

ITEM NO.69
(NIGHT SHELTER MATTERS)

COURT NO.3

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)

V E R S U S

UNION OF INDIA & ORS.

Respondent(s)

(For directions and Report submitted by Commissioner and Special Commissioner of Supreme Court directed to be treated as I.A. vide order dated 27.01.2010)

W I T H

I.A. No.82/2008 in WRIT PETITION (CIVIL) NO. 196 OF 2001

(For directions)

I.A. Nos.113 & 115 in WRIT PETITION (CIVIL) NO. 196 OF 2001

(For extension of time and exemption from filing O.T.)

Date:12/12/2011 These Petitions were called on for hearing today.

C O R A M :

HON'BLE MR. JUSTICE DALVEER BHANDARI

HON'BLE MR. JUSTICE DIPAK MISRA

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

Mr. Anuj Castleino,Adv.

Ms. Jyoti Mendiratta,Adv.

For Respondent(s) Mr. Mohan Parasaran,ASG

Mr. D.L. Chidananda,Adv.

Ms. Sunita Sharma,Adv.

Mr. A. Deb Kumar,Adv.

Ms. Sushma Suri,Adv.

Ms. Anil Katiyar,Adv.

Mr. Y. Lokesh,Adv.

Mr. D.S. Mahra,Adv.

For DDA Mr. Vishnu B. Saharya,Adv.

For M/s. Saharya & Co.,Adv.

Mr. Jana Kalyan Das,Adv.

Mr. Ranjan Mukherjee,Adv.

Mr. S. Bhowmick,Adv.

Mr. S.C. Ghosh,Adv.

Ms. Hemantika Wahi,Adv.

Ms. Suveni Banerjee,Adv.

Mr. D.K. Goswami,Adv.

Mr. Shirish Kr. Mishra,Adv.

Ms. Indra Sawhney,Adv.

Mr. Vikas Bansal,Adv.
Ms. Vibha Datta Makhija,Adv.

Dr. Manish Singhvi,AAG,Raj.
Mr. Abhinav Ramkrishna,Adv.
Mr. Milind Kumar,Adv.

Mr. A. Mariarputham,Adv.Gen,
Mrs. Aruna Mathur,Adv.
Mr. Yusuf Khan,Adv.
For M/s. Arputham Aruna & Co.,Advs.

Mr. Riku Sarma,Adv.
Mr. Navnit Kumar,Adv.
for M/s. Corporate Law Group,Advs.

Mr. Rahul Verma,Adv.
Ms. Rachana Srivastava,Adv.

Mr. Manoj Saxena,Adv.
Mr. Mayank Nigam,Adv.
Mr. T.V. George,Adv.

Ms. Kamini Jaiswal,Adv.(N.P.)

Mr. Shish Pal Laler,Adv.

Mr. Khwairakpam Nobin Singh,Adv.
Mr. Sapam Biswajit Meitei,Adv.
Mr. Jatinder Kumar Bhatia,Adv.

Mr. R. Sundaravaradhan,Sr.Adv.
Mr. V.G. Pragasam,Adv.
Mr. S.J. Aristotle,Adv.
Mr. Prabu Ramasubramanian,Adv.
Mr. Jagjit Singh Chhabra,Adv.

Mr. G.V. Rao,Adv.

Mr. Ravi Prakash Mehrotra,Adv.

Mr. Gopal Singh,Adv.

Mr. Soumitra G. Chaudhuri,Adv.

Mr. Abhijit Sengupta,Adv.

Mr. B.P. Yadav,Adv.

Mrs. Sampa Sengupta,Adv.

Ms. Anima Kujur,Adv.

Mr. Manpreet Singh Doabia,Adv.

Mr. Sudarshan Singh Rawat,Adv.

Mr. Manish Pitale,Adv.

Mr. Wasi Haider,Adv.

For Mr. C.S. Ashri,Adv.

Mr. Tara Chandra Sharma,Adv.

Mr. Anil Shrivastav,Adv.

Mr. Ritu Raj Biswas,Adv.

Mr. Edward Belho,Adv.
Mr. K. Enatoli Sema,Adv.
Mr. Raka Kieno Mor,Adv.
for Mr. P.V. Yogeswaran,Adv.

