

ITEM NO.60(Part-heard) COURT NO.4 SECTION PIL
(NIGHT SHELTER MATTERS)

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 and 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 IA vide order dated 27.1.2010)

Date: 24/11/2010 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.

Ms. Divya Jyoti,Adv.
Mr. Murunal Buva,Adv.
Mr. Anuj Castelina,Adv.
Ms. Jyoti Mendiratta,Adv.

For Respondent(s) Mr. Mohan Parasaran,ASG

Mr. D.L. Chidananda,Adv.
Mr. S. Wasim A. Qadri,Adv.
Ms. Sunita Sharma,Adv.
Ms. Sushma Suri,Adv.
Ms. Anil Katiyar,Adv.
Mr. D.S. Mehra,Adv.
Mr. Jana Kalyan Das,Adv.
Mr. Ranjan Mukherjee,Adv.
Mr. S. Bhowmick,Adv.
Mr. S.C. Ghosh,Adv.

Ms. Hemantika Wah,Adv.
Ms. Nupur Kanungo,Adv.
Mr. D.K. Goswami,Adv.
Mr. Shirish Kr. Mishra,Adv.
Mr. Pragyan P. Sharma,Adv.
Mr. P.V. Yogeswaran,Adv.
Mr. H.P. Raval,ASG
Ms. Indra Sawhney,Adv.
Dr. Manish Singhvi,AAG,Raj.
Mr. Devanshu Kumar Devesh,Adv.
Mr. Sahil S. Chauhan,Adv.

Mr. Milind Kumar,Adv.
Mrs. Aruna Mathur,Adv.
Mr. Amarjeet Singh Girsra,Adv.
Mr. Riku Sharma,Adv.
for M/s. Corporate Law Group,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. R. Sundaravaradan,Sr.Adv.
Mr. V.G. Pragasam,Adv.
Mr. S.J. Aristotle,Adv.
Mr. Prabu Ramasubramanian,Adv.
Mr. Jatinder Kumar Bhatia,Adv.
Mr. S. Bhowmick,Adv.
Mr. S.C. Ghosh,Adv.
Mr. Suresh Ch. Tripathy,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. 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. 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. Willson,AAG
Mr. T. Harish Kumar,Adv.
Mr. P. Prasanth,Adv.
Mr. V. Vasudevan,Adv.
Mr. Sanjiv Sen,Adv.
Mr. P. Parmeswaran,Adv.
Mr. Prashant Kumar,Adv.
Mr. Atul Jha,Adv.
Mr. D.K. Sinha,Adv.
Mr. Gopal Prasad,Adv.
Mr. G.V. Chandrashekhara,Adv.
Mr. N.K. Verma,Adv.
Ms. Anjana Chandrashekar,Adv.

Mr. I. Venkatanarayana, Sr. 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. T.P. Mishra, Adv.
Mr. Sanjay Katyal, 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. Tessa Varghese, 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. Vikas Upadhyay, Adv.
Mr. B.S. Banthia, Adv.
Mr. Sandeep Gupta, Sr. 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. Pramod Swarup, Sr. Adv.
Mr. Raj Kumar Gupta, Adv.
Mr. Rajiv Dubey, Adv.
Mr. Prakash Kumar Gupta, Adv.

Mr. Kamendra 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

ARUNACHAL PRADESH:

We direct the Chief Secretary of the State of Arunachal Pradesh to file an affidavit within two weeks from today, stating therein as to how many night shelters have been constructed in the State.

ASSAM:

We have perused the affidavit filed by Joydeep Shukla, Extra Assistant Commissioner, Government of Assam, Assam Bhawan, 1 Sardar Patel Marg, New Delhi. The affidavit is not clear as to within what period the night shelters would be set up. Learned counsel for the State of Assam submits that 8 night shelters would be constructed as expeditiously as possible, in any event, within eight weeks from today.

BIHAR:

Learned counsel for the State of Bihar submits that 51 night shelters are operational as on date in the State of Bihar. Apart from these 51 night shelters, 11 new night shelters have been sanctioned. The Urban Development and Housing Department has sanctioned 9 night shelters in different cities and a sum of Rs.50 lakhs have been allotted for this purpose. We expect the State to carry out a survey and if more night shelters are needed, the same may be provided within six weeks from today and further status report be filed thereafter.

