

In the Supreme Court of India

Original Civil Written Jurisdiction

Written Petition © 196 of 2001

In the matter of: People's Union for Civil Liberties ... Petitioner(s) -Versus- Union of India & Ors. ... Respondent(s)

First report of the commissioner Dr. N.C. Saxena

1. By order dated 8.5.02 this court directed:

“Dr. N.C. Saxena, former Planning Secretary, Government of India, and Mr. S.R. Shankaran, former Secretary, Rural Development, Government of India, shall function as Commissioners of this Court for the purpose of looking into any grievance that may persist after the grievance resolution procedure has been exhausted.

On the Commissioner's recommending a course of action to ensure compliance with this Court's order, the State Government/UT administrations, shall forthwith act upon such recommendation and report compliance.

The Commissioners shall be at liberty to take the assistance of individuals and reliable organizations in the State and Union Territories. All officials are directed to fully cooperate with such persons/organizations, to bring about effective monitoring and implementation of the order of this Court.”

2. Thereafter on behalf of two commissioners I addressed letters dated 16/07/2002 to all the states and union territories asking for information relating to compliance with the Hon'ble Supreme Court's order and the implementation of the various welfare schemes. I also wrote to various states with specific complaints on several occasions.

3. I also enquired as to whether the Honourable Supreme Court's order has been given publicity as directed by this court on Nov. 28, 2001 as under:

“We direct that a copy of this order be translated in regional languages and in English by the respective States/ Union Territories and prominently displayed in all Gram Panchayats, Govt. School Buildings and Fair Price Shops.

In order to ensure transparency in selection of beneficiaries and their access to these Schemes, the Gram Panchayats will also display a list of all beneficiaries under the various Schemes. Copies of the Schemes and the list of beneficiaries shall be made available by the Gram Panchayats to members of public for inspection. We direct Doordarshan and AIR to adequately publicize various Schemes and this order.

We direct the Chief Secretaries of each of the States and Union Territories to ensure compliance of this order. They will report compliance by filing affidavits in this Court within eight weeks from today with copies to the Attorney General and counsel for the petitioner”.

4. I asked for the above data as it was reported that many states had not complied with this part of the order.

5. I also pointed out that with the impending drought the hunger situation in the country is on the rise and that reports of starvation deaths have reached us from certain parts of the country. I asked the states to inform us as to what preparations were being taken to ensure that people do not starve.

6. I pointed out to many states that their off-take of grain was very low and that the list of the beneficiaries of the schemes were not being displayed as directed by this Honourable Supreme Court in order dated Nov. 28, 2001. "The States are directed to complete the identification of BPL families, issuing of cards and commencement of distribution of 25 kgs. of grain per family per month latest by 1st January, 2002."

7. I also communicated to the Chief Secretaries that information have been received that food grains were not reaching the fair price shops in time and that shop owners were distributing the grains only for three or four days in a month.

8. In order to carry out our various tasks we requested the respective State governments/UTs to appoint a nodal officer to liaise with the commissioners.

9. I had written to several states that they have not complied with the order relating to the implementation mid day meal scheme

"We direct the State Governments/Union Territories to implement the Mid-Day Meal Scheme by providing every child in every Government and Government assisted Primary Schools with a prepared mid day meal with a minimum content of 300 calories and 8–12 grams of protein each day of school for a minimum of 200 days. Those Governments providing dry rations instead of cooked meals must within three months start providing cooked meals in all Govt. and Govt. aided Primary Schools in all half the Districts of the State (in order of poverty) and must within a further period of three months extend the provision of cooked meals to the remaining parts of the State".

States / UTs responses not satisfactory

10. I am sorry to report that the following States/UTs have either not replied to a single letter or have given replies of a very formal and general nature without providing the information asked for or with partial information:

Names of states:

Bihar Jharkhand

Uttar Pradesh

Andhra Pradesh

Karnataka

Assam

West Bengal

Chattisgarh

Gujarat

Apart from state governments, Commissioners wrote letters to the Ministry of Food and Rural development ministry, seeking information on SGRY and other food schemes. Commissioners also requested both the ministries

to assist them financially for monitoring the schemes. No response has been received.

Scope of the commissioners work

11. The order dated May 8, 2002 gives the impression that the commissioners work will commence only when the grievance procedure set out in the order has been exhausted. This is a limitation in the sense that it is possible for us to anticipate certain grievances of a general nature and intervene at an early stage by monitoring the progress of the various schemes / initiatives. I therefore request this Honourable Court to consider an expansion in the scope of the commissioners' work to include monitoring as above mentioned.

