

WP(C) 196 OF 2001 [NIGHT SHELTER MATTERS]

ITEM NO.201

COURT No.3

SECTION PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

IA Nos. 94 & 96 in
WRIT PETITION (CIVIL) NO(s). 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 IA vide order dated 27.01.2010)

[REGARDING STATES OF MAHARASHTRA, ASSAM, PUNJAB, HARYANA
UTTARAKHAND, CHHATTISGARH, GUJARAT, NAGALAND, GOA, TRIPURA,
SIKKIM, JAMMU & KASHMIR AND KERALA]

WITH

IA NO. 82/2008 in WP (C) No. 196/2001

[PEOPLE'S UNION FOR CIVIL LIBERTIES V. UNION OF INDIA & ORS.]

Date:09/01/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI

HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.

Ms. Amey Shukla, Ad.

Ms. Jyoti Mendiratta, Adv.

Mr. Naushad Ahmad Khan, Adv.

Mr. Jaward Hussain Khan, Adv.

Mr. R.C. Kaushik, Adv.

For Respondent(s)

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For FCI Ms. Indra Sawhney, Adv.

For MCD Mr. Sanjiv Sen, Adv.

Mr. Ujjal Banerjee, Adv.

Mr. P. Parmeswaran, Adv.

For NDMC Mr. Sanjiv Sen, Adv.

Mr. Ujjal Banerjee, Adv.

Mr. Prashant Kumar, Adv.

For DDA Mr. Vishnu B. Saharya, Adv.
For M/s. Saharya & Co., Adv.

FOR THE STATES OF

Andhra Pradesh Ms. D. Mahesh Babu, Adv.
Mr. Ramesh Allanki, Adv.
Ms. Savita Dhanda, Adv.
Mr. Amit K. Nain, Adv.

Arunachal Pradesh Mr. Anil Shrivastav, Adv.
Mr. Rituraj Biswas, Adv.

Assam Mr. Navnit Kumar, Adv.
Ms. Deepika Ghotowar, Adv.
For M/s. Corporate Law Group, Adv.

Bihar Mr. Gopal Singh, Adv.
Mr. Rituraj Biswas, Adv.
Mr. Manish Kumar, Adv.
Mr. Chandan Kumar, Adv.

Chhatisgarh Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

Goa Ms. A. Subhashini, Adv.

Gujarat Ms. Hemantika Wahj, Adv.
Mr. Rojalin Pradhan, Adv.
Ms. Suveni Banerjee, Adv.

Haryana Mr. Tarjit Singh, Adv.
 Mr. Vikas Sharma,
 Mr. Kamal Mohan Gupta, Adv.

Himachal Pradesh Mr. Naresh Kumar Sharma, Adv.

Jammu & Kashmir Ms. Astha Sharma, Adv.

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Mr. Sunil Fernandes, Adv.
Mr. Krishnan Adhikary, Adv.

Jharkhand Mr. Gopal Prasad, Adv.

Karnataka Mr V.N. Raghupathy, Adv.

Kerala Ms. Bina Madhavan, Adv.

Madhya Pradesh Mr. Vikas Upadhyay, Adv.
Mr. B.S. Banthia, Adv.

Maharashtra Mr. Sanjay V. Kharde, Adv.
Ms. Asha G. Nair, Adv.

Manipur Mr. Khwairkham Nobin Singh, Adv.
Mr. Sapan Biswajit Meitei, Adv.

Meghalaya Mr. Ranjan Mukherjee, Adv.
Mr. S. Bhowmick, Adv.
Mr. S.C. Ghosh, Adv.

Mizoram Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.
Mr. Pragyan P. Sharma, Adv.
Mr. Rupesh Gupta, Adv.
Ms. Mandakini Sharma, Adv.
Mr. P.V. Yogeswaran, Adv.

Mr. Gautam Dhamija, Adv.

Nagaland

Mr. Edward Belho, Adv.

Mr. C.M. Kennedy, Adv.

Ms. K. Enatoli Sema, Adv.

Mr. Balaji Srinivasan, Adv.

N.C.T. of Delhi

Mr. Mohan Parsaran, ASG.

Mr. T.S. Doabia, Sr. Adv.

Ms. Sunita Sharma, Adv.

Ms. Sushma Suri, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. D.S. Mahra, Adv.

Mr. S.S. Rawat, Adv.

Mr. S. Sachidanand, Adv.

Mr. B.V. Balaram Das, Adv.

Mr. D.L. Chidanand, Adv.

Orissa

Mr. Suresh Chandra Tripathy, Adv.