CHHATTISGARH:

Mr. P. Joy Oommen, Chief Secretary, Government of Chhattisgarh has filed an affidavit in which it is mentioned that 7 night shelters have been set up in Raipur and 6 night shelters have been set up in the city of Bilai. It is further stated in the affidavit that night shelters have also been set up in Durg, Raigarh, Korba, Jagdalpur and Ambikapur and the night shelters have been provided with all basic facilities toilets, bathrooms, electricity and sanitation which is properly managed and maintained by the Urban Local Bodies. In the affidavit it is also indicated that other necessary facilities such as beds, drinking water, ceiling fans, mattresses, blankets and separate toilets and bathrooms for men and women are also provided. Except Raipur, all other night shelters are permanent in nature.

Learned counsel for the State submits that temporary night shelters are already functional in Raipur District and after identifying the land, these would be converted into permanent night shelters and the Government of Chhattisgarh has formulated a policy in this regard by order dated 19.11.2010. We are quite satisfied with the response of the State and at present no further affidavit is required so far as the State of Chhattisgarh is concerned.

GOA:

Learned senior counsel for the petitioner submits that in the capital city of Goa, one night shelter is required but the same has not been provided so far. Learned counsel appearing for the State of Goa submits that the same would be provided within four weeks from today. Let a status report be filed by the Chief Secretary of the State within four weeks from today.

HIMACHAL PRADESH:

Learned counsel for the State of Himachal Pradesh submits that they require 2 night shelters in Shimla. Despite giving reasonable time, the State of Himachal Pradesh has not filed an affidavit as to how

the State has addressed this problem. We direct the Chief Secretary of the State to file an affidavit within two weeks, failing which the Chief Secretary of the State shall remain present in this Court on the next date of hearing.

JAMMU & KASHMIR:

The Commissioner Secretary, Housing and Urban Development Department, Government of J & K has filed an affidavit in which it is mentioned that there are economically weaker sections of families living in urban areas who have their homes in dilapidated condition and special projects and schemes like the Basic Services for Urban Poor ("BSUP") and Integrated Housing and Slum Development Programme ("IHSDP") schemes have been approved and are being implemented. These schemes aim at providing dwelling units to the population living in slums and unhygienic areas.

It is further stated in the affidavit that under the BSUP scheme, which is approved under the Jawaharlal Nehru Urban Renewal Mission, 6677 number of dwelling units have been envisaged to be provided to the urban poor at an estimated cost of Rs.162.39 crores. This programme is being implemented on cost sharing basis with the Central Government. Under this scheme, 1455 and 5222 dwelling units will be constructed in Jammu and Srinagar cities respectively. Under the IHSDP scheme, 5178 number of dwelling units for urban poor have been approved for construction along with allied infrastructure in 25 towns of Jammu & Kashmir at an estimated cost of Rs.104.49 crores.

According to the learned counsel for the State of J & K, the schemes which have been put in operation by the State take care of shelter less people in the State. Learned counsel for the petitioner may verify these facts and file a reply affidavit within four weeks.

JHARKHAND:

An affidavit has been filed by Anand Mohan Thakur on 22.11.2010 in which it is stated that out of the 9 night shelters required for the City of Ranchi, 6 night shelters have been completed and regarding the remaining 3 night shelters, work is in progress. Similarly, in Dhanbad Municipal Corporation, for construction of one night shelter, an amount of Rs.34, 633 has been sanctioned and the work is progress. In Chaibasa where 20 night shelters are required, 17 night shelters have been completed and work is in progress for 3 other night shelters and the amount of Rs.40, 000 has been sanctioned for this purpose. In Deoghar Municipal Corporation, 1 night shelter is needed for which an amount of Rs.13,856 has been sanctioned and a double storied structure is complete.

It is further mentioned in the affidavit that provisions for electrification and hand pump for drinking water and some other requisite facilities have been made along with constructions of shelters and care has been taken to construct community toilets at approachable distance.

It is also mentioned in the affidavit that 31 night shelters are required in the State, 11 night shelters each at Dhanbad and Jamshedpur and 9 at Ranchi and after identifying the lands, night shelters would be constructed in these places. We direct the Chief Secretary of the State to file a status report within six weeks from today.

KARNATAKA:

We direct the Chief Secretary to the State of Karnataka to file an affidavit within four weeks from today, stating therein as to how they would address the problem of night shelters.

KERALA:

An affidavit has been filed by B.R. Mohan Kumar, Law Officer, on behalf of the State of Kerala in which it is mentioned that the Social Welfare Department is dealing with the affairs of children up to the age of 18 years, pregnant women, lactating mothers, adolescent girls, aged people, destitute, orphans, disabled and mentally challenged persons and for providing care and protection and other services to these people, a lot of schemes and programmes are being implemented with the financial support from the Union and the State Governments. The department also provides shelter to the children, aged, disabled, beggars, handicapped persons and mentally challenged persons through a number of institutions, details of which have been furnished at the end of paragraph 2 of the affidavit.

