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Introduction

This report comes after a series of orders passed by the Supreme Court in April 2004. It also comes in wake of a newly elected government at the national level after the general elections and a series of announcements. However as this report will emphasize, effective implementation is not a question of greater allocations alone but of better delivery systems as well.

At the outset we would like to place on record, the complete lack of seriousness shown by many state governments to the implementation of schemes under review. On more than one occasion as the report will show, many states have not implemented Supreme Court's directions on one pretext or the other, and repeated orders from the Court have been blatantly ignored with no proper justification. It is our strong recommendation that the Hon'ble Court may take note of these violations, especially by the states of UP, Bihar, Jharkhand, Madhya Pradesh and Delhi, and pass appropriate orders for time-bound implementation of its orders.

The purpose of this report is to bring to the attention of the Court, new issues requiring intervention and to document recent evidence to help resolve the ones that remain. This report draws on field visits made by the Commissioners, their Advisors and secretariat, meetings held with the central ministries, extensive correspondence with the centre and state governments, reports previously submitted to the court and those received from citizen's organizations around the country to track developments that have taken place in the last year or so.

While writing the report a few things became quite apparent. **First though the schemes covered by the orders of this court provide an excellent opportunity to assist the destitute through successive stages of their life, problems with implementation erode all possibility of the same.** These schemes attempt to provide social security from the time of birth (through schemes like NMBS and ICDS) till such time when the vulnerable are unable to work for a living (through schemes like Annapurna and NOAPS). This 'life cycle' approach to food security is however dotted with irregularities, dwindling their ability to provide any substantial measure of relief to different sections of the poor. Looked at in another way, while efforts to increase purchasing power of the poor can be made through employment programmes, unless simultaneous reforms in the delivery mechanisms, price charged and quantity assigned of food schemes take place the poor will be unable to afford services like subsidized rations provided for them.

Second is the repeated mention of particular states including Madhya Pradesh, Uttar Pradesh, Bihar, West Bengal, Assam and Jharkhand, where problems of non implementation of courts orders, non-utilization of funds (often wilful, as in the case of Jharkhand for ICDS), poor allocations, irregularities in implementation and corruption are endemic across issues and schemes. This must not be continued to go on unchecked. **In discussions with the non-**

complying states they often try to take shelter behind the excuse that they have no funds. This is factually not correct, as they have received a total of Rs 1,66,749 crore according to the current budget document much more than previous years like 2001-02 in which Rs 127,000 crores was received from from GoI. The detailed breakup for central transfers to the states according to the current budget document are as follows: (1) RS 82,227 crore through the Finance Commission; (2) Through Planning Commission 57,704; (3) Centrally Sponsored Schemes 10,820 and; (4) From Rural Development Deptt 15,998. This excludes subsidy on food, fertiliser and petroleum products and states' own income from Sales Tax etc.

Finally, while the central authorities have escaped explicit mention in previous reports, this report will illustrate that their performance in many respects needs to be improved. On the one hand an increase in the coverage of the social security net is routinely denied (ICDS, NSAP and Antyodya) with allotments often less than entitlements (Midday Meal and TPDS) but more importantly this appears to be on account of refusal to do away with the export of subsidized grain.

The following sections will first evaluate the performance of several food based schemes followed by a brief discussion of related issues like the employment guarantee, the right to information and an update on the reports of starvation received from different parts of the country.

Section 1: Integrated Child Development Services (ICDS)

The order of November 2001 called for one Anganwadi centre (AWC) in every settlement and complete coverage of all children till they attained the age of six years, all pregnant and nursing mothers and all adolescent girls. As far reaching as the order proved to be, inaction on the part of the centre and states has meant that both geographical coverage and the number of beneficiaries serviced is grossly inadequate.

1.1 Non-Compliance with Supreme Court Orders: Geographical Coverage

As it stands today the ICDS is being implemented in 5111 out of the 5652 sanctioned projects (blocks) across 6 lakh centers around the country.¹ This is not enough to cover all the settlements

¹Quarterly Progress Report for the quarter ending December 2003, Department of Women and Child Development

as directed by the court. **If the survey conducted by the Ministry of Rural Development² is used as a benchmark, the number of AWC's required is close to 14 lakh against the 6 lakh currently providing service³.** Moreover while the central ministry continues to argue its inability to implement the scheme as per the courts orders, it has made little attempt to comply even with its own norms. The "central norm" given to states is one Anganwadi per 1,000 population (700 in the case of tribal areas). Using census 2001, estimates would show that more than 11 lakh Anganwadi's should currently be in operation.

