

ITEM NO.57

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A. Nos.94 & 96 in WRIT PETITION (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For directions and report submitted by Commissioner and Special Commissioner of Supreme Court directed to be treated as 1A vide order Dt.27.01.2010)

Date: 03/01/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
 Mr. Anuj Castleino, Adv.
 Ms. Jyoti Mendiratta, Adv.
 Mr. Imran Ali, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG
 Mr. D.L. Chidananda, Adv.
 Mr. S. Wasim A. Qadri, Adv.
 Mr. Dev Kumar, Adv.
 Ms. Sunita Sharma, Adv.
 Ms. Sushma Suri, Adv.
 Ms. Anil Katiyar, Adv.
 Mrs. Varuna Bhandari Gugnani, Adv.
 Mr. D.S. Mehra, Adv.
 Mr. Sudarshan Singh Rawat, Adv.
For DDA Dr. Shyamla Pappu, Sr. Adv.
 Mr. V.B. Saharya, Adv.
 Mr. R. Krishnamurthy, Adv.
 Mr. K.K. Singh, Adv.

Mr. Ranjan Mukherjee, Adv.
Mr. S. Bhowmick, Adv.
Mr. S.C. Ghosh, Adv.
Mr. Jana Kalyan Das, Adv.
Ms. Hemantika Wahi, Adv.
Ms. Nupur Kanungo, Adv.
Mr. D.K. Goswami, Adv.
Mr. Shirish Kr. Mishra, Adv.

Mr. Pragyam P. Sharma,Adv.
Mr. P.V. Yogeswaran,Adv.
Mr. H.P. Rava,ASG
Ms. Indra Sawhney,Adv.
Dr. Manish Singhvi,AAG,Raj.
Mr. Devanshu Kumar Devesh,Adv.
Mr. Milind Kumar,Adv.
Mrs. Aruna Mathur,Adv.
Mr. Yusuf Khan,Adv.
Mr. Avneesh Arputham,Adv.
Mr. Riku Sharma,Adv.
for M/s. Corporate Law Group,Advs.
Mr. A.P. Sahay,Adv.
Ms. Rachana Srivastava,Adv.
Mr. Manoj Saxena,Adv.
Mr. Mayank Nigam,Adv.
Mr. T.V. George,Adv.
Ms. Kamini Jaiswal,Adv.
Mr. Shish Pal Laler,Adv.
Mr. Khwairakpam Nobin Singh,Adv.
Mr. Sapam Biswajit Meitei,Adv.
Mr. Ranjan Mukherjee,Adv.
Mr. R. Sundaravaradhan,Sr.Adv.
Mr. V.G. Pragasam,Adv.
Mr. S.J. Aristotle,Adv.
Mr. Prabu Ramasubramanian,Adv.
Mr. Jatinder Kumar Bhatia,Adv.

Mr. G.V. Rao,Adv.
Mr. Ravi Prakash Mehrotra,Adv.
Mr. Gopal Singh,Adv.
Mr. Chandan Kumar,Adv.
Mr. Bikas Kar Gutpa,Adv.
Mr. Abhijit Sengupta,Adv.
Mr. Amit Kumar,Adv.
Mr. S.K. Keshote,Sr.Adv.
Mr. Sachin Das,Adv.
Mr. Abhijit Sengupta,Adv.
Mr. Rituraj Biswas,Adv.
Mr. Manish Pitale,Adv.
Mr. Wasi Haider,Adv.
For Mr. C.S. Ashri,Adv.
Mr. Tara Chandra Sharma,Adv.
Ms. Neelam Sahrma,Adv.
Mr. B.B. Singh,Adv.
Mr. Kumar Rajesh Singh,Adv.
Ms. Prema Kumari Singh,Adv.
Mr. Anil Shrivastav,Adv.
Mr. Ritu Raj,Adv.
Mr. Edward Belho,Adv.
Mr. Enatoli Sema,Adv.
Mr. Rituraj Biswas,Adv.
Mr. T.Harish Kumar,Adv.
Mr. P. Prasanth,Adv.
Mr. V. Vasudevan,Adv.
Mr. Sanjiv Sen,Adv.

Ms. Anuja Chopra,Adv.
Mr. P. Parmeswaran,Adv.
Mr. Atul Jha,Adv.
Mr. D.K. Sinha,Adv.
Mr. G.V. Chandrashekhar,Adv.
Mr. N.K. Verma,Adv.
Ms. Anjana Chandrashekar,Adv.
Mr. Gopal Prasad,Adv

