

ITEM NO.1

COURT NO.5

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

W R I T P E T I T I O N ( C ) N O . 1 9 6 O F 2 0 0 1

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

With I.A. Nos.27-30, 33, 41, 42, 43, 45 (In I.A. No.41), 46, 47, 51, 52, 55-57, 63-74, 76, 78-90, 92-94, 96, 98 and 99 in W.P. (C) No.196 of 2001

(For Direction, permission to file the application for direction, permission to place on record additional documents, taking on record the documents at Annexure 'A', permission to allow the applicant, condonation of delay in filing affidavit, modification, exemption from filing O.T., impleadment, permission to file rejoinder affidavit to counter affidavit of State of Maharashtra, modification of Court's order dated 27th April, 2004, 7th October, 2004, 13th December, 2006, and 22nd April, 2009, permission to Government of Maharashtra to implement Government Resolution dated 3rd November, 2007 in P.D.S. in Maharashtra State, comprehensive report submitted by Special Commissioner, Supreme Court direction to treat as I.A. vide order dated 27th January, 2010 and c/delay in filing brief status report)Contempt Petition (C) No.99 of 2009 in W.P. (C) No.196 of 2001 (With appln(s) for exemption from filing O.T.)

Date: 05/05/2010 These Matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.  
Ms. Divya Jyoti, Adv.  
Ms. Jyoti Mendiratta, Adv.  
Mr. A.K. Singh Tarun, Adv.  
Mr. Debasis Misra, Adv.

For Respondent(s) Mr. Jana Kalyan Das, Adv.  
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Ms. Pinky Behara, Adv.  
Mr. B.V. Balaram Das, Adv.  
Ms. Indra Sawhney, Adv.  
Dr. Manish Singhvi, Sr. Adv.  
Mr. Devanshu Kumar Devesh, Adv.  
Mr. Milind Kumar, Adv.  
Mr. Riku Sarma, Adv.  
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Mr. T.V. George, Adv.

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Mr. S.J. Aristotle,Adv.  
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Mr. Pramod Swaup,Sr.Adv.  
Mr. R.K. Gupta,Adv.  
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Mr. Gopal Singh,Adv.  
Mr. Manish Kumar,Adv.  
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Mr. Rituraj Biswas,Adv.  
Mr. Tara Chandra Sharma,Adv.  
Ms. Neelam Sahrma,Adv.

Mr. Vikas Upadhyay,Adv.  
Mr. B.S. Banthia,Adv.  
Mr. B.B. Singh,Adv.  
Mr. Rituraj Biswas,Adv.  
Mr. Anil Shrivastav,Adv.  
Mr. Gopal Prasad,Adv.  
Ms. Anjana Chandrashekar,Adv.  
Mr. Ramesh Babu M.R.,Adv.  
Ms. D. Bharathi Reddy,Adv.  
Mr. Sanjay R. Hegde,Adv.  
Ms. Sumita Hazarika,Adv.  
Ms. A. Subhashini,Adv.  
Mr. Manjit Singh,AAG  
Mr. Kamal Mohan Gupta,Adv.  
Mr. Shivani,Adv. for Mr. Kuldip Singh,Adv.  
Mr. Ravindra Keshavrao Adsure,Adv.  
Mr. Prashant Kumar,Adv.  
Mr. Vishwajit Singh,Adv.  
Mr. Anis Suhrawardy,Adv.  
Mr. S. Mehdi Imam,Adv.  
Mr. Mohd. Parvez Dabas,Adv.  
Mr. Tabrez Ahmed,Adv.  
Mr. Mohan Parasaran,ASG.  
Mr. D.L. Chidanand,Adv.  
Ms. Anil Katiyar,Adv.  
Mr. D.S. Mehra,Adv.  
Mr. S. Wasim A. Qadri,Adv.  
Ms. Saima Bakshi,Adv.  
Mr. Minnatullah,Adv.  
Ms. Sushma Suri,Adv.  
Mr. K.V. Mohan,Adv.  
Mr. Rajesh Srivastava,Adv.  
Mr. Anuvrat Sharma,Adv.  
Mr. K.N. Madhusoodhanan,Adv.  
Mr. R. Sathish,Adv.