Leaving aside the issue of required coverage at the habitation level, for some states the centre has failed to ensure the accepted norm of one ICDS project for every block at least in poorer states⁴. The number of projects sanctioned, has shown no increase since 1997, despite an increase in population, with major shortfalls occurring in states of Chattisgarh (66% blocks covered), Bihar (74% blocks covered), Assam (89% blocks covered) and Madhya Pradesh (74% blocks covered). At the very minimum the centre should have ensured that there is a sanctioned project for every block in these states.

Further, the central norm of one per 1000 only applies within the existing 'sanctioned' project areas and not everywhere. Even if all projects are made fully operational they will each have at best 120 AWC's under their authority. This is insufficient to ensure an AWC for a population of 1000 or one in every habitation, which the order calls for. This distinction is important because it dispels all claims of 'universalization' made by the centre, which only calls for operationalising the existing number of sanctioned projects.

A recent survey conducted by the Commissioners research team has shown that one of the primary reasons for poor coverage of needy groups under the scheme is the location of the AWC. Access to services by deprived communities like the SC & ST's, is restricted if the centre is located in upper caste predominated hamlets. Field visits⁵ have also shown what appears to be a glaring lack of any proper method to assess the need and requirement as a result of which many of the SC/ST hamlets have been excluded. This not only reinforces the need for implementation of the

² Survey of Rural Habitations conducted by the Department of Drinking Water Supply, MoRD. The norm adopted was a source of drinking water for a population of 250. Using this the central norm of one AWC per 1000 population should roughly translate into four times the existing number of centres.

³ The need for a disbursement centre in every settlement is required if all beneficiaries are to be covered and more so in the scattered regions of ITDP blocks and in the desert regions of Rajasthan, where physical distance makes coverage of all eligible otherwise nearly impossible.

⁴For eg in Orissa ICDS is implemented in 229 Blocks out of the 314 community development blocks, source: Advisor to the Commissioners in Orissa

⁵ See "Implementation of ICDS in Shankargarh block of Uttar Pradesh," Shonali Sen, March 2004, mimeo Centre for Equity Studies, for findings from a pilot survey conducted in the block in February 2004

order calling for a functional Anganwadi in every habitation, but also suggests that **priority must be given to initially cover the SC/ST populated habitations** followed by others.

1.2 Non-Compliance with Supreme Court Orders: Coverage of Beneficiaries

As far as provision of nutrition is concerned, returns filed by the states show that only 3.4 crores children are enrolled which forms just 21% of the total population under the age of six. This is not close to either the number that are eligible (over 15 crores), or those that are malnourished (approx 8.5 crore) or even the number belonging to families below the poverty line (approx 6 crores). It is noteworthy to add that 3 crore is in fact an over estimate because many of the children who are nominally “enrolled” in ICDS centres are not actually getting supplementary nutrition for many months of the year. (See section 1.3.1 for accounts of disruption in supplementary feeding in many states)

Further in a community of a 1,000, there would be around 150 children aged 0-6. As against this, an ICDS centre takes care of just 57⁶ children on average and a maximum of 80⁷ if the indicative figure provided by the centre is used. However most states use this as a ceiling for the number of children to be enrolled at each centre. In a letter regarding registration of beneficiaries, the centre clarified that “the norms are based on average population coverage in an average AWC and were indicated in 1982 (based on the 1981 census). By the very nature they would vary and are but indicative and cannot be construed to imply either an upper limit or a lower limit for registration⁸.” **Thus neither is the coverage of habitations universal, nor is the coverage of eligible beneficiaries complete, even by central norms.**

Leaving aside theoretical coverage, the actual enrollment of children under supplementary nutrition is even lower. Only in eight states were the number of children enrolled equal or more than 80. As can be seen in [Table 1](#) actual enrollment per centre in the states of Jharkhand, Madhya Pradesh and Uttaranchal, is only 30, 57 and 46 per centre respectively on an average.

⁶ 6 lakh centres cover 3.4 crore children according to GOI data; this implies 57 children per centre. However the number of children enrolled and covered under SNP is much lower in most states.