In the affidavit it is also mentioned that night shelters have been established in 9 districts of Kerala and in addition to these institutions, there are 574 Orphanages run by Non-Governmental Organizations

for different categories of inmates with financial support from the State Government. It is further mentioned that the State of Kerala is quite conscious of the problem and many such shelter homes are in existence under different names. Apart from that, there is Kerala Social Security Mission for addressing specific issues for those who are in need of special attention. It is also mentioned therein that the problem of shelter for urban homeless can well be addressed by the various welfare measures being implemented through the Social Welfare, Local Self Government and Food & Civil Supplies Departments of the State.

Learned counsel for the petitioner would be at liberty to verify these facts and file a reply affidavit within four weeks.

MADHYA PRADESH:

An affidavit has been filed by Mr. Ajit Keksari, Commissioner, Department of Food, Civil Supplies & Consumer Protection, Government of Madhya Pradesh, in which it is indicated that the State has constructed 28 night shelters in cities having a population of more than 1 lakh and 29 night shelters are to be constructed in cities having a population of more than 1 lakh and in this manner, 57 night shelters would be constructed in cities having a population of more than 1 lakh. Thus, at present 65 night shelters are functional apart from this, 29 night shelters will be constructed and after their construction, the total number of night shelters in the State would be 94.

It is further stated in the affidavit that in these night shelters, facilities of electricity, water, toilets and bathroom for men and women are provided and there is a provision for drinking water and proper arrangement would be made during winter for protecting the poor people without shelter from the cold in the night and with the funds of local bodies, blankets would also be arranged for the persons staying in these shelters. It is further mentioned in the affidavit that instructions have already been issued for proper security and health of the persons staying in these night shelters.

MAHARASHTRA:

Learned counsel for the State of Maharashtra submits that because of the change of the Chief Minister, the affidavit could not be filed and he prays for four weeks' time for this purpose. Let an affidavit be filed within four weeks from today.

MANIPUR:

Learned counsel for the State of Manipur submits that the exact status report would be filed within four weeks from today.

MIZORAM:

Learned counsel for the State of Mizoram prays for four weeks' time to file a complete status report. Let that be filed by the Chief Secretary for the State of Mizoram within four weeks.

NAGALAND:

An affidavit has been filed by the Deputy Resident Commissioner, Nagaland House, New Delhi, in which it is mentioned that only Kohima and Dimapur have an urban population of more than 1 lakh and the problem of urban homeless people is found to be substantially non-existent. Migrant population from other States come in search of menial labour and other temporary employment but they stay only for a short period of time and then subsequently migrate back to their respective States. During the course of their stay, these migrant workers are provided shelter by their employer and as such there are no instances of problems of homeless arising within the State of Nagaland. In this view of the matter, no further affidavit need be filed by the State of Nagaland.

Learned counsel for the petitioner would be at liberty to verify these facts and file a reply affidavit within four weeks.

ORISSA:

The Chief Secretary, Government of Orissa has filed an affidavit dated 22.11.2010 in which it is mentioned that the State of Orissa is committed to ensure that adequate night shelter homes to the homeless is provided in Bhubaneswar, Cuttak and Puri. It is also mentioned that a survey to identify the

exact number of homeless population in Bhubaneswar, Cuttak and Puri is underway and the concerned Municipal Commissioner/Executive Officers have been asked to complete this exercise by the end of this month. The initial survey shows that total number of homeless population at Bhubaneswar and Cuttack would be 250 and 100 respectively. It is further mentioned that the GA Department has been asked to provide land at the earliest at Bhubaneswar for construction of night shelter homes on permanent basis. The area at Kharvel Nagar having Khata No.441 (GA) Plot No. 559 and Gobinda Prasad, Khata No. No.1072, Plot Nos.1174,1163/1734 have been identified for the purpose. Similarly, at Puri, Mauza Baseli Sahi, Khata No.676, Plot No.139 is earmarked for this purpose and for Cuttack, land identification is in progress and shall be completed on or before 30th November, 2010. It is further mentioned therein that construction of night shelters in all the places shall be completed within one year. It is further mentioned that pending construction of permanent night shelter homes, as an interim arrangement, it has been decided the following to serve the night shelter homes:

- a) at Bhubaneswar, there are six Kalyan Mandaps each having two rooms about 12'x12' with toilet and bath rooms. These Kalyan Mandaps are under the control of the Municipality. Two Community Centres at Unit VIII and Shastri Nagar having 40'x25' and one Community Centre at Huda Bhoi Sahi of 35'x30' Mali Sahi Community Centre of 20'x10' near the Railway Station, Sabar Sahi Community Centre at Rasulgarh.
- b) At Cuttack, a portion of the Panchamukhi Kalyan Mandap owned by Cuttack Development Authority, Tulasipur Tanta Sahi Community Centre, Malgodown Behera Sai Community Centre and Pilgrim Road Sahi Community Centre would be utilized till permanent Centres are constructed.