Mr. D. Mahesh Babu,Adv.
Mr. Ramesh Allanki,Adv.
Mr. Sunil Fernandes,Adv.
Mr. Vikrant Nagpal,Adv.
Mr. Sidhant Goel,Adv.
Ms. Renu Gupta,Adv.
Mr. Ramesh Babu M.R.,Adv.
Ms. Anuradha Rustagi,Adv.
Ms. D. Bharathi Reddy,Adv.
Mr. Sanjay R. Hegde,Adv.
Mr. Ramesh Kr. Mishra,Adv.
Ms. Sumita Hazarika,Adv.
Mr. K.K. Mahalik,Adv.
Mr. Ajay Pal,Adv.
Mr. Manjit Singh,Adv.
Mr. Kamal Mohan Gupta,Adv.
Ms. A. Subhashini,Adv.
Mr. Gopal Singh,Adv.
Mr. Manish Kumar,Adv.
Mr. Kuldip Singh,Adv.
Mr. R.K. Pandey,Adv.
Mr. H.S. Sandhu,Adv.
Mr. Ravindra Keshavrao Adsure,Adv.
Mr. Prashant Kumar,Adv.
Mr. Vishwajit Singh,Adv.
Mr. Sanjay V. Kharde,Adv.
Ms. Asha G. Nair,Adv.
Mr. K.V. Mohan,Adv.
Mr. A.K. Panigrahi,Adv.
Mr. N.M. Varghese,Adv.
Mr. Tessy Varghese,Adv.
Mr. Rajesh Srivastava,Adv.
Mr. Anuvrat Sharma,Adv.

Mr. K.N. Madhusoodhanan,Adv.
Mr. R. Sathish,Adv.
Mr. Naushad Ahmad Khan,Adv.
Mr. Rajesh Kumar Verma,Adv.
for Mr. R.C. Kaushik,Adv.
Mr. Pradeep Misra,Adv.
Mr. Venkateswara Rao Anumolu,Adv.
Mr. Vikrant Singh Bais,Adv.
Mr. B.S. Banthia,Adv.
Mr. G. Prakash,Adv.
Ms. Beena Prakash,Adv.
Mr. V. Senthil,Adv.
Mr. Navneet Kumar,Adv.

Mr. Anil Kumar Jha,Adv.
Mr. Vikas Mehta,Adv.
Mr. Raj Kumar Gupta,Adv.
Mr. Rajiv Dubey,Adv.
Mr. Kamalendra Mishra,Adv.
Mr. Naresh K. Sharma,Adv.
Mr. Anis Suhrawardy,Adv.
Mr. S. Mehdi Imam,Adv.
Mr. Tabrooz Ahmed,Adv.
Mr. S.M. Jadhav,Adv.

UPON hearing counsel the Court made the following
O R D E R

DELHI:

In 2010, a number of deaths of homeless people were reported in the capital city of Delhi because of intense cold weather. On the directions passed by this Court, night shelters were set up. On the last date of hearing, it was brought to our notice that two night shelters at Nehru Place and Kalkaji were demolished. This Court directed the DDA to re-erect the two night shelters which were demolished from Nehru Place and Kalkaji, within three days and to file an affidavit of compliance.

Shri Ashok Kumar, Vice-Chairman, DDA has filed an affidavit in which it is indicated that on the direction of this Court, the night shelter at Kalkaji was re-erected on 16.12.2010 itself and the other night shelter at Nehru Place was re-erected on 17.12.2010. Mrs. Shyamla Pappu, learned senior counsel appearing on behalf of the DDA has handed over to us some photographs of these night shelters showing that proper mattresses, blankets and adequate lights have been provided in these shelters. She has also brought to our notice an Office Order dated 23.12.2010/24.12.2010 by which an inquiry has been instituted to fix the responsibility of the officers responsible for the demolition of two night shelters at Nehru Place and Kalkaji.

Mr. Mohan Parasaran, learned Additional Solicitor General appearing on behalf of the Delhi Government has filed a status report. In the status report it is indicated that 64 permanent night shelters with intake capacity of 9085 persons and 84 temporary night shelters with an intake capacity of 8400 persons have been made functional till date. It is further mentioned in the status report that the officials of the Delhi Urban Shelter Improvement Board ("DUSIB") and representatives of the petitioner jointly inspected the night shelters on 28.12.2010 and 29.12.2010.

According to the inspection report, 64 permanent night shelters have been made functional by DUSIB and the homeless people have been using the shelter facilities in all these night shelters. It is also mentioned in the status report that glow sign boards of 4' x 6' indicating the place of the night shelters in four languages have been displayed at all the night shelters.

The inspection report reveals that care takers and security guards have been deployed round the clock in all the night shelters and they have been reportedly found present in the night shelters. The care takers of the night shelters are maintaining the occupancy registers on daily basis and it has been reported that out of 64 night shelters, in 33 night shelters 100% occupancy has been reported and in 20 night shelters, it has been reported that the occupants ranging between 10%-30% have been availing the shelter facilities.

