

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

I.A. NO.94

IN

WRIT PETITION (C) NO.196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions)

With I.A. No.96 in W.P. (C) No.196 of 2001 [Comprehensive report submitted by Special Commissioner. Supreme Court direction to treat as I.A. vide order dated 27.01.2010]

Date: 10/02/2010 These Matters were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE DALVEER BHANDARI

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Ms. Divya Jyoti, Adv.
Ms. Jyoti Mendiratta, Adv.

For Respondent(s) Mr. Jana Kalyan Das, Adv.
Ms. Hemantika Wahni, Adv.
Mr. Somnath Padhan, 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.
for M/s. Corporate Law Group, Adv.
Ms. Rachana Srivastava, Adv.
Mr. T.V. George, Adv.
Ms. Kamini Jaiswal, Adv.
Mr. P.P. Tripathy, ASG
Mr. Khwairakpam Nobin Singh, Adv.
Mr. Girish Agrawal, Adv.
Mr. Ranjan Mukherjee, Adv.
Mr. V.G. Pragasaam, Adv.
Mr. S.J. Aristotle, Adv.
Mr. Prabu Ramasubramanian, Adv.

Mr. Jatinder Kumar Bhatia,Adv.
Mr. Pramod Swaup,Sr.Adv.
Mr. S.K. Dwivedi,AAG
Mr. R.K. Gupta,Adv.
Mr. Rajeev Dubey,Adv.
Ms. Vandana Mishra,Adv.
Mr. Anil Kumar Jha,Adv.
Mr. Kamendra Mishra,Adv.
Mr. Ravi Prakash Mehrotra,Adv.
Mr. Gopal Singh,Adv.
Mr. Manish Kumar,Adv.
Mr. Rituraj Biswas,Adv.
Mr. Tara Chandra Sharma,Adv.
Ms. Neelam Sahrma,Adv.
Mr. Kumar Rajesh Singh,Adv.
Ms. Prema Kumar Singh,Adv.
Mr. B.B. Singh,Adv.
Mr. Anil Shrivastav,Adv.
Mr. Gopal Prasad,Adv.
Mr. G.V. Chandrashekhar,Adv.
Mr. N.K. Verma,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.
Mr. Manjit Singh,AAG
Mr. Kamal Mohan Gupta,Adv.
Mr. Abhinav Mukherjee,Adv.
Mr. Ajay Pal,Adv.
for Mr. Kuldip Singh,Adv.
Ms. A. Subhashini,Adv.
Mr. Ravindra Keshavrao Adsure,Adv.
Mr. Prashant Kumar,Adv.
Mr. Vishwajit Singh,Adv.
Mr. Sanjay Kharde,Adv.
Ms. Asha G. Nair,Adv.
Mr. Mohan Parasaran,ASG.
Mr. Vivek Tankha,ASG
Mr. T.S. Doabia,Sr.Adv.
Mr. D.L. Chidananda,Adv.
Mr. S. Wasim A. Qadri,Adv.
Ms. Sunita Sharma,Adv.
Ms. Saima Bakshi,Adv.
Mr. Ron Bastian,Adv.
Mr. D.S. Mehra,Adv.
Ms. Varuna Bhandari Gugnani,Adv.
Ms. Sushma Suri,Adv.
Ms. Anil Katiyar,Adv.
Mr. K.V. Mohan,Adv.
Mr. Rajesh Srivastava,Adv.
Mr. Anuvrat Sharma,Adv.
Mr. Pragyan P. Sharma,Adv.
Mr. P.V. Yogeswaran,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. B.S. Banthia,Adv.
Mr. G. Prakash,Adv.
Mr. Anil Kumar Jha,Adv.
Mr. D.K. Sinha,Adv.
Mr. Vikas Mehta,Adv.
Mr. Kamendra Mishra,Adv.
Mr. Naresh K. Sharma,Adv.
Mr. Anis Suhrawardy,Adv.
Mr. S.M. Jadhav,Adv.
Mr. Balaji Srinivasan,Adv.
Mr. B.D. Vivek,Adv.
Ms. Madhusmita Bora,Adv.
Mr. Edward Belho,Adv.
Mr. Enatoli Sema,Adv.
Mr. Rituraj Biswas,Adv.
Mr. C.M.K. Kennedy,Adv.
Mr. Balaji Srinivasan,Adv.
Mr. Mohan Parasaran,ASG
Mr. T. Harish Kumar,Adv.
Mr. Prasanth P.,Adv.
Mr. V. Vasudevan,Adv.
Mr. Sanjiv Sen,Adv.
Ms. Anuja Chopra,Adv.
Mr. P. Parmeswaran,Adv.
Mr. V.B. Saharya,Adv.
for M/s. Saharya and Co.,Advs.

