supplies to AWCs, the alarmingly high ratio of severely malnourished children up to 11 percent, weak identification mechanisms and no referral centres, less frequency in opening of AWCs up to only 40 days in a year and no preschool activities being conducted in the AWC for the 3 to 6 years age group.
8. The Commissioners have also found in their 9th report that the State of Assam has spent only 0.80 Rs per day for each child under six on SNP under ICDS in the year 2007-08 against the prescribed norm of Rs. 2/ per child per day for SNP and Rs. 2.70/ for every

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severely malnourished child per day for SNP. The 0.80 Rs per child per day expenditure for 2007-08 shows that there has been low capacity in AWCs to absorb the increased allocations, SNP standards and distribution are poor, and it also signifies that there are problems with proper fund flow. This has also been confirmed in the field visit and by the study conducted by the Adviser of Assam. In this regard, Chief Secretary assured that the State will gear up the nodal agencies and will examine the problems why the funds are not available to the AWCs on time and will strictly issue directions and monitor the timely flow of funds from the department down to the AWC. The Chief Secretary explained that earlier the state government had budgetary problems in the ICDS scheme, but he said that the State had stepped up the budgetary allocations to match with the recommended allocations of 70 crores from 19 crores. He assured that even after this, if the State needs further reallocation of more funds, the state government is committed to providing this, to improve the functioning of the ICDS in the State.

The Central government and has now recently revised and increased the financial and nutrition norms to almost double than earlier and therefore, Commissioner requested the Chief Secretary to please send them the proposed plan of action of how the state will increase and utilize the per beneficiary cost as per recent guidelines issues by Ministry of Women and Child Development, Government of India.

9. The Chief Secretary further mentioned that if there are problems in the fund flow from the Government of India, he would like to raise the issue with them personally but the State has to ensure that the utilisation certificates are submitted on timely basis to get the other instalments released on time and the State has to find ways out to channelize the proper fund flow.
10. The present norm of 100 children per AWC is very high and puts a heavy burden on the AWW and therefore, the services of the ICDS scheme are being compromised. It was hence discussed and the State government committed to bring the norms down to 40 children per AWC.

The Secretary Social Welfare department mentioned that the hamlets with above 40 percent SC/ST population have been identified and AWCs are being sanctioned on priority in these areas. Local AWWs are also being recruited and many areas will be covered under this expansion. Mr. Harsh Mander suggested to the State government that the PHE has done a survey on the number of hamlets and could be used to cross check the number of hamlets covered and uncovered by the anganwadi centres under ICDS. It was also decided that the Deputy Commissioners would be directed to compile a list of hamlets covered and the hamlets uncovered and would certify the full coverage of hamlets under ICDS.

11. The Secretary Social Welfare also mentioned that in urban areas the department has put “AWC on demand” in place and assured that it would cover both authorised and unauthorised slums. Mr Mander appreciated that the State has initiated this process of setting up of AWCs on demand. He requested the Secretary to please send information about how many total applications have been received by the state for new anganwadis under the provision of anganwadi on demand in the state and the status of these.

12. Mr Mander pointed out that the state government’s estimates of severely malnourished children of 1.3 percent is completely in contradiction with the NFHS 3 figures of 11 percent for Assam, and signifies the fact that there is a alarming chronic under- coverage of severely malnourished children by the ICDS, especially children who are prone to hunger and at the brink of starvation. Therefore, he suggested that there should be many referral centres in each district where the severely malnourished would be referred to after they are being identified by the AWW. The Secretary Health and Family welfare mentioned that many referral centres have been put in place under NRHM and are equipped with weighing machines and examinations, which are happening in the centres but the severely malnourished children have not been in focus yet . It was agreed that now that the system is in place, the health and family welfare department and Social Welfare Department will think of ways and develop strategies to identify the severely malnourished children and to link them with the referral centres.

13. Mr Mander said that as the Social Welfare department is doing a massive recruitment of AWWs for the expansion of ICDS centres, therefore, it would require gearing up the all training centres to give training to the AWWs on time. The Chief Secretary agreed to ensure this. He said that the State has been able to do this earlier phase as well, and there are many NGOs who could also be involved in the process.

14. Mr Mander said that we had also requested government to put all the information related to ICDS available on website. This has been directed by the Supreme Court and he requested them to please ensure and inform about the same.

Mid-day Meal Scheme:

15. In their 9th report to the Supreme Court, the Commissioners found that according to the state government, the coverage of children under MDMS is 100 percent which is appreciable. However, the state government has been able to lift only 72 percent of the required foodgrain. This may indicate that either sufficient quantity of meals is not being provided to the students or the attendance is being fudged. He requested Chief Secretary to please look into this and send us an action taken report, to which the Chief Secretary agreed.

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16. During the field visit of Mr Mander, it was noticed that the supply of foodgrains was erratic for MDM, and that there was a high burden on teachers. Therefore, he suggested, and Chief Secretary agreed to ensure, that the Village Education Committees should supervise and SHGs/Mothers committee should be given the responsibility of cooking the food. It was discussed that the food grains should be supplied through the PDS shops.
17. Mr Mander and the Advisor had also noticed that there are irregularities in transfer of cooking cost to the schools. Chief Secretary said that the State government will examine the reasons for this and will smoothen the fund flow. Mr Mander said it would be worthwhile if the money required for cooking would be transferred to the VECs or SHGS or teachers (or in joint account) as advance for 3 to 6 months, in a way that at any point of time there would be advance of 3 months in the school for cooking MDM. Chief Secretary agreed in principle to this.
18. As there are a huge number of venture schools in Assam, therefore Advisor suggested extending the MDM to these schools, as it would multiply the coverage of students under MDM. However, the Chief Secretary mentioned that the density of Venture schools in the state is very high and these are often of very poor quality. The State is already identifying the villages to establish the government schools under the RTE bill in each village. The Secretary Education department assured that the schools which receive government aid are being covered under the MDM.
19. It also came to light in the field visits of Mr Mander that there is no diverse menu prescribed for the MDM, and children get monotonous food. The Secretary Education Department acknowledged the fact and agreed to prescribe weekly menu with different menu for each day of the week to the schools.