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Punjab Mr. Kuldip Singh, Adv.
 Mr. R.K. Pandey, Adv.
 Mr. H.S. Sandhu, Adv.
 Mr. Mohit Mudgil, Adv.

Rajasthan Mr. Irshad Ahmed, Adv.
 Mr. Abhinav Ramakrishna, Adv.
 Mr. Devanshu K Devesh, Adv.

Sikkim Ms. Aruna Mathur, Adv.
 Mr. Yusuf Khan, Adv.
 Mr. Kaustabh Sinha, Adv.
 For M./s. Arputham, Aruna & Co., Adv.

Tamil Nadu Mr. S. Guru Krishnakumar, AAG.
 Mr. B. Balaji, Adv.
 Mr. A. Prasanna Venkat, Adv.

Tripura Mr. Gopal Singh, Adv.
 Mr. Rituraj Biswas, Adv.

Uttarakhand Ms. Rachna Srivastava, Adv.
 Ms. Ranchi Daga, Adv.

Uttar Pradesh Mr. R.K. Gupta, Adv.
 Mr. Rajeev Dubey, Adv.

Mr. Kamlendra Mishra, Adv.

West Bengal Mr. Soumitra G. Chaudhuri, Adv.
Mr. Abhijit Sengupta, Adv.
Mr. B.P. Yadav, Adv.
Mr. Anima Kujur, Adv.

FOR THE UNION TERRITORIES

Andaman & Nicobar Mr. Rituraj Biswas, Adv.
Mr. D.S. Mahra, Adv.

Chandigarh Mr. Manpreet Singh Doabia, Adv.
Ms. Sudarshan Singh Rawat, Adv.

Dadra & Nagar Haveli Mr. S.W.A. Qadri, Adv.
Mr. Rituraj Biswas, Adv.
Mr. D.S. Mahra, Adv.

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Daman & Diu Mr. S.W.A. Qadri, Adv.
Mr. Rituraj Biswas, Adv.
Mr. D.S. Mahra, Adv.

Lakshadweep Mr. S.W.A. Qadri, Adv.
Mr. Rituraj Biswas, Adv.
Mr. D.S. Mahra, Adv.

Puduchery Mr. V.G. Pragasam, Adv.
Mr. S.J. Aristotle, Adv.

Mr. Prabu Ramasubramanian, Adv.

Mr. T.V. George, Adv. (NP)

Mr. Aruneshwar Gupta, Adv. (NP)

Mr. Anil K. Jha, Adv. (NP)

Mr. Anis Suhrawardy, Adv. (NP)

Ms. Kamini Jaiswal, Adv. (NP)

Mr. Pradeep Misra, Adv. (NP)

Mr. Tara Chandra Sharma, Adv. (NP)

Mr. K.V. Mohan, Adv.(NP)

Ms. D. Bharathi Reddy, Adv. (NP)

Mr. Shivaji M. Jadhav, Adv. (NP)

Mr. Anil K. Jha, Adv.(NP)

Mr. Chander Shekhar Ashri, Adv.(NP)

Mr. Ramesh Babu M.R., Adv. (NP)

Mr. Sanjay R. Hegde, Adv. (NP)

Mr. Vishwajit Singh, Adv. (NP)

Mr. Rajesh Srivastava, Adv. (NP)

Mr. Jatinder Kumar Bhatia, Adv. (NP)

Mr. Ravi Prakash Mehrotra, Adv. (NP)

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Ms. Sumita Hazarika, Adv. (NP)

Mr. Ravindra Keshavrao Adsure, Adv.(NP)

Mr. S. Thananjayan, Adv.(NP)

Mr. Vikas Mehta, Adv.(NP)

Ms. Anjana Chandrashekar, Adv.(NP)

Mr. Anuvrat Sharma, Adv.(NP)

Mr. Chandra Bhushan Prasad, Adv.(NP)

Mr. G. Venkateswara Rao Anumolu, Adv.(NP)

UPON hearing counsel the Court made the following

O R D E R

We have heard the learned counsel appearing for the parties.

In pursuance to the directions of this Court, affidavits have been filed by various States and a Status Report has been filed by the Court Commissioner.

The States of Gujarat, Andhra Pradesh, Arunachal Pradesh, Chattisgarh, Goa, Jammu and Kashmir, Kerala, Meghalaya, Mizoram, Nagaland, Tripura, Maharashtra, Punjab, Union Territories of Andaman & Nicobar, Puducherry, Chandigarh, Lakshadweep and Dadra & Nagar Haveli have not filed the affidavits as directed.