Mr. T. Harish Kumar,Adv.
Mr. V. Vasudevan,Adv.

Mr. Sanjiv Sen,Adv.
Mr. P. Parmeswaran,Adv.
Mr. Ujjal Banerjee,Adv.

Mr. Atul Jha,Adv.
Mr. Sandeep 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. Sunil Fernandes,Adv.
Mr. Suhaas R. Joshi,Adv.
Ms. Astha Sharma,Adv.

Mr. Ramesh Babu M.R.,Adv.

Mr. D. Mahesh Babu,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. Vikas Sharma,Adv.

For Mr. Kamal Mohan Gupta,Adv.

Ms. A. Subhashini,Adv.

Mr. Gopal Singh,Adv.

Mr. Rituraj Biswas,Adv.

Mr. Kuldip Singh,Adv.

Mr. H.S. Sandhu,Adv.

Mr. Ravindra Keshavrao Adsure,Adv.

Ms. Bina Madhavan,Adv.

Mr. Prashant Kumar,Adv.

Mr. Vishwajit Singh,Adv.

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

Mr. K.V. Mohan,Adv.

Mr. Rajesh Srivastava,Adv.

Mr. S. Thananjayan,Adv.(N.P.)

Mr. Anuvrat Sharma,Adv.

Mr. Pradeep Misra,Adv.

Mr. K.N. Madhusoodhanan,Adv.

Mr. R. Sathish,Adv.

Mr. R.C. Kaushik,Adv.

Mr. Venkateswara Rao Anumolu,Adv.

Mr. Vikas Upadhyay,Adv.

Mr. B.S. Banthia,Adv.

Dr. Aman Hingorani,Adv.

Ms. Priya Hingorani,Adv.

Mr. G. Prakash,Adv.

Mr. Navneet Kumar,Adv.

Mr. Anil Kumar Jha,Adv.

Mr. Vikas Mehta,Adv.

Mr. Pramod Swarup,Sr.Adv.

Mr. Raj Kumar Gupta,Adv.

Mr. Rajiv Dubey,Adv.

Mr. Kamendra Mishra,Adv.

Mr. Anis Suhrawardy,Adv.

Mr. Shivaji M. Jadhav,Adv.

Mr. Suresh Chandra Tripathy,Adv.(N.P.)

Mr. Navin R. Nath,Adv.

UPON hearing counsel the Court made the following

O R D E R

NCT OF DELHI:

The Chief Secretary of the Government of NCT of Delhi has filed an affidavit on 1.11.2011 in which it is mentioned that Delhi Urban Shelter Improvement Board ('DUSIB' for short) is implementing a plan scheme, namely, Construction, Management and Maintenance of Shelters in Delhi, pursuant to which 64 permanent night shelters have been set up in different parts of Delhi for

homeless people. Out of these 64 night shelters, 27 permanent night shelters were set up on existing community halls during the last winter season pursuant to the direction of this Court. It is further mentioned in the affidavit that DUSIB is directly managing the 46 permanent night shelters under the overall supervision of the nodal officer i.e. Superintending Engineer of DUSIB and 18 permanent night shelters are being managed through various NGOs. It is submitted that in addition to the 64 permanent night shelters, 84 temporary night shelters were set up in tents during the last winter season. For running these temporary night shelters, grant-in-aid amount of Rs.70 lakhs was released during 2010-11. It is further submitted that due to the non- occupancy and because of shifting of inmates to permanent night shelters having better facilities, as on date, only 19 temporary night shelters are functional. Temporary night shelters are being operated by NGOs under the supervision of the mother NGO, the St. Stephens Hospital for homeless people.

DUSIB is implementing an approved Plan Scheme namely, "Construction, Management and Maintenance of Shelters" in Delhi for which the funds are being provided annually by Government of NCT of Delhi. An amount of Rs.280 lakhs has been approved for the financial year 2011-12 to the aforementioned scheme, out of which Rs.60 lakhs have been spent as on 30.09.2011.

In the affidavit it is further mentioned that DUSIB has been providing various facilities, like blankets, durries, jute mats, drinking water supply, toilet facilities in all permanent night shelters.