Ms. Aruna Mathur,Adv.
Mr. Vimal Dubey,Adv.
Mr. Amarjeet Singh Girsra,Adv.

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

In pursuance of the directions of this Court for providing shelter to shelterless people in Delhi, Mr. Mohan Parasaran, learned Additional Solicitor General appearing for NCT of Delhi has submitted a status report. In the Status Report it is mentioned that pursuant to the directions of this Court passed on 20.1.2010, an urgent meeting was called by the Chief Secretary, Government of NCT of Delhi to examine the problem of providing adequate shelter in the light of the prevailing cold weather conditions in the capital. The significant decisions taken in the meeting convened by the Chief Secretary, NCT of Delhi are as follows:

(1) It was decided to double the existing number of accommodations in the night shelters through the Municipal Corporation of Delhi from the existing 5,000 persons to a capacity of 10,000 persons.
(2) In the case of Revenue Department of Delhi Government, the increase was by 500 persons. It is also mentioned in the Status Report that subsequent to the directions passed by this Court, the Revenue Department of Delhi Government pitched in 7 more night shelters taking the total number of night shelters to 24. Prior to that, 17 night shelters in temporary tents were operational at 17 places in Delhi since December, 2009. Those night shelters are at: Fountain, Mori Gate, Pul Mithai, Jamuna Bazar, Kudaisea Ghat, Shahdara, Nizamuddin, Jhandewalan, Idgah, Meena Bazar Jamah Masjid, deli Gate, Anand Parvat, Near Rachna Cinema (Ratanpuri Chowk), Rajinder Nagar, Himmat Garh Chowk (Asaf Ali Road), Kalkaji Flyover, Okhla Flyover, Sarita Vihar. Seven new additional night shelters pursuant to the direction of this

Courts were located at: Raghuvir Nagar, Sarai Kale Khan, Azadpur Fruit Mandi, Kamla Market, Mata Sundari Road, Nigambodh Ghat and Shahdara.

In the Status Report, it is also mentioned that identification of sites as well as the determination of capacity in each shelter was done in active consultation with the NGOs, namely, Ashrey Adhikar Abhiyan and Indo Global Social Service Society (IGSSS). They were closely associated in the entire process of site selection, capacity determination and day-to-day management of the night shelters. Necessary facilities were provided in these night shelters to the homeless. Basic amenities such as blankets, drinking water and mobile toilets were provided. Delhi Jal Board has taken the responsibility of providing potable water. Slum and JJ Department, MCD, has taken the responsibility of providing mobile toilets and police has provided the security to the inmates of these temporary night shelters. The directorate of Health Services has taken the responsibility of providing facilities for regular health check up of the inmates of temporary night shelters. BSES/NDPL has taken the responsibility of providing electricity connections in the temporary night shelters. The Government is also giving instructions to all the Revenue Deputy Commissioners concerned to associate themselves for coordinating the entire exercise with various Departments/agencies so as to effectively monitor the functioning of these tents. The Revenue Headquarters bears the expenditure for blankets, electricity connections etc.

In pursuance of the directions of this Court, adequate publicity was made in the electronic media and print media so that the homeless people can get information about the shelter homes. In addition to Delhi Government, Municipal Corporation of Delhi is providing night shelters in permanent buildings and the same is managed through its Slum & JJ Department in coordination with the NGOs. Before the directions of this Court, the number of night shelters in permanent buildings was 27. After the directions of this Court, the capacity has increased by 37 w.e.f. 21.1.2010, taking the total number of night shelters to 64. This has resulted in an increase in the capacity from 4165 persons to 8575 persons.

It is also mentioned in the report that the facilities that are being provided in the site of night shelters include electricity, water arrangements, toilet facilities, sanitation arrangement, bedding arrangement in the form of blankets, mattresses and jute mats have been provided and in respect of new night shelters, procurement has been made by receipt of 2000 blankets, 2000 mattresses and 1000 jute mats.