Mr. R.C. Kaushik,Adv.  
Mr. Pradeep Misra,Adv.  
Mr. Venkateswara Rao Anumolu,Adv.  
Mr. G. Prakash,Adv.  
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Mr. Anil Kumar Jha,Adv.  
Mr. D.K. Sinha,Adv.  
Mr. Vikas Mehta,Adv.  
Mr. Naresh K. Sharma,Adv.  
Mr. Shekhar Naphade,Sr.Adv.  
Mr. Sanjay Kharde,Adv.  
Ms. Asha G. Nair,Adv.  
Mr. Mohan Parasaran,ASG  
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Mr. V. Vasudevan,Adv.  
Mr. Sanjiv Sen,Adv.  
Ms. Anuja Chopra,Adv.  
Mr. P. Parmeswaran,Adv.  
Mr. A. Mariarputham,Sr.Adv.  
Ms. Aruna Mathur,Adv.  
Mr. Amarjeet Singh Girsu,Adv.  
For M/s. Arputham, Aruna & Co.,Advs.  
Ms. Rachana Srivastava,Adv.  
Mr. Abhay Sahay,Adv.  
Mr. Edward Belho,Adv.  
Mr. K.E. Sema,Adv.  
Mr. Rituraj Biswas,Adv.  
Ms. Jayshree Anand,Adv.  
Mr. K.K. Mahalik,Adv.  
Mr. Ajay Pal,Adv.  
Mr. V.B. Saharya,Adv. for M/s. Saharya and Co.,Advs.

UPON hearing counsel the Court made the following

### **ORDER**

In this writ petition, a report has been filed by the Commissioners in which it has been prayed that there is urgent need of night shelters in urban areas. In the report, it is prayed that the Centre and the State Government be directed to provide permanent 24 hours homeless shelters in the areas beginning with 62 cities and towns across India. In the report it is also mentioned that these homeless shelters need to be opened 24 hours in all seasons, and should have basic amenities to enable a life with dignity. It is further incorporated in the report that winter is a period of severest crises for homeless people and it is directly life threatening, though all seasons pose threats to homeless people. Homeless people are subject to continuous violence and abuse. Living in the open with no privacy or protection even for women and children, is a gross denial of the right to live with dignity. For this reason the Commissioners are convinced that unless directions are given by this Court, the problems would not be solved. It is further stated in the report that the shelters should have the basic facilities, such as, beds and bedding, toilets, potable drinking water, lockers, first aid, primary health, de-addiction and recreation facilities. It is also mentioned that shelters must be in adequate numbers and in the ratio of at least one per lakh of population for every urban centres according to the Delhi Master Plan. The matter was discussed and the learned Additional Solicitor General appearing for the Union of India submitted that all major cities, which have population of more than five lakhs, will be provided with night shelters in the ratio of at least one per lakh of population. This Court issued notice to all the States and Union Territories. In response to the notice, most of the States and Union Territories have filed affidavits and their responses are as under:

#### State of Madhya Pradesh:

The State of Madhya Pradesh has agreed to construct one night shelter for a population of one lakh in all urban centres. Further it has been directed that- all local bodies within their territorial limits will construct night shelters for homeless people; normally at least one night shelter in population of one lakh must be constructed and the homeless persons residing in the night shelters should be provided clean drinking water, light, toilet and provisions for their security; during winter season proper arrangements may be made for fire with the funds of the local bodies and with the cooperation of the working social organisations blankets be also arranged for the persons staying in night shelters. In coordination with the local health officer, urban bodies should make arrangements for investigation of health of all those poor persons staying in night shelters and will make arrangements for giving treatment in the Government hospitals; as per the requirement of security of the goods of the poor persons residing in the night shelter, locker facility should also be provided; separate place be provided for men and women in night shelters; at the local level all the urban bodies with the cooperation of the working social organizations should also make arrangements for the supply of food on reasonable rates to the poor persons residing in the night shelter; The above arrangements may be immediately made in the night shelters which have been constructed earlier by the local bodies, the State Government has directed that within six months, Commissioners of Municipal Corporations and Chief Municipal Officer, Municipality should make a survey of the homeless. This affidavit filed by the State of Madhya Pradesh is very positive. We direct the State Government to start constructing night shelters for the homeless in a phased manner according to their affidavit and may submit the report in this Court within two months from today.