It is also mentioned that in order to create awareness amongst the shelterless people, wide publicity is given in the leading newspapers in English and Hindi and this year also, before the arrival of winter season, wide publicity would be given through advertisements in the leading newspapers by putting up

sign boards at public places, like railway stations, religious places and bus stands etc.

DUSIB has made earnest efforts by requesting Delhi Police to mobilise PCR vans and issue directions to SHOs to shift the persons sleeping on the pavements, under the bridges and public parks etc. to the nearest night shelters of the area to use the shelter facilities.

DUSIB has also requested the health department of the MCD and the Government of NCT of Delhi for providing medical facilities either through deputing doctors to visit the night shelters or by providing mobile health vans.

Mr. Parasaran, learned Additinoal Solicitor General appearing for the NCT of Delhi submits that 35 more temporary night shelters will be created on or before 15th of December, 2011. Mr. Parasaran has assured the Court that the Delhi Government would be providing as many night shelters as would be required in the ensuing winter season and it would be done on priority basis.

Mr. Colin Gonsalves, learned senior counsel appearing for the petitioner submits that out of 64 permanent night shelters, only 42 night shelters are functional and 21 night shelters have been closed and 1 could not be located.

In order to resolve the controversy, we deem it appropriate to direct the Court Commissioner to visit the various night shelters of Delhi along with the officials of DUSIB and submit a report regarding the conditions of the night shelters in Delhi, before the next date of hearing.

RAJASTHAN:

The Chief Secretary to the Government of Rajasthan has filed an affidavit with which a comprehensive chart has been enclosed which has given some information regarding permanent night shelters for the year 2011-12 in the urban areas of the State of Rajasthan. According to the population of the following cities, night shelters to be provided by the State as per the standard norms are as follows:

Jaipur 30

Jodhpur 11

Bikaner 7

Kota 9

Ajmer 10

Bhilwara 4

Pali 2

Hanumangarh 2

Sriganganagar 3

Sikar 2

Alwar 3

Churu 1

Bharatpur 3

Jhunjhunu 1

Tonk 2

The chart shows that out of the 90 night shelters, 50 are to be constructed in the first phase and the remaining 40 are to be constructed in the second phase. It is not clear from the chart as to how many night shelters are operational as on date. We are already in the second week of December and the winter has set in and it is unlikely that night shelters will be available in this winter. In this view of the matter, we direct the Chief Secretary of the State of Rajasthan to personally supervise the matter of night shelters and ensure that adequate number of night shelters are made available in this

winter so that the homeless people are not compelled to sleep on the pavements, under the bridges, public parks and/or public streets. Let the Chief Secretary himself monitor the entire project and submit a report to this Court on or before 6th January, 2012.

BIHAR:

In pursuance to our order dated 20.09.2011, no affidavit has been filed by the State of Bihar.

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner submits that according to his information, out of 48 night shelters, only 4 night shelters are functional in the State of Bihar.

We direct the Chief Secretary to the State of Bihar to file an affidavit on or before 6th of January, 2012 indicating the present position about the night shelters in the State. The Chief Secretary must also ensure that if adequate number of permanent night shelters are not available, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let the Chief Secretary himself monitor the entire project and submit a report to this Court on or before 6th January, 2012.

UTTAR PRADESH:

The Chief Secretary to the Government of U.P. has filed an affidavit on 1.11.2011 in which it is mentioned that 139 permanent shelter homes shall be set up in the Nagar Nigams of the State within a period of the financial years of 2011-12, 2012-13, 2013-14. It is also mentioned that the funds have been released and the entire work of setting up of shelter homes have to be completed within the ensuing winter season. In order to comply with the order of this Court, the State Government on 29.9.2011 has sanctioned an amount of Rs.1141.90 lakhs i.e. 70% of the total estimated construction cost of 139 proposed shelter homes.

The remaining 30% of the estimated cost shall be arranged by the respective Municipal Corporation from their funds. It is also mentioned in the affidavit that the Nagar Nigams have started the work of erecting the remaining shelter homes at war footing and in any case they shall be made functional by December, 2011.

Mr. Gonsalves, learned senior counsel appearing on behalf of the petitioner has drawn our attention to the chart which has been prepared by him. According to the said chart, out of 139 night shelters, only 38 permanent night shelters and 12 temporary night shelters are operational in the State.