The Status Report also indicates that for long term perspective, the Master Plan of Delhi, 2021 provides for one night shelter for a population of one lakh. The Delhi Development Authority has undertaken to identify and allot sites free of costs or on concessional rates to Government of NCT of Delhi in view of this being a humanitarian work.

Mr. Vishnu B. Saharya, learned counsel for the Delhi Development Authority has filed an affidavit today which is sworn to by Mr. Ashok Kumar, Commissioner, Planning, Delhi Development Authority, stating that they have extended their support in this project. The provision of night shelters is envisaged to cater to the shelterless, which are proposed to be provided near the railway terminals, bus terminals, wholesale/retail markets, freight complexes etc. as per requirements and should be identified keeping in view the major work centers. It is also mentioned therein that special provisions should be made for the homeless women and children including disabled and orphans and old people. In addition multi-purpose use of the existing facility buildings may be allowed for night shelter purpose. Provision should also be made for converting existing buildings, wherever available with suitable modifications into night shelters.

On the basis of 2001 Census of houseless population. At least 25 sites were to be earmarked in Delhi for night shelters. In order to make provision of this facility financially sustainable of the local body, innovative concepts such as integrated complex with commercial space on the ground floor and night shelter on the first floor should be explored. The guidelines and incentive package should be designed by the concerned local agency in collaboration with the Government of NCT of Delhi with a view to develop self-sustaining night shelters. The houseless population of the year 2001 was 24966 persons out of a total population of 138 lakh. As per development norms of MPD-2021, at least 550 to 600 shelterless can be accommodated on a 1000 sqm. Plot size on long term basis. Therefore, on every 5 lakh of total population one plot of night shelter will be required.

In the said affidavit it is also mentioned that the Delhi Development Authority being a statutory planning body for long term perspective is duty bound to plan and cater to the public needs for providing night shelter and identified available places providing night shelter for benefit of affected people. Notices

were issued to all the States for providing similar facilities of one night shelter for a population of one lakh in the metropolitan towns. The State of M.P. has filed its affidavit whereas the State of Tamil Nadu and Manipur undertake to file their affidavits during the course of the day. All other States may file their affidavits within two weeks from today, by serving an advance copy thereof upon the Union of India and the petitioner herein. We appreciate the positive response both from NCT of Delhi and the Delhi Development Authority in solving this human problem.

Learned Additional Solicitor General submits that the Government undertakes to provide proper guidelines to monitor these night shelters and these guidelines would be prepared within a period of four weeks from today. While preparing the said guidelines, the NGOs may also be consulted. Mrs. Jayshree Raghuraman, Secretary-cum-Commissioner of the Food, Supplies and Consumer Affairs Department, Government of National Capital Territory of Delhi, has filed an affidavit in response to the demand of AAY to the desiring people has not been issued. In this affidavit it is stated that Food and Supplies Department issued an order on 9th November, 2009, to the Director of SAMYA with a copy to all Assistant Commissioners and FSO's for compliance. By this order, 14,850 persons out of total number of 15,000 presently identified homeless who are eligible to get the cards, were entitled to 10 litres of Kerosene Oil and 15 Kgs of Specified Food Articles at Below Poverty Line [for short, 'BPL'] rates, i.e., 10 Kgs Wheat and 5 Kgs Rice or vice-a-versa as per their food habits. The cards are issued temporarily for a period of three months and meant only for the purchase of ration and shall not be used as document of identification. These cards would be issued to 14,850 eligible persons subject to bio-metric identification. It is further mentioned in the affidavit that the period of validity of homeless cards identified by NGO, SAMYA has now been extended to six months in the place of three months validity to avoid expenses and inconvenience. The homeless card would be extended automatically after six months by a simple procedure of obtaining the bio-metric identification again of the homeless person at the Circle office. No further survey would be required. The provisions of the Control Order, 1981 provides for continuous issue/renewal of the card. The Cabinet decision was taken in March, 2008, and accordingly the Government of NCT of Delhi launched a new programme facilitating the delivery of welfare entitlements by a single window system under the name of 'Samajik Suvidha Sangam'(for short, 'SSS') or Mission Convergence. The Mission Convergence or SSS is working through Samajik Suvidha Kendras by which the facilities provided by nine Departments of the Government will be delivered through a single window scheme. Fresh applications for BPL and AAY cards will be received, processed and delivered from these Kendras. The Deputy Commissioners of the nine Districts have been appointed as statutory authorities and have been declared as Additional Commissioners (Food and Supplies) under the Delhi Specified Food Articles (Regulations and Distributions) Order, 1981. Further, financial powers are being given to the Deputy Commissioners of the nine Districts to function independently and it issue ration cards of all vulnerable and most vulnerable categories. The Mission Convergence data base of 3.5 lakhs vulnerable households and 2.5 lakh most vulnerable households will be used for issue of fresh BPL/AAY cards as per eligibility norms. In this regard, Mission Convergence/SSS has made work flow chart under which the Samajik Suvidha Kendras will process the application. NGOs will carry out verification. Statutory and administrative powers have been delegated to the Deputy Commissioners of the nine Districts, who will carry out checks as deemed necessary and issue ration cards. They will supervise the functioning of the district Kendras and then issue necessary orders for providing ration cards in their respective Districts.