Assistants to the commissioners

12. By order dated May 8, 2002 this court directed:

“The Commissioners shall be at liberty to take the assistance of individuals and reliable organizations in the State and Union Territories. All officials are directed to fully cooperate with such persons/organizations, to bring about effective monitoring and implementation of the order of this Court”.

13. After consultation with the reputed individuals and organizations, knowledgeable and active on the food security issue, I have prepared my first list of individuals/organizations to assist the commissioners in our work. They are:

Pushendra Kumar

ActionAid India, Bihar
A/22 R.T. Tower New
Patna, Bihar - 744101

Biraj Patnaik

ActionAid India, Chattisgarh
HIG/ 28, Sec 1 Shankar Ngr
Raipur, Chattisgarh

Ramesh Sharan

Dept. of Economics, Ranchi University
Ranchi, Jharkhand

A K Roy

Hazards Centre
Munirka
Delhi, Delhi

Mihir Shah

Secretary
Samaj Pragati Sahayog
Bagli, Madhya Pradesh

Bikash Das

CLAP

Bhubaneswar, Orissa

Muthappa N M

Right to Food Campaign

No- 44, New Bamboo Bazar

Bangalore, Karnatak

Abhay Shukla

CEHAT

3 & 4 Aman Terrace Pl. 140,

Dahanukar Cly

Kuthrud

Pune, Maharashtra

Pradeep Bhargawa

Institute of Development

Jaipur, Rajasthan

Sheeba Jose

Sadhana Sadan

1 Tashkent Road

Allahabad, Uttar Pradesh

Anuradha Talwar

Paschim Banga Khet Mazdoor

Samiti

324 Basunagar

Madhya Nagaram, West Bengal

14. The role that I see assistants performing are:

a. Main roles of the assistants

- To send the Commissioners regular updates about the situation in the state
- To convey to the Commissioners any appeal for intervention that may be made in the state
- To work towards a more effective monitoring and redressal system within the state.

b. In addition, the assistants and their secretariat will also assist in

- An analysis of performance of relevant schemes using macro data;
- Response to emergencies, like drought, starvation deaths etc
- Gathering information from the state governments on the performance of the relevant schemes and programme.
- Articulating alternative demands regarding state policy especially on hunger

- Preparing periodic state reports
- Working towards accountability norms for public programmes related to food and food security
- Arranging visits of the commissioners if necessary
- Liaise with local networks, individuals and organizations to gather information from the district level and other sub levels.
- Handle other requests that the commissioners may make to them from time to time.
- At the request of the commissioners, agree to be a part of various committees pertaining to the orders of the court, or organize suitable alternatives for the same.
- Liaise constantly with the government on grievances and grievance redressal processes within the relevant schemes.

15. The Commissioners will work closely with the assistants and respond to the appeals received from different states through the adviser. The assistants will be in constant touch with government authorities, in particular with the nodal officer, over the issues cited above. For this purpose, the commissioners have requested state governments to appoint a nodal officer. The assistants will liaise with this nodal officer on behalf of the commissioners. In case the state government does not appoint a nodal officer the Chief Secretary of that state will be the contact person.

16. Even though I have communicated these names to the various State governments / UTs the response has generally been lukewarm. I therefore request this Honourable Supreme Court to consider incorporating the names of these persons as assistants to the commissioners in an order of this court. Further, may I request permission to modify the list of assistants by adding or deleting persons.

17. It would help enormously if, when States and Union Territories have their meetings on food security, the commissioners and the assistants to the commissioners be invited to participate.

18. Also, the assistants should be permitted to access relevant data / records.

A cooperative approach

19. We wish to emphasize that the approach of the commissioners is not fault finding. The States and Union Territories must take us as a friend and cooperate in a common endeavor to taken the issue of food insecurity. Starvation deaths during this petition

20. I am sorry to report and I know that this news will greatly distress your lordships that despite your lordships' best endeavors and the full cooperation of the learned advocate general of India, starvation deaths have been reported once again from many States.