#### State of Nagaland:

In the affidavit, which has been filed on behalf of the State of Nagaland, it is mentioned that the State Government proposes to conduct a detailed survey through its own department or by engaging reputed organisations/institutions within a period of six months for all urban areas within the State. It is also mentioned that depending upon the results of the detailed survey; shelter homes would be constructed in a phased manner as may be necessary. The shelter homes will have basic requirements necessary for providing safe, secure and comfortable shelter for the homeless. We expect the State of Nagaland to file an affidavit within a period of two months to ensure that entire programme is implemented.

#### State of Mizoram:

The State of Mizoram has stated in the affidavit that identification of urban homeless will be conducted in a comprehensive manner within six months and necessary facilities would be provided to the homeless in the shelters. In view of this affidavit, no further directions are warranted at this stage.

#### State of Rajasthan:

Learned Additional Advocate General appearing for the State of Rajasthan submits that formulation of the comprehensive policies would take about two months. We direct the Chief Secretary of the State of Rajasthan to file an affidavit within two months indicating the progress made by the State in respect of providing shelters to the homeless in accordance with the standard norms.

#### State of Arunachal Pradesh:

An affidavit has been filed by the State of Arunachal Pradesh indicating that the problem does not exist in the State except in Itanagar where the population is more than one lakh. It is mentioned in the affidavit that "there is nobody who is homeless or orphan. In the event of death and demise of parents, village community takes over the responsibilities for the children leaving little or no scope for the destitution". It is indeed a very happy situation in the State of Arunachal Pradesh but as regards Itanagar, an affidavit be filed within two months.

#### State of Gujarat:

In the affidavit filed by the State of Gujarat, it is mentioned that in the State there are four cities with a population of more than five lakhs, i.e., Ahmedabad, Vadodara, Rajkot and Surat. The affidavit is not clear about the issue, which this Court is dealing with. We direct the State of Gujarat to file an additional affidavit indicating within what period the State would be able to provide the shelters for homeless in the urban cities of Gujarat.

#### State of Himachal Pradesh:

In the affidavit filed on behalf of the State of Himachal Pradesh, it is mentioned that only Shimla has a population of more than one lakh in the State. One night shelter, which is already in existence, is being renovated and necessary facilities would be provided in the night shelter. Therefore, in view of this affidavit, at this stage no further directions are warranted so far as this State is concerned.

#### State of Uttarakhand:

It is mentioned in the affidavit that Dehradun, Haridwar and Haldwani have a population of more than one lakh. One night shelter is already in existence in Dehradun and two night shelters are there in Haridwar. Haldwani also has one night shelter. The State Government has issued directions to all the urban bodies to provide land free of cost for the establishment of additional night shelters in order to construct shelter for the entire shelterless people. In the affidavit it is also mentioned that the urban local bodies are also directed to submit proposal for the up-gradation of existing night shelters basically for enhancing their accommodation capacities and to provide basic amenities, such as, blankets, potable drinking water, toilets, electricity connections, and regular health checkups. In view of this affidavit, in our considered view, no further directions need to be issued as far as State of Uttarakhand is concerned at this stage.

#### State of Assam:

In an additional affidavit filed on behalf of the State of Assam, it is mentioned that they will undertake the survey and engage reputed organisations/institutions for this purpose and on the basis of the survey, additional shelters would be created or the existing shelters will be upgraded in the phased manner, as may be necessary. The shelters will have the basic requirements necessary for providing safe, secure and comfortable shelter for the homeless. We direct that an affidavit be filed by the State of Assam within a period of two months indicating whether the process has started or not.

#### State of Kerala:

In the affidavit filed on behalf of the State of Kerala, it is mentioned that nine shelters for the homeless have been established in the nine districts of Kerala. In view of this affidavit, no further affidavit for the time being is required to be filed by this State.

#### State of Jharkhand:

In the affidavit filed by the State of Jharkhand, it is mentioned that the Government of Jharkhand is committed to provide all required amenities, including night shelters for urban shelter less people. It is further mentioned that out of 26 urban local bodies, shelters have been constructed in five cities, namely, Ranchi, Dhanbad, Chaibasa, Deogarh and Jasidih. In view of this affidavit, no further affidavit for the time being is required to be filed by this State.