We direct the Chief Secretary of the State of U.P. to ensure that if adequate number of permanent night shelters are not available in the State, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

JHARKHAND:

An affidavit has been filed on behalf of the Government of Jharkhand which indicates that 31 night shelters are required in the State, out of which 11 night shelters are required at Dhanbad, 11 at Jamshedpur and 9 night shelters are required at Ranchi. But it is not clear as to how many permanent or temporary night shelters are operational. We direct the Chief Secretary of the State of Jharkhand to supervise the construction of the night shelters in the State. He is further directed to ensure that if adequate number of permanent night shelters are not

available in the State, then at least temporary night shelters be erected for this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

HARYANA:

The Chief Secretary to the Government of Haryana has filed an affidavit in which it is mentioned that the problem of homeless people in the State of Haryana is not so acute. According to the Status Report of permanent and temporary shelter arrangements annexed to the affidavit, the total number of permanent night shelters required in the State are 48. According to the learned counsel for the petitioner, only 2 permanent night shelters and 49 temporary shelters are operational.

In the affidavit it is also mentioned that it has been decided to identify at least one Dharamshala in each district and involve religious/charitable organizations for making food and night stay arrangements for urban homeless population.

We would like the Chief Secretary to the Government of Haryana to file an affidavit giving therein up-to-date position as to when permanent night shelters would be made available for the homeless people. He is further directed to ensure that if adequate number of permanent night shelters are not available in the State, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

PUNJAB:

In pursuance of our directions, affidavit has not been filed by the Chief Secretary of the State of Punjab. We grant one more opportunity to him to file the same on or before 6th January, 2012 with an advance copy to the learned senior counsel for the

petitioners. In the affidavit it may be indicated as to how many permanent/temporary night shelters have been set up in the State. He must also ensure that if adequate number of permanent night shelters are not available in the State, then the temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

UTTARAKHAND:

In pursuance of our directions, no affidavit has been filed by the Chief Secretary of the State of Uttarakhand. We grant one more opportunity to him to file the same on or before 6th January, 2012 with an advance copy to the learned counsel for the petitioners. In the affidavit it may be indicated as to how many permanent/temporary night shelters have been set up in the State. He must also ensure that if adequate number of permanent night shelters are not available in the State, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

ASSAM:

The Chief Secretary to the Government of Assam has filed an affidavit on 28.11.2011. A chart has been filed along with the affidavit which indicates that there are no permanent night shelters in the State of Assam. Only 8 temporary night shelters are operational which are being run by the NGOs. The Government has allocated Rs.300 lakhs for the financial year 2011-12 for the night shelters which are being run by the NGOs. We would like the Chief Secretary to the Government of Assam to file a comprehensive affidavit giving therein the details of the permanent and

temporary night shelters and whether those cover the entire State or not. In the chart it is also mentioned that during the financial year 2011-12, the Government has proposed to operate 27 night shelters in 20 districts headquarters of the State. The Chief Secretary is directed to supervise the construction of these night shelters in the State and ensure that if adequate number of permanent night shelters are not available in the State, then temporary night shelters are erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

MADHYA PRADESH:

The State of Madhya Pradesh has filed a Status Report of night shelters, according to which against the total requirement of 100 permanent night shelters in 24 towns, so far only 31 night shelters have been constructed and for the balance 69 night shelters, the first installment of the required fund has already been transferred to the urban local bodies. It is further mentioned in the Status Report that instructions have been issued by the State Government to complete them on or before 30th October, 2011 and in case permanent night shelters are not set up before that date, night shelters would be started in any public government building or rented building on a temporary basis as per need.

We direct the Chief Secretary of the State to file a further affidavit indicating therein the latest position of the permanent night shelters. He is further directed to ensure that if adequate number of permanent night shelters are not available in the State, then temporary night shelters are erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

MAHARASHTRA:

The Chief Secretary to the Government of Maharashtra has filed an affidavit stating therein that the State of Maharashtra has issued comprehensive guidelines for establishment, operation and maintenance of the night shelters and the process of implementing the same in letter in spirit at the field level is underway. It is not clear from the affidavit as to how many permanent or temporary night shelters have been set up in the State.