21. I now produce below in respect of starvation deaths in the country for the period after the starting of this case i.e. April 2001. This is only a partial list as the details are still coming in.

a) 4 starvation deaths were reported and were also documented by a team from "Gram Swaraj Abhiyan" and Delhi school of economics"

Manatu, Jharkhand

Pioneer, Dt. 23.7.02

b) 10 people die after eating rotten food not able to afford edible food

Raygada, Kashipur Block, Orissa

Hindustan Times 27.8.02

c) Mewa belonging to a large family died on April 28th when

Kotada Thesil, Udaipur District,

Indian Express, 6.5.02

the family dried out of food. The help from government was meager and did not help

Rajasthan

d) About sixty have died out of malnutrition.

Kisanganj, Rajasthan

Dainik Navijothi 10.10.02

e) At least two adult deaths due to starvation and three more where starvation or undernutrition is the cause of death

Barwani, Madhya Pradesh

Documented in detail by Dr. Abhay Shukla, CEHAT

Baran District, Rajasthan

- In Kishan Ganj Sub Division, Baran district, twelve children died out of hunger and malnutrition. The news report states that in village Swaans, of the sub division about twelve children belonging to the Sahariya tribe died in the week. The patwari of the area reported the matter to the tehsildar according to the correspondent. Works in the village are completely inadequate that people are dying of hunger. (source: 10th October, 2002 Dainik Navjyoti, regional hindi newspaper)
- In village Gangapur shaherana, Mundiar panchayat, Shahbad tehsil, according to the activists of Sankalp organization, based in village Mamoni, Sahabad tehsil, one Ganpat Sahariya, his daughter-in-law and her two children died after eating poisonous phang (a vegetation that turns poisonous if does not receive the required rain) as there was no cereal to eat or money to buy it. The incident happened fifteen days ago. This information was sent to the PUCL by letter from the organization.
- Activists of Sankalp organization, gave in writing to the Chief Minister on the 27th of September that in Lal Kankri village of Kishanganj tehsil one sahariya tribal male died in public a week earlier, after acute pain in his stomach. He had not had anything to eat for many days as he had no money and employment. The memorandum states that the people are surviving after eating phang and sama (local greens). In village Kaglavar of Shahbad tehsil people ate some local greens and most of the villagers fell ill. (This is from the memorandum. It does not have specific information. We plan to do a study of this.)
- Sahariyas, supposed to be the most primitive tribe of Rajasthan, are the worst hit people who live in chronic hunger even in non drought periods. In the present drought with no livelihood base left in the region they need a special focus by the Government otherwise there may be several deaths in the region.

Kota District (Rajasthan Patrika, 7th October)

- A middle aged man died of starvation in the railway colony thana area of Kota city. According to the post mortem carried out on the 4th of October the person had not eaten any food for four-five days.

Pali District (Rajasthan Patrika 5th October)

- Chaana Ram Chowkidar of Khariyaneeva village near SOJAT died of hunger at the famine work site of the village. According to his wife, the family did not have money to buy food and as such Chenaram was a victim of hunger.

Churu District (Bhaskar 28th September)

- According to this news report one 32 year old Om Singh from Dhingrala village Churu district took his life on 23rd September as he did not get work in his village due to drought conditions. He took his life in Hissar (Haryana) where he went looking for work and was unable to find work there too.

Sirohi, Revdar tehsil

- According to BrijMohan of Society of all round Development a voluntary agency working in the region. One adivasi died in early August. The post mortem report stated that he did not eaten for four days although he was a TB patient.

Offtake before and during this case

22. Though we have made historic gains in this case, the study of the off-take during the year preceding the case i.e. 2000–01 and the off take during the pendency of the case 2001–02 for all the welfare schemes is only about 6 MT which shows that there is something holding back real progress. The off take during these two periods is as under:

Offtake of foodgrains from the central pool (2000-1 AND 2001-2)

(lakh tonnes)	2000-2001	2001-2002
BPL	95.21	100.44
APL/additional	21.57	21.06
Antyodaya	0.35	16.79
Annapurna	0	0.93
SGRY	0	18.83
Nutrition prog.	17.79	1.36
FFW	0	28.37
Mid-day meal	15.19	20.76
Other	0	1.58
Total	150.11	210.12

Food for work

23. Obviously further steps need to be taken and may I humbly suggest that the major step that may now required to be taken in respect of food for work.

24. I have worked done food security issues for many years. I was the Relief Commissioner (U.P.) during the drought of 1979-1980, Food Secretary (U.P.) 1981-1982, Rural Development Secretary (Government of India) 1997-1999, and have taught Food Security issues at Mussoorie from 1976-1980 and 1993-1996.