JAMMU AND KASHMIR

The learned counsel for the State of Jammu and Kashmir states that there are no homeless people in the State but still a survey is being conducted and that they would report to this Court after the survey is completed.

MAHARASHTRA

We direct the Chief Secretary of the State to file an affidavit indicating as to how many permanent/ temporary night shelters have been erected and how many of them are under construction and what basic facilities and amenities have been provided in these shelters.

NCT OF DELHI

Learned Additional Solicitor General for the State of National Capital Territory of Delhi has handed over Status Note on behalf of the State. It is mentioned therein that 64 permanent night shelters with an intake capacity of 9085 persons and 66 temporary night shelters with an intake of 3300 have been made functional till date. The total capacity of these night shelters is 12,385.

It is also mentioned that a Joint Apex Advisory Committee has also been formed with the mandate as under:

- (i) effective utilization of existing night shelters (both permanent and temporary);
- (ii) establishment of additional night shelters, as and when required;
- (iii) to provide necessary infrastructure in the night shelters for humane living of the homeless people of Delhi;
- (iv) the Committee will further constitute a Core Committee to look into day to management and to sort out the problems being faced by the homeless people of Delhi; and
- (v) DUSIB will co-ordinate with all stake holders for implementation of various welfare schemes of the homeless people.

If the mandate of the Apex Committee is truly carried out, it would go a long way in solving the problems of homeless people. We direct the State to ensure that at least the core minimum facilities in the night shelters such as potable drinking water, toilet facilities for both men and women, bedding, heating and basic medical facilities are provided without loss of time. We also direct the representatives of the petitioner- Organisation, the Court Commissioner and DUSIB and other

representatives to visit these shelters and submit a report. Let the report be filed on or before Friday the 13th January, 2012 with an advance copy to all the parties.

DIRECTIONS WITH REGARD TO NEWSPAPER CLIPPINGS

We have handed over to the learned Additional Solicitor General some newspaper clippings from the leading national newspaper depicting the plight of patients and their relatives who are compelled to spend nights in this severe and biting winter without roof in the All India Institute of Medical Sciences (AIIMS). The conditions may not be different in other hospitals and other places. Mr. Parasaran, learned Additional Solicitor General, has assured that all whatever is possible would be done without loss of any time to ensure that no life is lost in this severe winter. Wherever shelters are required, at least temporary shelters would be erected in the campus or in the vicinity in coordination with the concerned authorities. This serious problem needs to be addressed forthwith.

We direct the Delhi Government to give adequate publicity both in print and electronic media about the existence of permanent and temporary night shelters so that the needy people can have some respite and save their lives. This is absolutely imperative in consonance with the right to life enshrined under Article 21 of the Constitution of India.

According to the Status Report filed by the Court Commissioner and the affidavits filed by the various States the status is as under:

UTTARAKHAND

As per the Status Report, it shall have 12 night shelters 6 in Dehradun, 3 in Haridwar, 3 in Nainital, whereas presently only one night shelter is functional in Dehradun, 2 in Haridwar and there is no night shelter in Nainital and other places. According to the petitioner, in compliance of the order of this Court, the Chief Secretary of the State has filed an affidavit in which it is mentioned that apart from Dehradun and Haridwar night shelters have also been erected in Haldwani, Rudrapur, Kashipur and Roorkee. We direct the State to erect necessary shelter homes in accordance with the norms without further loss of time.

UTTAR PRADESH

It is indicated in the affidavit filed by the Chief Secretary of the State that 139 is the total permanent night shelters which has been set forth as target and out of it they have constructed 80 permanent night shelters which are functional and 76 temporary night shelters are also functional. Both shelters put together have a capacity of 6729. 67 night shelters are under construction which would augment the capacity by 4412. It is also mentioned in the affidavit that all the operational night shelters, whether permanent or temporary are having the facilities of toilets, bathrooms, beddings, emergency medical facilities, electricity and drinking water.

Learned counsel for the petitioner would be at liberty to visit these centres along with the officials of the State of U.P. and submit a comprehensive report.

BIHAR

The Chief Secretary of the State has filed a supplementary affidavit according to which 46 permanent night shelters and 23 temporary night shelters are in existence. In the Annexures filed, it is indicated that some basic facilities have been provided. Mr. Gopal Singh, learned counsel for the State has brought to our notice some advertisements which had been issued regarding the existence and location of night shelter homes.

CHHATTISGARH

According to the Status Report, this State has only 7 night shelters whereas according to the norms they should have 13 night shelters. Even the functional shelters lack basic facilities.

GUJARAT

The State has not filed any affidavit but according to the Status Report filed by the petitioner this State requires 112 permanent night shelters whereas it has only 10 night shelters which are operational. 88 night shelters are under construction.

