

March 8th, 2004

Dr.NC Saxena/ Shri.SR Sankaran
Commissioners to the Supreme Court of India
(PUCL vs. UoI and Others Writ 196/ 2001)
Centre for Equity Studies
C-17 A DDA Flats, Munirka
New Delhi – 110067

Dear Sir,

Sub: Violation of Interim Orders (May 3rd, 2003) of the Supreme Court in Dhamtari, Raipur, Bilaspur and Kawardha districts of Chhattisgarh.

I have been touring over the past month and assessing the level of follow-up of the various interim orders of the Supreme Court. I have also used the opportunity to interact extensively with "primitive tribal" communities across the state. So far we have been able to meet with Kamar, Baiga and Pahari Korwa communities in five districts (including Surguja) to inquire whether the orders of the Honorable Supreme Court with regard to the Food Schemes have been complied with by the State Government.

Since the findings from Surguja have been detailed in the Joint Commission of Enquiry (February 3rd-4th, 2004), I will restrict my observations to Raipur, Dhamtari, Kawardha and Bilaspur districts, except in few cases where the findings from Surguja may have relevance to other districts. We were able to meet with more than a thousand representatives from the Pahari Korwa (Surguja), Baiga (Bilaspur and Kawardha) and Kamar (Raipur and Dhamtari) communities in these districts from over fifty panchayats. The details of the visits are appended in Annexure 1.

We have also documented some of these violations through signed affidavits which are attached as (Annexure 2) to this report. They have been included as a case in point rather than a complete list of all cases of violations. There have been included only to serve as a pointer for the State Government to ensure compliance.

Antodaya Yojana

There is systematic non-compliance with regard to the issuing of Antodaya cards to members of primitive tribal communities in all the districts visited. Despite clear instructions from the Department of Food and Civil supplies, district administrations have failed to implement these orders. The most stark instances of non-compliance were in Kawardha (Pandaria and Borla Blocks) and Bilaspur districts where entire settlements of Baigas (e.g Mahuamacha, Bijra Panchayat, Lormi Tehsil, Bilaspur) have been left out of

the Antodaya scheme. Similarly, in Raipur district there were cases of members of the Kamar communities who have, with little justification, been dropped from the BPL list in the last survey. In Nagari-Sihawa Block of Dhamtari district, only a few members of the Kamar community have managed to get included in the Antodaya list. Even where they have managed to get included either as BPL families or under the Antodaya programme, the enclosed ration cards reflect the reality of a dysfunctional PDS which has not allowed them to access rice or any other commodity.

The Government of Chhattisgarh has extended the Antodaya Yojana to all primitive tribal groups irrespective of whether they hold BPL cards or not. This could potentially be recommended for implementation in other states which are covered in the petition.

The State Government has also proposed to the Government of India an extension of Antodaya Yojana to cover all BPL families in the 85 ITDP blocks of the State. As I had written to you earlier, this step could potentially go a long way in addressing the food security needs in the tribal blocks.

But from what is evident from the field visits, there is a large gap between policy intent and delivery in the districts. Unless immediate steps are taken to redress the situation, there is little likelihood of any of these new policy initiatives reaching where they are needed most.

Targeted Public Distribution System

The TPDS remains the weakest link in the implementation of the Food Schemes. Even where the district administration has managed to issue BPL and Antodaya cards, non-functional PDS shops result in poor utilization. I am also enclosing (Annexure 3) photocopies of Antodaya cards from Dhamtari and Raipur districts which show zero utilization over long periods of time. The cards holders are from the Kamar tribal community who have reported that they have been unable to purchase rice because of problems at the local PDS shop holder/salesman. Similar cases were reported from Bilaspur and Kawardha districts. Affidavits (Annexure 2) specifically cite the non-functioning of the PDS as the main reason for the non-utilization. Problems with the PDS are wide-ranging including shops opening very infrequently (on occasion, once a quarter), rice not being available on the days that the shop is open and tribal communities not allowed to take the rice in smaller installments. We also encountered a number of instances where the quantities reflected in the ration card varied from the quantities that were given to the consumers. Ration cards being retained by the dealers is also routine practice.

Most of the salesmen/shop holders are local traders who have tied credit arrangements with these communities for agricultural and forest produce. They are also locally very influential and often linked with political interest groups. In what seems to be a near-complete absence of any monitoring by the district authorities, it is very difficult to get an effective PDS in place. The reasons for the non-monitoring that were evident ranged from

the shortage of staff to what in most cases, what can only be attributed to a lack of administrative will.

In Surguja, for instance, we were informed by the District Administration that one of the major reasons for the non-compliance of the Supreme Court orders was the unavailability of monitoring staff at the district level. Surguja is one of the larger districts of Chhattisgarh and has 19 blocks. Of the 10 sanctioned positions of food inspectors in the district, just three positions have been filled. There is a need to check if this is the case in the other districts since the absence of a monitoring mechanism would make it very difficult to ensure compliance of the orders of the Honorable Court.

An oft-cited reason for the non-functioning of the PDS is the fact that the dealer (for BPL- Rural Areas) makes just 6 paise per kilo. As I had stated in my detailed briefing last week, the State Government has recently tried to address this by increasing the allocation both to the dealer and the lead society which may be worth pursuing with the other states since all of this has been done without any additional financial burden by eliminating the subsidy being provided to the state procurement agency.

A flexible state level food security fund will also be generated (upto a maximum of 50 crores) from the savings of the subsidy cost. But as with the other programmes, it remains to be seen whether this can be effectively implemented.

Mid Day Meal Scheme

In most places, the MDMS is operational and in few instances, functioning flawlessly. Since the areas visited we visited are tribal blocks, the scheme has been implemented independent of the Court orders (1998 onwards) and reasonable infrastructure arrangements are in place.