25. After all my years of public service I have come to the conclusion that only an effective food for work programme can reduce hunger and move our nation towards food security. I have read the application filed now in this court for directions by the petitioner and I am in broad agreement with them, and the comments that follow are in addition to what is contained in that application.

26. I have seen the response of the Union of India submitted to the petitioners on 4.10.02 and would like to make certain submissions

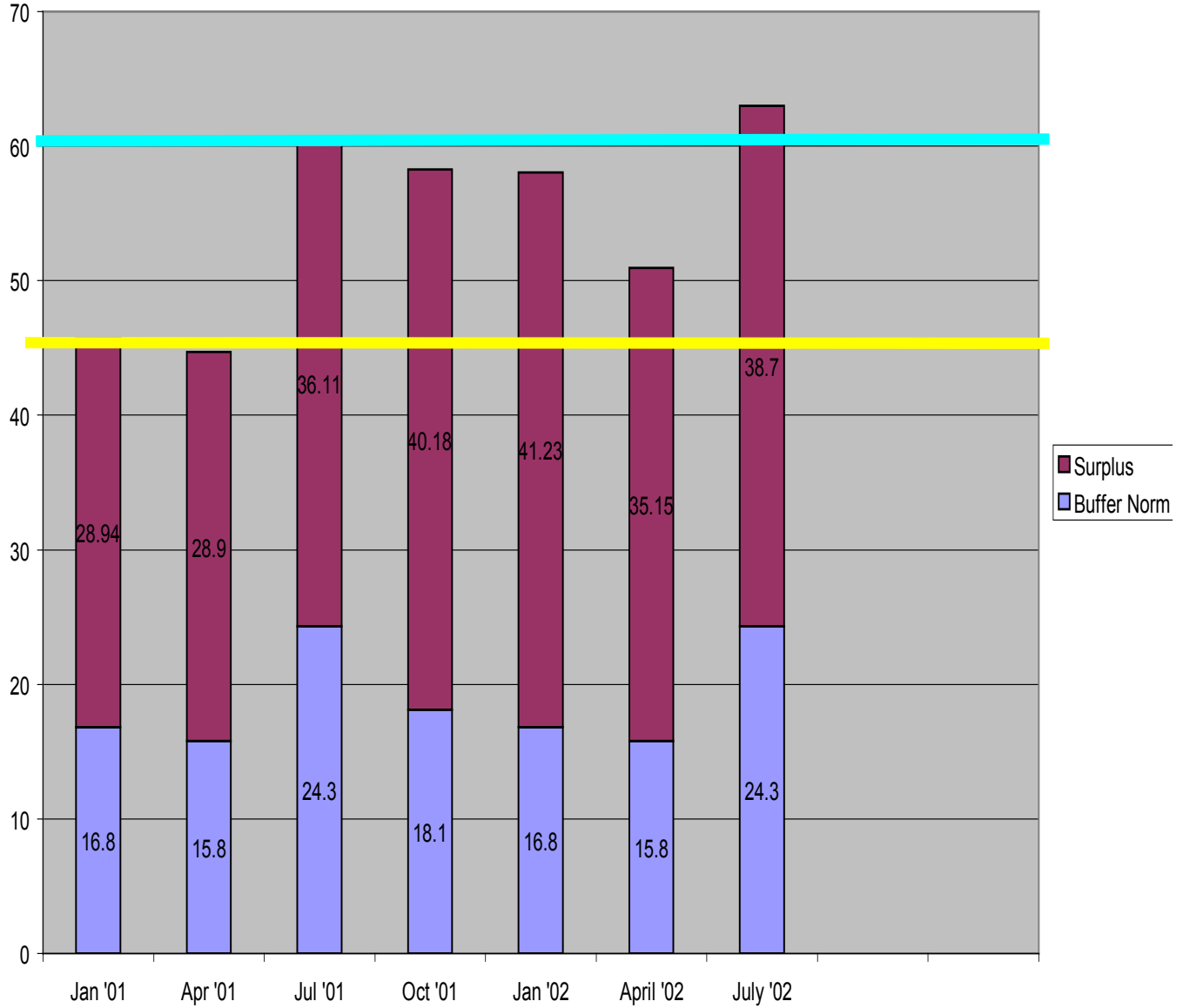
27. The procurement during the period April 2002 to July 2002 as obtained from the union of India website is 19 million tonnes of wheat. This is the rabi crop for which procurement strats around the 1st April. My information is that government expects the rabi procurement to be minimum 20 million tonnes. The figures after July 2002 are yet not available, but this is the expectation.