The Samajik Suvidha Sangam had taken a decision to identify all households of Delhi under two categories; one, vulnerable households, and second, most vulnerable households. The SSS has categorized the vulnerable households to include construction labour, rag-pickers, porters and hamaals, casual daily labour, wage labour, street vendor/hawkers, cycle rickshaw drivers, casual domestic workers, workers in small household enterprises, and workers in households industries. The most vulnerable households include old people, disabled people, single women, women headed households, single unprotected children, child headed households, people with debilitating illness

The SSS has already conducted two surveys in re-settlement and rural pockets for identifying and vulnerable households and the most vulnerable households. It has covered 5.39 lakh families of which 2.05 lakh households are already covered under the PDS system and are having ration cards. 3.34 lakhs households of the surveyed families appear to be without ration cards. The survey of entire Delhi is still on. It is stated that on the instruction of Government of India on the issue of ration to the poor are based

on income categories whereas the vulnerability criteria of the Government of NCT of Delhi, is based on proxy indicators of poverty. The two have still to be reconciled. Meanwhile, the Mission Convergence has initiated a new survey of homeless with the view to get bio-metric captured to get a firm list of homeless people. In the affidavit it is also mentioned that NGO, SAMYA had conducted survey and identified 15000 homeless beneficiaries of which 14,850 which have been approved for giving of 'Homeless Cards'. These cards are being prepared zone wise and a 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 (SFA) and Kerosene Oil allocated from the linked Fair Price Shop (FPS)/Kerosene Oil Depot (KOD).

Mr. Gonsalves, learned counsel for the petitioner, submitted that the State Government has tried to deal with the problems of the poor homeless in right earnest, but the Government ought to have issued AAY Cards in which the quantity of food entitlement is larger and is given at a lower rate.

Mr. Parasaran, learned Additional Solicitor General, appearing for the NCT of Delhi will take instructions. The Commissioner, Shri N.C. Saxena and Special Commissioner of the Supreme Court, Shri Harsh Mander has submitted a report. The learned Additional Solicitor General may take instructions and file reply, if any, within two weeks from today.

Mr. Gonsalves, learned counsel for the petitioner, has also brought to our notice that Government of Delhi initiated programme of Community Kitchens [Aapki Rasoi] which serves a nutritious balanced meal for the homeless people at about 13 distribution centres across the city. According to Mr. Gonsalves, it is a laudible initiative but it caters need to only five per cent of the homeless. Mr. Parasaran, learned Additional Solicitor General, submit that he would take instructions and file an additional affidavit to this effect.

Mr. Gonsalves, learned counsel for the petitioner also pointed out the problem of street children. According to him, street children suffer from many denials and vulnerabilities. These include, deprivation of responsible adult protection; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions. They have inadequate nutrition from begging and according to him that number of such children in Delhi alone is over 50,000. He submitted that Delhi Government has excellent scheme for providing them shelters and rehabilitation centres but that cover very small percentage of these children. There is urgent need for providing residential homes for street children, especially those without any adult protection so that their food, health and education can be taken care of. He has submitted that Delhi Government has already begun implementing a pilot project, four residential schools in Delhi and this project has been successfully implemented for the last three years. According to him, the requirement is about 300 such residential schools in Delhi. The similar problem exists all over and according to him there should be one high quality residential school on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population.

Mr. Parasaran, will take instructions and file an affidavit within two weeks from today. Since other States have yet to file affidavits, we also direct them to file affidavits within two weeks regarding the problems of street children in their respective States. Place the matter on 16th March, 2010.

[A.S. Bisht]
Court Master

[Alka Dudeja]
Court Master

[Neeru Bala Vij]
Court Master