#### State of Sikkim:

It is mentioned that the problem of homeless does not exist in the entire State, but it is also incorporated in the affidavit that in case such need arises, other facilities like mattresses, quilts/blankets, drinking water and toilets etc. would be provided. In view of this affidavit, no further affidavit is required to be filed by the State of Sikkim.

#### State of Uttar Pradesh:

In the affidavit, it is mentioned that there are seven permanent night shelters and one temporary night shelter in the State. It is also mentioned in the affidavit that it proposes to construct permanent shelter homes in six metropolitan cities, such as, Lucknow, Kanpur, Agra, Allahabad, Varanasi and Meerut. The land required for construction of these shelter homes shall be provided free of cost either by the Nagar Nigam or Development Authority in each of the aforesaid six towns. The construction of such shelter homes shall be monitored at the local level by the concerned Divisional Commissioner. The financial requirement for the implementing the aforesaid proposal shall be met by the State urban development agency. In principle, the State has agreed to provide night shelters according to the norms only to evaluate the progress made in the matter. We would like the State to file an affidavit within a period of two months.

Union Territory of Puducherry:

It is mentioned in the affidavit that so far 1102 tenements have been constructed in eight places in Puducherry. In these tenements 1102 homeless families have been provided with permanent shelters. Another 124 homeless families will be rehabilitated in 124 tenements, which are under construction. In view of this affidavit, no further directions are necessary so far as Union Territory of Puducherry is concerned.

State of Karnataka:

The State of Karnataka has indicated in the affidavit that the State undertakes to conduct a comprehensive survey to identify the urban homeless within a period of six months. Based on the result of survey, necessary action will be taken to provide basic facilities so that people can enjoy the fundamental right of life with dignity. We direct the State of Karnataka to file an affidavit about the progress of their survey within a period of two months from today.

State of Punjab:

In the affidavit filed on behalf of the State of Punjab, it is mentioned that as regards the survey for identification of urban homeless, the Department of Urban Local Bodies and the Department of Rural Development and Panchayats have been directed to carry out the survey within two months. The Department of Urban Local Bodies will take action to provide night shelters and other services after the identification of homeless persons. The Department of social Security and Women and Child Development will provide community kitchen at an appropriate scale as per the directions of this Court. The Department of Food, Civil Supplies and Consumer Affairs shall take action to issue AAY ration cards to the homeless population within one month after the completion of the identification subject to direction of this Court. The beneficiaries would be entitled to rations at the scale fixed by the Union Government by AAY families.

State of Meghalaya:

In the affidavit filed on behalf of the State of Meghalaya, it is mentioned that the State requires time to make survey of the shelter less population, including street children in the cities and two months' time has been prayed for this purpose by the learned counsel. We direct the State of Meghalaya to file an affidavit within a period of two months indicating the progress in the matter.

Union Territory of Andaman and Nicobar Islands:

The problem of homeless and destitution is not a serious problem in the Islands. Therefore, no directions are necessary to be passed so far as Union Territory of Andaman and Nicobar Islands are concerned.

State of Manipur:

Similarly, there is no existence of urban homeless people in this State. Therefore, no directions are necessary to be passed so far as this State is concerned.

State of Tamil Nadu:

An affidavit, which has been filed by the State of Tamil Nadu, does not focus on the problems of the shelter for homeless people. We direct the State of Tamil Nadu to file an additional affidavit within a period of two months indicating as to what progress has been made in this regard by the State.