Year	Wheat (April-March)	Rice (Oct-Sept)
1997-98	92.98	143.32
1998-99	126.52	117.89
1999-2000	141.43	172.74
2000-2001	163.55	191.03
2001-2002	206.3	206.3*
2002-2003	190.19*	
(* As on 31/07/2002)		

28. The information that I have received in respect of government expectation of the minimum procurement of Kharif crop for which procurement has started on the 1st October is 16 million ones. Thus the total procurement for the year 2002-02 a minimum of 36 million ones. Thus the drought in the country is expected to have a marginal effect on procurement. Moreover the main states from which procurement taken place Punjab, Haryana, UP and Andhra Pradesh have not been particularly affected by the drought.

29. I have set out herein below the chart showing the fluctuation in the buffer stock norms and the interplay between the procurement and the off-take resulting in a fluctuating surplus.

Buffer and Surplus Projected till April 2003



30. It has also been reported particular from Rajasthan and Madhya Pradesh that persons have been working on the Food-for-Work programmes and have not been paid for works sometimes months as the grain under SGRY was not available. These reports highlight the urgent need to immediately release adequate quantities of free grain on time and the state for the FFW programme.

31. In this context I reproduce below extracts of the correspondence between the Chief Minister Rajasthan and the Centre:

i) Chief Minister

Rajasthan

D.O. No.F.1(2)() SA/FFW/2002/15752

Dated : 2.8.2002

Dear Shri Shanta Kumar ji,

As you are aware the Monsoon has failed completely in Rajasthan and the State is facing the 5th successive drought. All the 32 districts of the State have already been declared scarcity affected. Even last year, when most of the country had good rains, in Rajasthan we had to declare scarcity conditions in about 8,000 villages in 18 districts. In the current year, the complete failure of the Kharif crops sown, which is caused by the previous four consecutive years of drought, have created a major crises of employment for the landless labour, small and marginal farmers and other poor sections of the society, especially BPL families. In these circumstances employment generation works under Food for Work Programme will have to be started on massive scale. The availability of wheat for the programme has been stopped with effect from 31st March, 2002. It is obvious that Government of India will have to resume the supplies early so that our employment generation programme does not suffer. The Food for Work programmes is now required to be launched in a big way to sustain our affected agriculturist.

With regards,

Yours Sincerely,

Sd/-

(Ashok Gehlot)

Shri Shanti Kumar

Union Minister for Rural Development,

Government of India,

New Delhi, India

ii) Chief Minister

Rajasthan

D.O. No.F.1(2)() SA/FFW/2002/

Dated : August 13, 2002

Dear Shri Ajit Singh ji,

Among other things the State is requesting for the immediate launch of Food for Work programme by the Central Government. However, the Central Government is yet to announce the commencement of the Food for Work programme. We intend to start employment generation relief works by the 15th of August, 2002. Hence it is most necessary that the food grains are allotted immediately. In the end, I would again urge you to launch the Food for Work Programme immediately so that employment opportunities in drought affected areas can be made available to affected populations.

With regards,

Yours Sincerely,

Sd/-

(Ashok Gehlot)

Shri Ajit Singh

Union Minister for Agricultural,

Government of India,

NEW DELHI.

iii) Chief Minister

Rajasthan

Ashok Gehlot

D.O. No.F.1(2)() SA/FFW/2002/

Dated : August 15, 2002

Dear Shri Shanta Kumar ji,

This measure immediately requires the allocation of wheat under the Food for Work Programme, failing which it will not be possible to make payment to the persons employed. We have decided that we shall be making payment in the front of wheat to the extent of 75% and the rest as cash. I am enclosing a statement of the requirement of wheat in the months ahead. This letter is in request you to immediately issue directions for the release of our immediate requirement so that there will be no delay in making payment to the labour now engaged on relief works. The payment of wages to these labours is to be made in the first week of September, 2002. Any delay will seriously hamper our efforts and cause avoidable hardships to the people of the state.