Learned counsel for the petitioner would be at liberty to verify these facts and file a reply affidavit within four weeks.

PUNJAB:

Despite number of opportunities granted, the State of Punjab has not filed a proper affidavit. We direct the Chief Secretary of the Government of Punjab to file an affidavit within two weeks from today indicating therein as to how many night shelters have been constructed and how many of them are operational, failing which the Chief Secretary shall remain present in Court on the next date of hearing.

RAJASTHAN:

Learned counsel for the State of Rajasthan submits that all the night shelters which have been constructed by the State are temporary in nature (tents) and he prays for some time to take instructions in this regard. We direct the Chief Secretary of the State of Rajasthan to file an affidavit dealing with the problem of night shelters in the State of Rajasthan, within four weeks from today, failing which the Chief Secretary shall remain present in Court on the next date of hearing.

SIKKIM:

Learned counsel for the State of Sikkim submits that there is no problem of homeless people which requires shelters in the State. Learned counsel for the petitioner may verify this fact and file an affidavit within four weeks.

TAMIL NADU:

Learned counsel for the petitioner would be at liberty to verify the facts mentioned in the affidavit filed by the State of Tamil Nadu and file a reply affidavit within four weeks.

UTTAR PRADESH:

An affidavit dated 23.11.2010 has been filed on behalf of the State of U.P. which indicates that some progress has been made in addressing the problem of night shelters in the State.

Learned counsel for the petitioner may verify this fact and file a reply affidavit within four weeks.

UTTARAKHAND:

Mr. S. Raju, Principal Secretary, Department of Urban Development, Government of Uttarakhand, Dehradun, has filed an affidavit in which it is mentioned that in three cities, namely, Haridwar, Haldwani and Dehradun which have a population of more than 1 lakh, there are 3 night shelters one in each city, which are operational. The Executive Officer of the Municipal Board, Haridwar has informed that the accommodation capacity of these two night shelters is 400-500 persons. Besides this, many religious/charitable trusts/societies are also running approximately 350 private Dharamshalas within the municipal area who accept voluntary donations. In Dehradun, there is one night shelter which has been built recently at the cost of Rs.89 lakhs and is being run by a Society headed by the District Magistrate, Dehradun.

It is further mentioned in the affidavit that Chief Secretary to the Government of Uttarakhand convened a high level meeting on 19.11.2010 and issued necessary directions to all the concerned departments to establish appropriate number of new night shelters and make necessary arrangement for shelter less in view of ensuing winter season. The Chief Secretary has also directed the District Magistrate, Dehradun to identify the government buildings, which are lying vacant so that the same can be used for shelterless people during this winter season as the construction of night shelters will take some time. Directions have also been issued for making Provisions for temporary tents for shelterless people wherever it is possible. Chief Secretary has further directed to set up other night shelters on the pattern of night shelters presently run in Dehradun by Doon Night Shelter Society headed by the District Magistrate. Besides this, the Department of Health, ICDS, Chief Secretary, Food Civil Supplies have also been directed to do the needful for shelter less people/children/women in various government schemes.

Learned counsel for the petitioner may verify these facts and file a reply affidavit within four weeks.

WEST BENGAL:

Mr. R.D. Meena, Commissioner, Land & Land Reforms and Principal Secretary, Government of West Bengal has filed an affidavit in which it is mentioned that the State requires 60 night shelters in 3 cities of Kolkata, Hawarah and Asansol. Out of them, 31 night shelters are operational and are being run by the NGOs in different cities, under the overall superintendence of the Government of West Bengal. For the remaining 29 night shelters, 11 locations have been identified by the Calcutta Municipal Corporation.

Learned counsel for the petitioner may verify the facts mentioned in the affidavit and file a reply affidavit within four weeks.

DELHI:

Mr. Gonsalves, learned senior counsel for the petitioner has given us a chart which indicates that out of 63 night shelters, only 25 of them are functional in Delhi. Mr. Mohan Parasaran, learned Additional Solicitor General appearing for the State of NCT of Delhi prays for two weeks' time to file a status report and he also ensures that those night shelters which are non-functional would be made functional. Let an affidavit be filed by the Chief Secretary of the NCT of Delhi within two weeks and reply thereto, if any, be filed within two weeks thereafter.

About the remaining States, list this matter for further directions on 26th November, 2010.

(A.S. BISHT)
COURT MASTER

(NEERU BALA VIJ)
COURT MASTER