Indira Gandhi National Old age Pension scheme:

20. The 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”. However, Mr Mander drew attention to the finding that there are huge delays in disbursement of pension to the pension holders and many old people during the field visit reported getting pension two times a year only. This causes great suffering to some of the most food vulnerable people. The Chief Secretary said that he is aware of the fact and that many old people had met him and complained that they are getting the pensions after six months. The Secretary Social Welfare Department mentioned that the GoI has given instructions for opening of bank accounts for each old age beneficiary and the department has been able to open 70 percent of the required bank accounts. The Department is also working to move to the biometric cards.

21. Mr. Mander further suggested that the state of Andhra Pradesh has been able to ensure that payments are being made every month on the first to all the old age beneficiaries across the state through bank agents in every village and it would be useful to follow this model. The Chief Secretary agreed to examine this model, and adopt it in the state.
22. It was also decided that a grievance redressal system will be put in place for those old people who are above 65 years and BPL but get left from pensions.

National Rural Employment Guarantee Scheme:

23. During the field visit to the Moinburi, Muladhari and Borboree, Mr Mander found that the scheme is almost dysfunctional in these areas, though there is a great demand and potential for work. In all the erosion affected areas, like Moinburi, Mr Mander suggested that the state government undertaking extensive erosion prevention and protection works under NREGA which would create both employment and check soil erosion. Chief Secretary agreed to this, and also to strengthen the implementation of the scheme in the state.
24. The Secretary Rural Development Department stated that the scheme is doing better now and government have been able to issue almost 33 lakh job cards as against the 42 lakh total rural households. The average number of working days per household who demanded work has also been higher and around the national figures for the last year. However, there have been some vacancies in few blocks and Gram panchayat secretaries were not fully involved, but he said that these constraints have now been resolved. He said that the State has been taking a strict action against many Gram panchayat secretaries and BDOs and suspended 11 Gram panchayat secretaries, 3 BDOs and 2 junior assistants. The Gram panchayats have substantial shelf of works available and the government are issuing the letters to all the Collectors after every 6 months about the problems being reported in the districts for taking necessary actions.

Socially Vulnerable Groups:

Internally Displaced People (IDP) living in Relief Camps:

25. In previous tours to the state, the Special Commissioner Mr Harsh Mander had raised the problems of minorities and adivasi populations who have been forced to live for many years in camps, and have been deprived almost all the food and social security schemes being monitored by the Commissioners for the Supreme Court. The Commissioners issued directions to the state government to fully cover the vulnerable populations in these camps with AAY cards, ICDS centres, schools with MDM, pensions and maternity benefits etc. The state government has undertaken steps in this direction. This was appreciated by Mr Mander, and he said that there has been some improvement in providing services to the people living in relief camps through the last two years, but the status now needs to be

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confirmed. Therefore, it was agreed that a Joint Commission will be constituted which would include up to 3 members nominated by the Commissioners and a similar number nominated by the State and they would visit all the relief camps in Assam, and will compile a report on the status of the implementation of food and livelihood schemes in the relief camps. This would be completed within 3 months, and reported to the Commissioners.

Erosion Areas:

26. During the field visit to Moinburi in Borpeta district, the Special Commissioner noticed that that the whole area has been continuously eroded by the three big rivers on the three sides namely the Beki, the Brahmapura and the Manah. According to the rough estimates these rivers have eroded almost 40 villages and 10,000 hectares of agricultural land in the last two decades and turned thousands of families' homeless without any access to agricultural which used to be their main source of food and livelihood. Therefore, he requested Chief Secretary that a mapping should be done to identify all the areas in the flood and erosion prone areas of Assam, and the State government should make a long term plan to protect the people and land from the erosion. It was agreed in the meeting that flood protection works will be undertaken in those areas on a large scale under NREGA which would create employment for the people and would also help in checking the soil erosion.

Nellie Areas:

27. There are almost 14 villages located around the Nellie where almost 3 thousand people were killed in 1983 in the carnage. The Special Commissioner and his colleague Mr Tanveer Dar, with district officials, visited a few villages and noticed that the development in these villages has been highly unsatisfactory. The people of the villages mostly have not also accessed secure livelihoods. The Muladhari and Borboree villages, among others are locally known as flood banks because almost every year they get affected by the large floods from the Cobli river and survive but with great destruction in their house, paddy and domestic animals. The people of the villages mostly women have not been able to get out of the psychological fear after 1983 riots. The NREGA has also not been able to create any employment in both the villages. The presence of ICDS centres is very scant, and services are highly inadequate and erratic. The supplies to the schools for MDM and are erratic as they are across the state. The availability of money in schools and ICDS for cooking meal is very irregular. The coverage of the old age pensions is very low. The NMBS and NFBS schemes are not known to the people at all.

28. Mr Mander informed that the Commissioners are conducting a study in the five districts of Assam about the status of implementation of all food, social security and food schemes. After his visit to Nellie, he decided to also cover a few villages of Nellie under the study. He would send Chief Secretary a detailed report on the Nellie, and request that a social development package be undertaken for the affected people in the light of the enormous

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suffering they underwent in 1983, and their continued psychological trauma and economic deprivation.

The meeting ended with thanks being extended both by Mr. Mander and the Chief Secretary, and the assurance by the Chief Secretary that the state government would act on all the decisions and findings discussed in the meeting.