In the status report, it has also been mentioned that there is proper water supply in the toilet blocks of all night shelters and in 11 night shelters, water coolers have been installed for drinking water and in the remaining 52 night shelters, drinking water arrangements have been made either by keeping water jugs or buckets; blankets, daries and jute mats have also been provided as per requirement of each night shelters; permanent electric connections have been provided in the night shelters and electricity has been found functional in the main halls, stairs and toilet blocks of the night shelters.

It is further mentioned in the status report that teams have reported that Safai Karmacharis have been deployed in each night shelter, sanitation condition including cleaning, availability of cleaning

materials have been found satisfactory in all the night shelters. It is also mentioned therein that provision of required number of toilets and bathing facilities have also been made in the night shelters. However, in the remaining 52 night shelters, even though the toilet and bathing facilities are available but they are required to be upgraded as per the intake capacity of each community hall.

Mr. Mohan Parasaran, learned Additional Solicitor General submits that these facilities would be upgraded within four weeks from today. It has been also mentioned in the status report that first aid box has been provided in each night shelter and that doctors are visiting once or twice a week in each night shelter. Beat constables are visiting only a few of the night shelters during the night. DUSIB with the help of Divisional Commissioner and Mother NGO has set up 84 temporary shelters in tents with an intake capacity of 8400 persons per day. Inspection of the temporary shelters have reported that all these temporary shelters have been found functional and the homeless persons are using the shelter facility every day. Adequate number of blankets, beds, better quality of tents, electricity, security guards, care taker have also been provided in these temporary shelters. Mother NGO is looking after the management of these night shelters; the occupancy status in these night shelters have been reported 80-100% per day. Necessary orders have been issued to operate and manage all the night shelters round the clock for providing shelter facilities to the homeless persons during day and night.

In the status report it is mentioned that a help line has been set by Mother NGO to monitor the functioning of all the night shelters in Delhi, telephone number of helpline has been provided and a control room has also been set up at the Head Quarter of DUSIB. It is also mentioned in the status report that the DDA has also provided four mobile bio-sufficient toilets to facilitate the convenience of users of the night shelters. These toilets do not require manual cleaning as they are equipped with bio-tanks which dissolve waste.

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner submitted that because of the efforts made by the Delhi Government and the Delhi Development Authority, situation has been considerably improved in Delhi and no deaths have been reported on account of lack of night shelter facilities in Delhi in the recent past.

List this matter as last item on Friday, 7th January, 2011.

BIHAR:

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner submits that though the Government of Bihar has set up 51 night shelters for homeless people across the State of Bihar but the night shelters do not have basic amenities, such as doors, windows, drinking water facility, beds, mattresses, blankets, sheets, toilets etc. He has also shown some photographs which show that the shelter is not a four wall building but a longish stretch over pavement, open from the front.

Learned counsel appearing for the State of Bihar may take instructions in this regard. We expect the Government of Bihar to issue necessary instructions to provide basic facilities in the night shelters without any further loss of time.

List this matter for further direction on Friday, 7th January, 2011.

UTTAR PRADESH:

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner has placed on record some photographs of the homeless people spending the night on the pavements of Lucknow, which reveal that night shelters have not been provided.

Learned counsel appearing for the State of U.P. has drawn our attention to the letter dated 24.12.2010 sent by the Chief Secretary of the State to all the District Collectors and Magistrates in the State of U.P., directing them to provide basic facilities in the shelter homes. It is mentioned in the letter that 139 shelter homes are being established immediately with proper basic facilities. We direct the learned counsel for the State of U.P. to file an affidavit by Friday, 7th January, 2011, stating therein whether all these facilities have been augmented or not.

List this matter for further direction on Friday, 7th January, 2011.

N.D.M.C.:

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner has drawn our attention to the urgent need to set up 10 night shelters in the NDMC area. We are sure that NDMC would provide necessary shelters to the homeless in their area. Learned counsel appearing for the NDMC prays for some time to take instructions. List again on Friday, 7th January, 2011.

RAJASTHAN:

It has been brought to our notice that the women and children are hardly found in the night shelters because separate facilities for men and women for sleeping, bathing and toilets have not been provided in most of the shelter homes. It has also been brought to our notice that in some of the shelters, a small amount of money is required to be paid for using the toilets, blankets and other medical facilities in the State of Rajasthan. Learned Additional Advocate General appearing for the State of Rajasthan prays for some time to take instructions. We expect the Chief Secretary of the State of Rajasthan to issue necessary instructions in order to augment the basic facilities in the night shelters.

List this matter again on Friday, 7th January, 2011.

Mr. Gonsalves, learned senior counsel has brought to our notice an order dated 28.11.2001 passed by this Court by which the Doordarshan and AIR were directed to adequately publicise about the night shelter facilities provided by various States. We reiterate that adequate publicity be given on electronic media, AIR and in the local newspaper about the night shelter facilities provided by the States so that all the shelter less people can take benefit of the facilities of these shelters.

(A.S. BISHT)
COURT MASTER

(NEERU BALA VIJ)
COURT MASTER