With regards,

Yours Sincerely,

Sd/-

(Ashok Gehlot)

Shri Shanta Kumar

Union Minister

Ministry of Rural Development,

Government of India, Krishi Bhavan,

NEW DELHI.

iv) Chief Minister

Rajasthan

D.O. No.F.2(62)Rd/02/21373

Dated : August 27, 2002

Dear Shri Vajpayee ji

1. Kindly refer to my earlier letter to 20th August, 2002 in which I urged you to take necessary steps for immediate release of food grains for payment to labour employed on drought relief works in the State which have commenced from 16th August, 2002. At present the sanctioned labour strength is in the order of 4.18 lacs and in due course of time we intend to take this to about 30 lacs in the peak summer months.
2. The Government intends to release 75% wage component in the form of food grains and the projected demand for the entire drought period up to the end of July 2003 is estimated to be 56 lac tones. Government of India has taken a view that surplus food grains under SGRY still available with the State Government should be first substantially lifted before further allocation of food grain is made. State Government is making adequate arrangements to ensure the same. I would like to bring to your notice that under SGRY only 48000 MT wheat is available against our requirement of 1.04 lac MT for the month of August, 2002. I am sure that Government of India will take steps to release the required wheat immediately.
3. I would like to point out that the SGRY is the scheme that was announced by you on 15th August, 2001 and that it has taken almost a year for it to be actually implemented on the ground. The guidelines of SGRY itself is made applicable only from 1.4.2002. Further, the guidelines were received in the State Government only few days ago and that too when a request to this effect was made by the State Government officers. It is also necessary to point out that allocation of cash./wheat was made to the State in the second half of June 2002. Hence to demand that this amount is utilized early within such a short time is not reasonable. This should not become a point of debate between Government of India and State Government in mater regarding utilization of resources already available with the State Government.
4. In this letter, I wish to draw your attention to the guidelines issued under SGRY for Special Component for the purpose of augmenting food security through additional wage employment in calamity affected rural areas. It is understood that food grain under special component can be used in any scheme of the State Government being implemented for generation of employment in areas affected by natural calamity. However, the procedure for release of such food grains is cumbersome and centralized. The guidelines state that Ministry of Agriculture will obtain district-wise proposal from the State Government and that such proposals shall be scrutinized before recommending the quantity of food grains to be released through the Department of Rural Development. Thereafter, Department of Rural Development will authorize the Department of Food and Public Distribution for releasing food grains district wise. Yet again, before any additional demand for food grains is entertained, a certificate will have to be issued that 75% of the released food grain has been lifted and that 60% of the lifted food grain has been utilized.
5. I am of the view that these formalities can be avoided because the current situation is extremely is extraordinary and such procedures have to be avoided if the works are to be executed with full speed so as to ensure timely payment of wages to the persons employed on such works. I would suggest that the quarterly

requirement of food grain as presented in our interim memorandum be released periodically and that before release of the next quarter's installment, a certificate from the State Government can be obtained regarding utilization. This will obviate the need for district-wise release of food grains and will ensure that there is no delay in release of food grains to the labour employed on the employment generation work.

6. It is also necessary to point out that the present allocation of SGRY of Rs.300 crores (both cash and wheat) is grossly inadequate and this amount is required to be raised to Rs.600 crores (6% of the yearly allocation of Rs.10,000 crores) in view of the magnitude of the scarcity conditions of the State. As and when the funds are utilized, we shall approach you once again for making additional allocation.

7. It is also a fact that wheat being released through FCI godowns is being calculated on the economic cost which would be of labour Rs.10/- per kg. while the State Government has been given the discretion to charge any amount between BPL rates and APL rates. Considering the present situation of distress, the State Government will be releasing the wheat as labour payment on rates equivalent to BPL rates. This wide disparity between issue price of wheat and labour payment rates, is required to be considered especially in view of accounting procedures so that there is no confusion in future.

8. At present the relief operations are being undertaken only in rural areas. It is a fact that even in small municipalities as well as bigger towns, the effect of deprivation is keenly felt in the same intensity as in rural areas. As a special case, the Government of India should consider extending the SGRY to municipal areas also if the State Government feels the necessity to start relief operations in these places also.

9. In the last drought of 2001-2001, we had ensured payment to the labour within 7-10 days after the lapse of the preceding fortnight. This generated confidence in the employed labour and the high credibility of the Government. This time also we intend to ensure that there is no unnecessary delay. I am sure that you will issue appropriate directions to ensure that the procedural formalities are avoided at a time when the main trust of the Government is to provide instant relief to the drought affected population.

Yours Sincerely,

Sd/-

(Ashok Gehlot)

Shri Atal Behari Vajpayee,

Prime Minister of India,

New Delhi.