According to the Status Report, even basic facilities have not been provided in the night shelters.

JHARKHAND

In the reply affidavit filed by the State of Jharkhand, it is mentioned that the Government has decided to construct 10 permanent night shelters in the city of Ranchi and at present 6 night shelters have already been constructed and are fully operational and one is under construction in Dhanbad.

As far as the city of Jamshedpur is concerned, efforts are being made to convert all the existing community centres into 11 permanent night shelters.

MADHYA PRADESH

According to the norms, the State requires 57 night shelters but the State has decided to construct 100 night shelters. 32 night shelters have been constructed and 68 are under construction. The State has decided to construct night shelters even in towns having population more than one lakh. According to Annexure A, 62 temporary night shelters have also been erected and basic amenities such as bed, blanket, electricity, drinking water, toilet facilities, entertainment and newspapers are already in place. We direct the State to ensure that apart from these facilities, they must provide adequate bedding and heating facilities.

ORISSA

The Chief Secretary of the State has filed an affidavit wherein it is mentioned that at present 5 night shelters 2 in Bhubaneswar, 2 in Cuttack and 1 in Puri are functioning temporarily. No permanent night shelters have been erected as on date.

We would like the Standing Counsel for the State to take up this matter with the Chief Minister to ensure that permanent night shelters are erected according to the norms fixed by this Court.

RAJASTHAN

There are 265 shelters for homeless people in the State out of which 180 shelters are permanent structures and remaining 85 are temporary structures and instructions have been given to provide basic facilities such as drinking water, beds, toilets for both men and women also providing wood/coal for the purpose of heating in cold winter. It has also been directed that old and infirm should be provided with necessary medicines and with some help from social-welfare organisations.

TAMIL NADU

As per the affidavit filed by the Chief Secretary of the State there are 31 permanent night shelters out of 116. At present around 27,000 tenements are being constructed by the Tamil Nadu Slum Clearance Board to accommodate the slum dwellers on the bank of canal, pavement dwellers, Urban Homeless Poor. This will go a long way in solving the problems of the homeless in the State.

We have received by urgent post a representation from the Pavement Dwellers' Rights Association, Tamil Nadu which is taken on record. A copy of the same

be given to the learned counsel for the petitioner as well as the State of Tamil Nadu. Reply be filed on or before 14th January, 2012.

ASSAM

According to the affidavit filed by the Chief Secretary, five night shelters are in operation in the city of Guwahati. Details of the facilities which have been provided have been given in the affidavit.

We direct the Chief Secretary to file a comprehensive affidavit giving details of night shelters in other places and basic amenities provided.

ANDHRA PRADESH

According to the Report of the Court Commissioner, out of 95 permanent night shelters only 5 night shelters have been constructed and no affidavit has been filed by the State.

KARNATAKA

Mr. V.N. Raghupathy, learned counsel for the State of Karnataka has handed over an affidavit sworn by the Chief Secretary of the State wherein it is mentioned that 20 temporary night shelters have been set up in all the 8 City Corporations viz. Bangalore, Mysore, Hubli-Dharwad, Mangalore, Gulbarga, Belgaum,

Davanagere and Bellary and basic facilities have also been provided. According to the norms, the State should have 79 permanent night shelters. According to the petitioner, there is hardly any occupancy in these shelters because of restriction of entry which has been imposed by the State and they also lack in basic amenities. Learned counsel for the State undertakes to file further affidavit.

FURTHER DIRECTIONS

We direct the concerned District Magistrates/ Collectors to collect information about the homeless in their districts and submit the same before the Chief Secretaries of the concerned States who shall in turn file affidavits before this Court.

All the Chief Secretaries AND Administrators of the Union Territories of the aforesaid States and Union Territories (also the States and Union Territories who have not filed their affidavits as on date) are directed to file the affidavits on or before 14th January, 2012 indicating and giving details as to the number of permanent and temporary night shelters in existence, provisions of basic amenities such as potable drinking water, toilet facilities for men and women, bedding and heating facilities and some basic medical facilities. The affidavits shall also indicate the occupancy of the night shelters functioning in the States with an advance copy to the learned counsel for the petitioner.

We further direct all the States and Union Territories to give adequate publicity of the existence of night shelters in their States both through print and electronic media so that maximum number of needy and homeless people could avail the facilities.

The matter shall be taken up on Monday, the 16th January, 2012 at 2:00

P.M.

[KALYANI GUPTA]

COURT MASTER

[INDU SATIJA]

COURT MASTER