The Government of Chhattisgarh has also passed the requisite instructions (4818/V-3/MDM/2003) to the districts for using SGRY funds to construct cooking sheds, subsequent to the instructions on this sent by GoI - MHRD (F.11-1/2001-NSPE-MDM) and MoRD (28012/74/2003-SGSY-1). We noticed that construction of these sheds had started in some places and this would be an important step in taking forward the MDMS.

Despite this, the MDMS is operating below potential in all the districts visited. There are also problems relating to allocation of funds (In Surguja, there was a backlog of more four crores for the MDMS). We have not still collected the figures from the state government to assess the extent of the problem and this will need further investigation.

The problem of non-functioning of the MDMS in most of these areas is also linked to the problem of teacher absenteeism. There is a newly emerging nexus at the local level between the teacher and the sarpanch wherein the absenteeism of the teacher is condoned by the sarpanch/ local representatives in return for the rice from a non-functioning MDMS. In the absence of effective monitoring by the Block officials, this nexus will

become increasingly difficult to break. A few affidavits enclosed with this report have highlighted the problems in the MDMS.

The working of the MDMS was found to be particularly ineffective in Lormi (Bilaspur) and Pandaria (Kawardha) Blocks and Nagari-Sihawa (Dhamtari).

National Maternity Benefit Scheme

I was unable to find a single beneficiary under the NMBS in the areas visited by me in all four districts. In Surguja, the Chief Medical Officer reported that no funds had been received by the district for more than a year. I am attaching the statement of funds that was given to me there, and we need to assess more closely if this is the state of affairs regarding the implementation of the scheme across the state. Unlike some of the other schemes that come under the purview of the interim orders, this scheme should be the simplest to administer. Yet, almost everywhere that we spoke with communities, this emerged as a programme about which there was no awareness nor any beneficiaries. The minimum number of beneficiaries in Chhattisgarh can be easily calculated using the fertility rate (NFHS) and the % of BPL families (Planning Commission Estimate).

Integrated Child Development Services

The magnitude of the challenges within the ICDS merit a separate report. A state-wide study is being commissioned by civil society groups on the status of the ICDS programme in Chhattisgarh. I will present a more detailed report once the findings of that study are available.

The ICDS system in most of the areas visited by us is plagued not just by issues of systemic inefficiency (which in itself is overwhelming) but also problems of outreach. In most of the ITDP Blocks in Chhattisgarh, the existing population/ centre norm is inadequate because of very scattered settlements. With some modest efforts, district administrations can cope with this. But even with the routine functioning of the ICDS at the levels which it is, it is difficult to imagine any initiative on this count. The Take Home Ration (THR) component was non-existent in almost every location that we visited.

The last ICDS survey which was commissioned in Korea district (Manendragarh Block) and forwarded to the State Government has resulted in the partial overhauling of the system. Even so, changes are visible in at least the 45 villages where the system has been monitored subsequently. There is therefore some reasons to be optimistic that sustained monitoring can bring about changes, however modest.

Update on Surguja

I made a visit to Surguja (Mainpart block), three weeks after the JCE to assess the changes in the Mid Day Meal and Antodaya programmes. The results have been extremely encouraging and distressing at the same time. Encouraging because every real

changes are visible vis-a-vis both programmes throughout the district. Most schools we visited in Lakhanpur, Batauli and Mainpart had a functional MDMS. Monitoring of the programme was being systematically undertaken and with a few exceptions, Antodaya cards had been distributed to the Pahari Korwa families. The PDS was being overhauled across to make it more accountable and licenses of shop-holders cancelled wherever irregularities were reported. Based on my discussions with NGOs, media persons and civil society groups there, it would fair for me to state that the Collector Surguja has left no stone unturned to get the orders of the Honorable Court implemented. I am enclosing a copy of the various reports in the media which highlight the seriousness with which the issue has been taken up there.

This was also distressing because it took a judicial intervention to put in place what should be very routine administrative systems. Every single scheme (except Antodaya and Annapurna) has been in place for close to a decade or more now. The nine programmes are also those which impact the lives of poor people the most. The fact that these have been implemented so tardily so far suggests how low pro-poor concerns have slipped from the priority of the State. The fact that districts like Raipur, Bilaspur, Dhamtari and Kawardha are in many ways no better than a more inaccessible region like Surguja is a cause for grave concern.

It is likely that we may need to make similar interventions in Raipur, Kawardha, Bilaspur and Dhamtari before we get the administration to act on the interim orders.

Recommendations

Based on my observations I would recommend the following:

- a. Setting-up of Joint Commission of Enquiry (JCE) in all the four districts to enquire into the reasons for the non-compliance of the interim orders of the Honorable Court.
- b. Solicit from the State Government the following data:
 1. District-wise details of the number of beneficiaries of the National Maternity Benefit Scheme and the status of utilization of funds.
 2. District-wise BPL, Antodaya and Annapurna offtake figures from lead societies and BPL shops.
 3. Details of the monitoring systems in place for ensuring compliance with the Supreme Court orders.
 4. District-wise break-up of sanctioned positions and vacancies of staff involved in the implementation and monitoring of the TPDS, ICDS and MDMS.
 5. Details on steps taken and expenditure incurred by the state government in publicizing the orders of the honorable Court.

I have just returned from a visit to Dantewada and a preliminary visit to Abujmaad (Bastar). I submit a detailed report on compliance in other districts after traveling to Janjgir-Champa, Jashpur, Raigarh, Koriya and Abhujmaad.

Sincerely Yours,

Biraj Patnaik