Copy to :

1. Chief Secretary

2. Secretary, Relief

3. Secretary, Rural Development.

Sd/-

Secretary (1) to CM

v) Government of Rajasthan
Relief Department
No.F.1(2)()RC/FFW/2002/15957-58
Jaipur dated 6-8-02
Shri Wilfred Lakra
Joint Secretary (SGRY)
Ministry of Rural Development,
Government of India
Krishi Bhawan,
New Delhi.

Sub: Allocation of foodgrains free of cost for generating additional employment.

Government of Rajasthan has submitted an interim Memorandum demanding funds and food grains to Ministry of Agriculture & Cooperation, Government of India vide letter No.F1((1)(2)RC/Gen/2002 dated 03.8.2002. In this Memorandum, the State Government has demanded 56 lac MT of wheat and a sum of Rs.3276 Crores as cash component for payment of part wages and material. This demand has been calculated on the basis of following criteria:

1. Employment generation will be made from the month of Aug., 2002 to July, 2003 in 41000 villages of all the 32 districts of the State, which have been notified as scarcity affected.
2. Although, there are 23 lacs identified BPL families in the State but the anticipated labour employment has been assessed from 5 lacs labour in the month of Aug. with a gradual increase in next months. The monthwise details of labour is to be engaged is being given in Annex.I where a total number of employment to be generated has been calculated to be 5660 Nos.
3. Keeping in view the labour material ratio as 64.40, the requirement of funds will be to the tune of Rs. 5600 Crores. This has been calculated as per prevalent minimum wages notified Rs.60/- per day in the State.
4. One of the total requirement of funds, 60% labour component comes out to Rs.3360 Crores. State Government proposes to pay the part wages in the form of foodgrains at 10kg per day at BPL price of Rs.4.15 per kg. With this strategy the total requirement of foodgrains (wheat) will be 36 lacs MT costing Rs.2324 Crores and the remaining cash component of wages would be Rs.1036 Crores, Besides this, the requirement of material with the ratio of 60.40 will be Rs.2240 Crores. Month wise break-up of the requirement of funds and food grains is being enclosed.
5. Cash component of the wages and material cost for the relief works is to be provided by Government of India from NCCF or other sources.
6. The works to be undertaken will result in creation of permanent community assets of harvesting and conservation the water to increase productivity of soil, minor irrigation works, assets required for social needs like education, medical & health, sanitation, drinking water, dwelling units for rural poor etc. It is worth mentioning here that Rajasthan has an appreciable and exemplary instance of executing the Food for Work programme in the year 1999–2000 (Samvat 2057) where the relief funds were used for creating permanent

community assets by giving the slogan

“Akali se Vikas”.

With the submission of above details, it is requested that 56 lac MT of wheat free of cost may be allocated along with the cash component of Rs.3276 Crores for generating additional employment opportunities in the scarcity affected areas during the drought period of Aug. 2002 to July 2003.

Yours faithfully,

Sd/-

(O.P. MEENA) Secretary to the Government

Encl: A/a

Copy To the Director (DM), Ministry of Agriculture, Department of Agriculture and Cooperation, Government of India, New Delhi in reference to their letter No.30-11/2002, DM dated 29.7.2002 for necessary action.

Principal Resident Commissioner, New Delhi.

Sd/-

Secretary to the Government

32. I have annexed at Annexure A, B and C respectively list of the letters written by the State of Rajasthan to Government of India and the letter dated 11.9.2002 from the Chief Minister of Rajasthan to the Honourable Prime Minister of India and the letter dated 12.9.2002 from the Chief Minister Rajasthan to the Honourable Deputy Prime Minister of India.

33. As can be seen the surplus last year, is about 40 MT and the surplus this year is expected to be to the tune of about 35 million tonnes above the buffer stocks even if one assumes that on account of the drought situation, procurement will be less.

34. This figure of 35 MT is on the low side because government expects to export 10 million tones this year very marginally above the BPL rates. It is regrettable that the government subsidizes the sale of food grains to countries abroad while at the same time starvation deaths take place in the country.

35. In view of the charts above, I believe that there is a clear case made out for the directions as sought for by the petitioner for 20 million tonnes of grain to be given free to the states specifically for use in the food for work programmes.