National Capital Territory of Delhi:

Mr. Hansraj, Additional Secretary, Department of Urban Development, Government of National Capital Territory of Delhi, has filed a very comprehensive affidavit. In the affidavit it is mentioned that Government of National Capital Territory of Delhi is in the process of formulating a policy framework and plan for caring and protecting the rights of homeless citizens of Delhi. Government of NCT Delhi has established

an autonomous body called 'Samajik Suvida Sangam' or 'Mission Convergence' a society registered under the Societies Act to provide an institutional mechanism for unifying social policies impacting the poor and to integrate, establish, manage, operate, maintain and facilitate the integrated delivery of welfare entitlements to the underprivileged in an efficient and transparent manner. All the details have been given on behalf of the autonomous organisation. It has also mentioned that St. Stephen Hospital is the 'Mother NGO' for homeless. This project is being run by the Community Health Department of St. Stephen's Hospital. The 'Mother NGO' in consultation with various stakeholders has submitted a report titled 'Policy Framework and Plan for Caring and Protecting the Rights of Homeless Citizens of Delhi'. A comprehensive annexure has also been filed giving details of these plans. It is also mentioned in the affidavit that 'Mission Convergence' has initiated a survey of homeless and that the survey is currently in progress and the same is to be completed by 31st May, 2010. Since the survey of homeless is a specialized work, interactive meetings are being held with an international group, namely, UNDP, Bangladesh to determine the methodologies of the homeless survey and to finalize the same. In the affidavit, it is mentioned that NGO, Samya had conducted survey and identified 15000 homeless beneficiaries of which 14,850 which have been approved for giving 'Homeless Cards'. These cards are being prepared zone wise and the list is displayed at the Office of the Assistant Commissioners/Circle Office for distribution of the special homeless cards to the beneficiaries after obtaining their biometric impressions. The NGO, Samya has also been informed to facilitate delivery of these cards to the beneficiaries and enable them to lift the Specified Food Articles and Kerosene Oil allocated from the linked Fair Price Shop/Kerosene Oil Depot. Details have been mentioned in the AAY programme. It is mentioned in the affidavit that under the Central Scheme of Food and Supplies Department, Government of NCT of Delhi is carrying out review of BPL/AAY household cards which were issued before 15th January, 2009. It is simultaneously carrying out bio-metric identification of Head of family of each household to eliminate fictitious bogus and ineligible cards and those who have left Delhi. Government of NCT of Delhi has started 'Hunger Free Delhi Campaign - Aap Ki Rasoi' with the active participation of corporate and willing organisation. This programme is to provide food to the destitute people. The affidavit also mentioned about the Mid Day Meal programme. It is also mentioned in the affidavit that there is Sarva Shiksha Abhiyan for out of school children. Regarding the shelter for homeless, it is mentioned that currently Delhi has 88 night shelters. Most of these shelters are temporary and running in tents. The conditions of shelters need radical improvement. Looking to the population of Delhi, 130 permanent shelters are going to be set up. In addition to these, Delhi Government proposes to set up 50 temporary shelters during winter months. In total, Delhi will have 186 shelters during winters and 130 shelters all through the year and all kinds of basic facilities would be provided in these shelters. They have made provisions for de-addiction centres and recovery shelters also. The Delhi Government has very minutely and carefully analysed the problems of homeless people living in these shelters and is trying to provide a comprehensive programme for the homeless. We must compliment the Government of NCT of Delhi for this effort. We would like the Government of NCT of Delhi to file a further affidavit indicating what progress has been made on different fronts.

#### State of Bihar:

We are totally unsatisfied with the affidavit, which has been filed by the Chief Secretary of the State of Bihar. Learned counsel appearing for the state prays for and is granted four weeks' time to file a proper affidavit. We would like an additional affidavit to be filed with concurrence of the Chief Minister of the State.

#### State of Andhra Pradesh:

An affidavit has also been filed by the State of Andhra Pradesh. The Chief Secretary, in the affidavit, has mentioned that the State of Andhra Pradesh has been one of the first States in the country to start a separate department for sustained effort for eradication of rural poverty called 'Society for Elimination of Rural Poverty' which has formulated the Andhra Pradesh Rural Poverty Reduction Project for a focused approach for elimination of rural poverty. It is also mentioned that situation of urban poor living in slums requires special attention. Provision of pucca house for every homeless poor has been a pious purpose of the State Government. Regarding night shelters, it is mentioned that there are 124 Municipalities and Municipal Corporations in the State. Out of these, Hyderabad urban agglomeration is metro city with population of more than 57 lakhs. A special action plan has been formulated for providing shelters to the

homeless. Under this, more than one lakh houses are under construction. Apart from this, it has plan to start 60 night shelters at the rate of one for every one lakh population in the city of Hyderabad before 31st December, 2010. These shelters would be fully occupied with beds and boardings, drinking water, lockers, first aid etc. The following measures are taken for effective implementation of this initiative:

Survey for identification of the shelter less people in the Greater Hyderabad is programmed to be taken up and completed by 31st May, 2010. Sixty buildings and converting them for use as night shelters to the shelter less people will be done by 30th June, 2010. If required, construction of additional floors will be constructed to accommodate all the homeless.