⁷ This figure of 80 comprises of 40 children under the age of 3 and 40 in the age 3-6. For tribal regions the norm is 42-42. For other user groups the indicative norm is 20 (25 in tribal regions) pregnant and nursing mothers and a minimum of 2 adolescent girls per centre.

⁸ Letter No 12-15/2001-CD I, dated 21 February 2002, DoWCD, MoHRD

Table 1: Enrolment of Children and Mothers under SNP (per AWC and as a % of eligible population)					
Select States	Total population (0-6)*	Enrollment under SNP (0-6)	% of eligible population enrolled under SNP	Average number of children enrolled per AWC (norm is 80)	Average number of mothers enrolled per AWC (norm is 20)
Andhra Pradesh	9,673,274	2,483,821	26	50	13
Bihar [^]	16,234,539	248,957	2	62	7
Chhatisgarh	3,469,774	1,305,815	38	67	17
Goa	142,152	37,996	27	38	9
Gujarat	6,867,958	1,454,724	21	48	8
HP	769,424	279,434	36	38	9
Jharkhand	4,796,188	182,176	4	30	14
Karnataka	6,826,168	2,508,793	37	63	13
Madhya Pradesh	10,618,323	2,334,789	22	57	15
Sikkim	77,170	34,006	44	69	12
Tamil Nadu	6,817,669	1,419,511	21	47	15
Tripura	427,012	126,288	30	51	7
Uttar Pradesh	30,472,042	4,025,182	13	72	14
Uttaranchal	1,319,393	4,824	0	46	11
Average (States)	155,604,128	32,819,751	21	67	14
<i>Note: [^]As on 30/9/02 No report since 30 sept 2002</i>					
<i>Source: "Status Report of the ICDS" as on 31st December 2003, Department of Women and Child Development, *RGI, quoted in Indiatat.com</i>					

The outreach to other beneficiary groups is particularly poor. Only 6.8 million pregnant and nursing mothers have been enrolled across 6 lakh Anganwadi's, or an average of 12 per centre. As can be seen from [Table 1](#) against the central norm of 20 per centre, the average number of women provided with nutrition in Bihar, Rajasthan, Uttar Pradesh and Uttaraanchal was just 7, 10, 14 and 11. A report given by the DM (Jalpaiguri, WB) shows coverage of pregnant and lactating mothers in starvation-ridden tea gardens to be very low. For e.g. 10 mothers in Kathalguri, 17 in Ramjhora and 13 in Mujnai tea estates are provided with nutrition.

As far as coverage of adolescent girls is concerned, sanction was given for only 2000 blocks in the year 2001-2002 or 36% of the total number of projects sanctioned under ICDS. However the number of blocks covered under the Kishori Shakti Yojana which provides the supplementary nutrition for this age group, is lower still and even absent in some states. **Of the 201 projects sanctioned in the states of Arunachal Pradesh, Maharashtra, Manipur, Tamil Nadu and Jharkhand, not a single project provides SNP to adolescent girls.** In Karnataka though the scheme is in operation, coverage is extremely limited with only 38 Anganwadi centres covered

under the scheme. For Delhi as a whole only 1826 girls have been enrolled under the scheme. However what is important to remember is that even within an Anganwadi, nutrition is supplied at best to three girls, which is far below current requirements. In Ramjhora (Jalpaiguri district, West Bengal) all efforts to secure more foodgrains from higher authorities had failed. Identification of 143 and 72 adolescent girls who were below 35 kgs of weight under ICDS Centre No. 87 and 88, and thus eligible for a special nutrition programme, had not led to increased allocations by the authorities.

To conclude many state governments have written to the Commissioners that implementation of the Courts orders would be possible once the decision and approval is given by the centre. In the words of the GoUP, "Every settlement and village could be provided ICDS services only after the decision is taken by the GoI. The state govt. could make budgetary arrangements for supplementary nutrition only when the GoI takes the decision."⁹ However meetings with the centre have not been very successful, with the department citing "neither the resources nor the mandate," to universalise ICDS¹⁰. While the increase in the number of Anganwadi's to cover all habitations needs financial sanctions and the approval of the centre, coverage under supplementary feeding is the sole responsibility of the states. Therefore states too need to be pulled up for not covering all children, pregnant and nursing mothers and adolescent girls in the existing centres. Given the above, implementation of the courts orders requires prompt action by both the centre and the states.