To sum up may I request for the following directions:

a) The Chief Secretaries/Administrators of all the states/UT's may be directed to respond promptly to all the correspondence addressed to them by the Commissioners and provide full information as required.

b) Though the Commissioners have clarified that they do not see their role as fault finding nevertheless it may be directed that in the case of persistent defaults in complying with the orders of this Court the Chief Secretaries/Administrators shall be held responsible in Contempt of Court.

c) Since it is reported that many states/UT's have not complied with the order of this Court to translate and

prominently display the Court orders on all Gram Panchayat's, school buildings and fair price shops and that wide publicity was not done on AIR and Doordarshan as directed, the Chief Secretaries/Administrators may be given one last chance to comply with this order within 8 weeks.

d) It may be clarified that the scope of the Commissioners work will include monitoring of the implementation of the Court orders and the implementation by the respondent of the various welfare measures.

e) The following persons are appointed as assistants to the Commissioners:

Pushendra Kumar

ActionAid India, Bihar
A/22 R.T. Tower New
Patna, Bihar - 744101

Biraj Patnaik

ActionAid India, Chattisgarh
HIG/ 28, Sec 1 Shankar Ngr
Raipur, Chattisgarh

Ramesh Sharan

Dept. of Economics, Ranchi University
Ranchi, Jharkhand

A K Roy

Hazards Centre
Munirka
Delhi, Delhi

Mihir Shah

Secretary
Samaj Pragati Sahayog
Bagli, Madhya Pradesh

Bikash Das

CLAP
Bhubaneswar, Orissa

Muthappa N M

Right to Food Campaign
No- 44, New Bamboo Bazar
Bangalore, Karnatak

Abhay Shukla

CEHAT

3 & 4 Aman Terrace Pl. 140,

Dahanukar Cly

Kuthrud

Pune, Maharashtra

Pradeep Bhargawa

Institute of Development

Jaipur, Rajasthan

Sheeba Jose

Sadhana Sadan

1 Tashkent Road

Allahabad, Uttar Pradesh

Anuradha Talwar

Paschim Banga Khet Mazdoor

Samiti

324 Basunagar

Madhya Nagaram, West Bengal

f) The assistant shall play the following role:

- To send the Commissioners regular updates about the situation in the state
- To convey to the Commissioners any appeal for intervention that may be made in the state
- To work towards a more effective monitoring and redressal system within the state.
- In addition, the assistants and their secretariat will also assist in
- An analysis of performance of relevant schemes using macro data;
- Response to emergencies, like drought, starvation deaths etc
- Gathering information from the state governments on the performance of the relevant schemes and programme.
- Articulating alternative demands regarding state policy especially on hunger
- Preparing periodic state reports
- Working towards accountability norms for public programmes related to food and food security
- Arranging visits of the commissioners if necessary
- Liaise with local networks, individuals and organizations to gather information from the district level and other sub-levels.
- Handle other requests that the commissioners may make to them from time to time.
- At the request of the commissioners, agree to be a part of various committees pertaining to the orders of the court, or organize suitable alternatives for the same.
- Liaise constantly with the government on grievances and grievance redressal processes within the relevant schemes.

- g) The respondents shall appoint a nodal officer in every state for the implementation of the Court orders. The assistants will be in consistent touch with the nodal officers. In case no nodal officer is appointed the Chief Secretary/Administrator shall be the nodal officer.
- h) The nodal officers shall provide the assistants full access to relevant records and provide all relevant information. On receiving information from the assistants regarding non compliance the nodal officer shall act swiftly to correct the situation.
- i) When the respondents have their meetings on food security it is necessary that the Commissioners and their assistants be also invited to participate.
- j) It is clarified that the Commissioner is at liberty to modify the list of assistant by adding or deleting names and the modified list as submitted to the respondents shall be taken as if authorized by this Court itself.
- k) It is reported that starvation deaths have taken place during the pendency of this case despite all the court orders. It is clarified that it is the duty of each respondent to prevent starvation deaths. If the Commissioner reports that starvation deaths have taken place it will be presumed that Court orders have not been implemented and the Chief Secretary/Administrator of state/UT's will be held responsible.
- l) The Commissioner's have submitted to Government a proposal for financial assistance for the work of the Commissioner including, inter alia, travel, research, secretarial assistance, computers and so on. The Government of India may be directed to approve of that proposal and sanctioned the amounts immediately.

Dr. N.C. Saxena
Commissioner
New Delhi
Dated: October 12, 2002

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In the matter of: People's Union for Civil Liberties ...

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Dr. N.C. Saxena

Commissioner

New Delhi

Dated: October 12, 2002