According to the standard norms, the State of Maharashtra requires 284 permanent night shelters and according to the learned counsel appearing for the State, 18 night shelters have been set up. The Chief Secretary to the Government of Maharashtra is directed to file an affidavit indicating within what period the remaining night shelters would be set up in the State. He is further directed to ensure that if adequate number of permanent night shelters are not available, temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets.

ODISHA:

No one appears for the State of Odisha. An affidavit has been filed by the Chief Secretary to the Government of Odisha, Odisha Secretariat, Bhubneswar. Learned senior counsel for the petitioner submits that as per the standard norms, 15 permanent night shelters are required for the State of Odisha. It is not clear from the affidavit as to how many permanent and how many temporary night shelters have been set up in the State.

We direct the Chief Secretary to file a further affidavit as to how many permanent and how many temporary night shelters are functioning in the State. He is further directed to ensure that if adequate number of permanent night shelters are

not available in the State, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

CHHATTISGARH:

According to the standard norms, 13 permanent night shelters are required for the State of Chhattisgarh and as against that, learned counsel for the State submits that 25 permanent night shelters are already operational. Learned counsel for the petitioner may verify this statement and file a reply on or before 6th January, 2012.

WEST BENGAL:

According to the standard norms, State of West Bengal requires 143 permanent night shelters and in the affidavit filed by the State, no details are given. The Chief Secretary to the Government of West Bengal is directed to file an affidavit on or before 6th January, 2012, indicating therein as to how many permanent and temporary night shelters are functional in the State. He is further directed to ensure that if adequate number of permanent night shelters are not available, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets.

TAMIL NADU:

According to the standard norms, State of Tamil Nadu requires 116 permanent night shelters and it is not clear as to how many permanent night shelters have been erected in the State. Counsel for the State of Tamil Nadu is not available. We direct the Chief Secretary to the Government of Tamil Nadu to file an affidavit on or before 6th January, 2012, indicating therein as to how many permanent and temporary night shelters are functional in the State. He is further directed to ensure that if adequate number of permanent night shelters are not available, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets.

JAMMU & KASHMIR:

An affidavit has been filed by the Principal Secretary to the Government of Jammu & Kashmir, Housing and Urban Development Department. Mr. Gonsalves, learned senior counsel appearing for the petitioner wants to file reply to this affidavit. Let reply to the said affidavit be filed by the counsel for the petitioner on or before 6th January, 2012.

GUJARAT:

According to the standard norms, the State of Gujarat requires 101 permanent night shelters. Learned counsel appearing for the State of Gujarat submits that 13 permanent night shelters are operational as on date and the State has decided to construct, in all, 101 permanent night shelters in 5 major cities of the State and the construction work of these night shelters is in progress. According to the averments made in the application, all these night shelters will be made operational on or before 31st March, 2012.

Learned counsel for the petitioner may verify the above facts and submit a report to this Court on or before 6th January, 2012.

KARNATAKA, KERALA, ANDHRA PRADESH, ARUNACHAL
PRADESH, GOA, HIMACHAL PRADESH, MANIPUR, MEGHALAYA,
NAGALAND, SIKKIM AND TRIPURA:

No affidavits have been filed by these States in pursuance to the order passed by this Court. We grant one more opportunity to these States to file their affidavits on or before 6th January, 2012 with an advance copy to the learned counsel for the petitioner. In the affidavit it may be indicated as to how many permanent/temporary night shelters have been set up in the State.

The Chief Secretaries of these States must ensure that if adequate number of permanent night shelters are not available in the States, then temporary night shelters be erected in this winter so that the homeless people are not compelled to sleep on the pavements, public parks or public streets. Let an affidavit to that effect be filed by the Chief Secretary on or before 6th January, 2012.

We direct the Court Commissioner to file a comprehensive report about the number of permanent and temporary night shelters set up in various States in the country and what facilities have been augmented in those night shelters. Let the report be filed on or before 6th of January, 2012.

List this matter for further directions on 9th January, 2012.

(A.S. BISHT)
COURT MASTER

(INDU SATIJA)
COURT MASTER