1.3 Poor Utilization of Funds under ICDS

The problem of poor coverage and inadequate resources is compounded by indifferent implementation and indefensible surrender of available funds. This was confirmed by the centre according to whom Bihar, Uttar Pradesh, Jharkhand and Uttaranchal remain "trouble states" which require more attention¹¹.

The expenditure for running the ICDS programme is currently met from three broad sources. First are the funds provided by the centre under 'general ICDS; used to meet expenses on account of infrastructure, salaries and honorarium for ICDS staff, training, basic medical equipment including medicines, play school learning kits etc. Second is what the state allocates to provide supplementary nutrition to beneficiaries. Third is the fund provided under the Pradhan Mantri Gramodaya Yojna (PMGY-nutrition) as additional central assistance, technically to be used to provide monthly take home rations to those children (age group 0 to 3 years) living below the

⁹ Source: Letter No: D.O.No.3614/P.S./SMK/2004-2/5(235)/01, dated June 9, 2004 received from the Department Of Women, Welfare and Child Development, GoUP

¹⁰ Meeting held on 25th November 2003 at Shastri Bhavan, between the Commissioners and the DoWCD

¹¹ Meeting held on 25th November 2003 at Shastri Bhavan, between the Commissioners and the DoWCD

poverty line and in need of *additional* supplementation. Analysis of the funds allocated and released under all three heads indicates the following:

1.3.1 Non-Utilization of funds allocated under state plan: The worst performance of the three is utilization of resources set aside in the state budget¹². First of all, highly insufficient funds are allocated under this head in the budget. Then, non-utilization of funds has been a continuing trend with little proof of states taking any measures to improve the situation. As can be seen in [Table 2](#), while some states like **Manipur** have not allocated a single rupee under the state plan, others like **Uttaranchal** have used only 46% of the amount allocated in 2003-2004. The situation was no different in **Jharkhand** which reported expenditure of only 1.92 crores when the state government had released 7.51 crores for supplementary nutrition in 2002-03. This trend continued in the following years as well. In the year 2003-2004, the state government released 11.56 crores, but expenditure was reported to be only 3.17 crores. **This effectively meant that 80 per cent of the allocation was surrendered, because financial sanctions could not be given on time. This resulted in the denial of nutrition to about 12 lakh children. Bihar** was not much better with the state surrendering more than 24 crores over the last two financial years¹³!

Table 2: Utilization of Funds Under SNP (Non Plan)						
(Rs in lakh)						
State	2003-2004			2002-2003		
	Allocation	Expenditure reported	% Utilization	Allocation	Expenditure reported	% Utilization
Bihar	2711	1071	40	2876	2024	70
Jharkhand	1788	317	18	751	192	26
Maharashtra	17331	12245	71			
Manipur	0			0		
Uttaranchal	1300	600	46	1378	106	8
Tamil Nadu	3470	2497	72	3452	1775	51

Note: For Bihar the figures are till January 2004
Source: Correspondence received from state governments, Dr Saxena's reports based on field visits made to the state.

1.3.2 Non-Utilization of funds allocated under PMGY: What is most shocking is the fact that though GoI had allocated Rs 37.3 crores out of PMGY funds for ICDS feeding to **Jharkhand**, not a single paisa had been released till March 2004, because financial sanctions could not be

¹²Compared to the other two sources, resources under 'general ICDS' from GoI are better utilized. However some states like Rajasthan, Manipur, Jharkhand and Maharashtra are still to achieve 100% utilization. Low utilization has implications for regularity in the payment of honorariums, training to ICDS staff, and operationalisation of sanctioned Anganwadi's.

¹³ Expenditure in 2001-02 was even poorer; against a release of 32.193 crores under Plan and 28.80 under non-plan, expenditure was only Rs 15.48 and 10.85 crores respectively. Source: "Review of ICDS Programme in Bihar," Dr Saxena, 14-17 March 2004. Other information about ICDS in Bihar is also based on this report.