Necessary facilities like arrangement of beds, blankets, clothing etc. medical, periodical health check up and psychiatric care, provision of physical amenities and cooking facilities to be created in the identified night shelters by 30th June, 2010. With a view to promote self sustenance and empowerment of the shelter less people, it is contemplated to provide suitable skill development trainings to them as a result of which they may get expected livelihood opportunities by October, 2010.

The children of the shelter less, after their admission into the night shelter, will be referred for admission in the nearby schools for imparting elementary education by 30 June, 2010.

The inmates of the night shelters, both men and women will be separately accommodated with a provision of privacy and amenities. The food arrangements as per the recommendations of the dietist will be provided for maintaining the nutritional balance of particularly the pregnant women and lactating mothers in the shelters.

Sensitization through publicity about existence of night shelters in electronic media and print media for information to the homeless people in the city is also taken up on priority. Corporate institutions and Philanthropic agencies to be included in this activity for development of night shelters and services as part of their corporate social responsibility.

Launching of the enforcement drive so as to pick up the shelter less people from the highly concentrated areas, i.e., Railway terminals, bus terminals, busy commercial centres/markets, traffic junctions, traffic islands, foot-paths, public parks, below flyovers, along nalas, freight complexes and workstations etc. The GHMC staff and reputed NGOs for this purpose will be involved in the process.

A periodical vigilance and supervision of the maintenance and function of night shelters is much important with a view to secure the decency, maintenance of discipline. For this purpose an officer will be made in-charge with the responsibility to alert the administration for taking the suitable steps for up-keeping the shelters.

Round the clock security to be provided along with necessary watch and ward and staff. The role of NGOs is vital with respect to identification, location and maintenance of night shelters.

The reputed NGOs of the city who involve in the programmes of social commitment will be identified for counseling the shelter less.

We would like to compliment the State of Andhra Pradesh for filing comprehensive affidavit and demonstrating great sensitivity in dealing with the grave human problem. The State has identified a large number of areas to solve the problems of urban families and others. The sensitivity, which has been shown by the State of Andhra Pradesh, requires to be emulated by other States and Union Territories. We direct the State of Andhra Pradesh to file an additional affidavit within two months to indicate the progress made in various fronts.

State of West Bengal:

We have perused the affidavit filed by the Principal Secretary to the Government of West Bengal. The affidavit has covered various aspects but we would like the Principal Secretary to file an additional



affidavit dealing with the problems of urban homeless people in the State of West Bengal. Let the same be filed within a period of two months.

State of Chhattisgarh:

The Joint Director, Urban Administration and Development, Government of Chhattisgarh, has filed an affidavit in which it is mentioned that there are ten cities in the States where the population is more than one lakh and in those cities night shelters have been provided. In view of the above, no further affidavit is required to be filed by the State of Chhattisgarh.

State of Tripura:

The Additional Resident Commissioner has filed an affidavit. In the affidavit, it is mentioned that only Agartala has more than one lakh of population and after proper survey, night shelters would be provided. Let an affidavit in compliance be filed within a period of two months.

State of Maharashtra:

We direct the Chief Secretary of the State of Maharashtra to file a comprehensive report regarding problems of the urban homeless in the State of Maharashtra. Let the same be done within a period of two months.

Place these matters on 21st July, 2010.

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I.A. No.90:

Place this application on 10th May, 2010.

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The term of Central Vigilance Committee appointed on Public Distribution System, which is due to expire on 30<sup>th</sup> June, 2010, is further extended for another period of six months, i.e, upto 31st December, 2010. Place the matters relating to Hon'ble D.P. Wadhwa's Committee Report on 22nd July, 2010.

[ Alka Dudeja ]  
A.R.-cum-P.S.

[ Neeru Bala Vij ]  
Court Master