

**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**

February 24th, 2010.
JCE/787/Bihar.

Shri. Anup Mukerji,
Chief Secretary,
Government of Bihar
Patna.

Subject: Constitution of a Joint Commission of Enquiry to look into the incidence of repeated deaths due to hunger in Bihar.

Dear Shri. Mukerji,

You will be aware that the Office of the Commissioners of the Supreme Court is designated to monitor the implementation of food related welfare schemes of the Government and the implementation of the orders of the Supreme Court in Writ Petition (Civil) 196/2001, PUCL v. Union of India and others. The incidence of deaths due to hunger and malnutrition has further been brought under the purview of the Commissioners by the Hon'ble Supreme Court.

We are perturbed by the persisting account of hunger/malnutrition related deaths reported in the media from Bihar. The Special Commissioner, Mr. Harsh Mander, had visited some of the sites to assess the situation but we feel that a more in depth joint enquiry by the commissioners' nominees and government would be useful.

We have therefore decided to constitute a Joint Commission of Enquiry (JCE) to assess the cases reported and to look into the status of implementation of food-related welfare schemes under our purview in various parts of the state of Bihar, in particular Gaya, Bagusarai, Muzzarpur and Nalanda districts.

The JCE will comprise 3 representatives each from state govt and Commissioners' nominees. We are nominating the following three members:

1. Mr. Rupesh, Advisor to Commissioners to Supreme Court.
2. Mr. Arshad Ajmal
3. Ms. Kamayani Swami

We are requesting our Adviser in Bihar, Mr. Rupesh to convene the JCE and would request you to nominate three officials including a senior official, not less than the rank of a Joint Secretary (preferably with experience of the ICDS programme) to be part of the JCE. The purpose of the JCE is not just to investigate individual instances but also to suggest longer term measures for dealing with such problems.

The terms of reference of the JCE will be the following:

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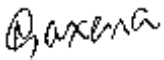
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1. The teams will visit villages and communities in which there are allegations of starvation deaths. However, the team will *not* enquire whether the deaths were caused by starvation. It will instead enquire whether conditions of destitution and grave denial of access to rights of food and life prevail in the family of the deceased, as well in the local community. In other words, it will investigate not whether people are dying of starvation, but instead whether they are living with starvation.
2. In case the team encounters such conditions of extreme destitution and grave denials of access to the right to food in any family of community, the team will enquire whether food, work and social security schemes, such as TPDS, ICDS, MDM, pensions and NREGA actually are accessible to the affected families and communities. In case they are not, then what are the reasons for the failures of these programmes to protect the right to food and life of the affected families and communities.
3. Based on these investigations, the team will propose for a) the family; b) the affected community or social category; and c) the state as a whole, measures for strengthening the functioning and reach of the food, social security and livelihood schemes for the effective protection of their rights to food and life.

We are attaching as an annexure a 'Protocol for Preventing Starvation' prepared by the Office of Commissioners, which was also sent to you earlier (ref: Starvation protocol/779/all states; dated December 16th, 2009). We hope that you have initiated steps to provide relief to the affected family and to prevent further deaths related to hunger in the community, as outlined in the Protocol mentioned above.

We request you to ensure that the work of the JCE be completed no later than 31st March 2010.

Warm Regards,



Dr. N. C. Saxena



Harsh Mander

CC: Shri. Rupesh, Advisor to the Commissioners to the Supreme Court, Bihar.