issued in time! In the case of Maharashtra, while the state was unable to utilize 78% of the funds allocated, it asked for contributions to help meet a 'lean budget'. A survey conducted in Mulshi block of Pune district in June 2004, **revealed instances of parents being asked to contribute money to help meet expenses arising under the programme**, for services that are supposed to be provided free. The districts in Bihar, were able to spend only 6.32 out of 41.32 crores, i.e. 16% of the allotted funds under PMGY in 2002-03, because of administrative delay's in issuing sanctions. This continued in the next year as well with financial sanctions for the year 2003-2004 being issued only in August 2003, **which caused disruption in the provision of nutrition for more than five months of the year.** As can be seen from [Table 3](#), while Manipur did not allocate a single rupee under the state plan, PMGY utilization of 26% of available funds has meant that hardly any feeding activity took place under the scheme. In the case of Uttaranchal, utilization of PMGY funds in the year 2003-2004 for nutrition was less than 1% of the funds allocated and just a little over 3% over the last three financial years. In 2002-2003, 8.27 crores was surrendered, money that was allotted for supplementary nutrition.

Table 3: Utilization of Funds Under PMGY (Nutrition)						
(Rs in lakh)						
State	2003-2004			2002-2003		
	Allocation	Expenditure reported	% Utilization	Allocation	Expenditure reported	% Utilization
Bihar	4081	963	24	4132	632	16
Jharkhand	372	0	0	1138	751	66
Maharashtra	5000	1092	22	2300	1638	71
Manipur	900	234	26	720	150	21
Uttaranchal	1000	1	0	350	38	11

Source: Correspondence received from state governments

Non-utilization of funds under both heads has implications for the timely and regular delivery of supplementary food, regarded by most to be the most important service provided under the programme. Disruptions in the supply of nutrition can reduce incentive levels for families to attend the AWC. The Commissioners received several complaints of feeding being disrupted for months, often on account of administrative complacency and with no remedial action forthcoming from the authorities.

In Uttaranchal, of a total of 13 districts, feeding in the month of February took place in only three districts. It would be relevant to add that these three districts of Chamoli, Tehri and Uttarkashi are those in which nutrition is supplied by the World Food Programme. "For the other districts supply under PMGY is expected to commence from May 2004 onwards." The report of the Advisor to the Commissioners in West Bengal has attributed irregular and insufficient supply of

supplementary nutrition to be one of the primary reasons for the starvation deaths of children in the now closed tea estates. In Ramjhora tea estate (Jalpaiguri district), no food had been distributed in the ICDS centres for 254 days out of the stipulated 300 days or for 85% of the year (2003).

In the case of **Bihar** allocations for the FY 2002-03 were issued only in November 2003. This meant that no feeding took place in the earlier months of the year, which resulted in huge amounts being surrendered. At a recent meeting with Dr Saxena the State Government admitted that there is no feeding of children in the first few months of the financial year. **Discussion with the Field officers and Project Director ICDS revealed that actual feeding takes place for hardly two to four months in a year, and that too for a limited number of children, just 25 per cent¹⁴. All because sanctions are not be issued in time!**

The case of **Jharkhand** is even more distressing. The withdrawal of CARE in July 2002, responsible for supplying nutrition to the entire state, was not accompanied with the provision of any alternative. Thereafter the first budget allotment was issued only in January 2003. As it took time for district authorities to invite tenders, allotments were finally issued only in November 2003. As a result there was **no feeding between May and December 2003**.

Irregular opening of Anganwadi's appears to be a common phenomenon in **Uttar Pradesh**, the cause being long disruptions in the supply of food, often for periods longer than six months. **No supplementary food (Panjiree) was distributed between the months of November'03-February'04 in 387 state projects and November'03-May'04 in 233 former CARE & WFP run projects.** In the words of the state authorities, "*none other alternative arrangement could be made in this period¹⁵.*" Even when the supply is available it is irregular. A visit made in September 2003 to Barabanki district revealed the delays in the supply of Panjiree to be a regular occurrence. A visit by the Commissioners team showed a total of 1125 bags in storage at the block office. Delays had meant that this supply meant for the month of May had not been dispatched till July 2003. Regular delays on account of floating and accepting of tenders, is reported to be the primary cause of these disruptions. This is a very serious finding and must be corrected immediately. It is important to keep in place alternative arrangements that can be activated in times of unforeseen disruptions in supply.

A major reason for the frequent delay's and irregularity of service is the use of a state level contractor for supply of supplementary nutrition. This also leads to widespread corruption as

¹⁴ For a detailed account of the duration of feeding in select projects of Muzaffarpur and Vaishali districts see Annexure 1

¹⁵ Source: No: D.O.No.3614/P.S./SMK/2004-2/5(235)/01, dated June 9, 2004 from Department Of Women, Welfare and Child Development, GoUP

revealed in informal discussions with the concerned staff, because of which the administration is unwilling to change to a system of decentralized procurement, like the one used in Andhra Pradesh. The state gets the grain from the FCI at BPL prices which considerably reduces costs and has decentralized the purchase of pulses and vegetables to the districts or villages. Thus not only is a fresh cooked meal provided (which has never happened in Uttar Pradesh in the entire history of ICDS), but at lower costs and without the attending problems of delay's affecting supplies in the entire state for months at end.

Non-Utilization of funds must be reviewed in light of the fact that current allocations are much below requirements given the need to deliver quality ICDS services. In such a scenario beneficiaries in states surrendering funds need to be compensated incase supply of services is disrupted due to administrative negligence as has been illustrated above in the case of Uttar Pradesh, Jharkhand and Bihar¹⁶. This is particularly so in a situation where money was available but authorities were slow to use the money at the expense of legal entitlements.

There are three main reasons why even the meagre amounts sanctioned by the state governments are either not drawn or not spent in the field:

(a) Procedure for issue of financial sanctions is time consuming due to antiquated financial rules and practices used, which causes delay in the access of funds from the central government and delays in their disbursal;

A visit to Bihar and Jharkhand by Dr Saxena revealed a failure on the part of the administration to delegate secretariat powers to the field to be the reason for failure of provision of SNP for many months of the year. Rather than decentralize further the state government in Jharkhand seems to be under pressure to centralize the purchase system through state-level contractor! This obviously is the worst option, as it will lead to massive state-level corruption, besides resulting in delays and poor quality of food.

These funds are best spent in a decentralized manner by making village committees (self-help groups, Mahila Mandals, etc.) buy grain etc. and prepare meals for the village children. The success of such groups in other programmes in several districts of Jharkhand, such as East Singhbhum and Lohardaga has clearly demonstrated that decentralization is the best option. This will also enable the state of Jharkhand to properly utilize free oil from CARE worth about Rs 9 crores.

¹⁶ In theory only the state of Kerala has agreed to pay compensations and have issued required instructions. In practice the principle has been used to redress irregularities established in food security schemes in Shahdol district of Madhya Pradesh. (See Fourth Report of the Commissioners, August 2003 for details)

(b) Poor expenditure further reduces the quantum of future central assistance establishing a vicious cycle

(c) Poor supervision and lack of monitoring by the Centre and states: An important reason for irregularities in implementation is the lack of an effective monitoring mechanism which is the responsibility of the Department of Women and Child Development at the MoHRD. A study commissioned by the World Bank highlights the issue for the case of Uttar Pradesh where there was no feeding in any centre of the state between September 2003 and June 2004. "The data on supply of SNP to AWCs given in the Quarterly Progress Report reports 100 percent AWCs receiving SNP supply in the quarter ending September 2003. While this was indeed the case according to AWC records (the last time SNP was supplied was in August 2003), the reality was that there has been no supply since then.¹⁷

Even the existing one is not used to monitor state performance, with progress reports filed monthly and quarterly not being submitted, analysed or available for public verification. Bihar and Assam for eg have submitted no report since 30 September 2002¹⁸. It is for the centre to identify erring states like Bihar, Jharkhand and Uttar Pradesh where no feeding has taken place for months at end. Additionally it is imperative that the data is made available for public viewing through department websites.

1.4 Substitution of State funds with PMGY:

A disturbing trend is the decrease and in some cases a complete substitution of state funds with funds provided under central PMGY. This additional central assistance is provided for children under the age of 3 years and falling below the poverty line. The idea is not to substitute states' own plan outlays but to provide an additional source of funds for nutrition. However many states are using these funds alone to source the needs for the nutrition component of the programme. According to the centre, this trend is common among many of the north-eastern states who do not make any allocations from the state budget, but rely completely on PMGY funds.¹⁹ Manipur is a case in point. However as mentioned above what is cause for greater

¹⁷ (Source: CPMU, DWCD, GOI, November 25, 2003), cited in "Analysis of positive deviance in the ICDS programme in Rajasthan and Uttar Pradesh- Qualitative study commissioned by World Bank," Educational Resource Unit, Version 2, 14 April 2004

¹⁸ Source: Progress report for the quarter ending December 2003, DoWCD, MoHRD. This has been seen in other schemes as well. In the case of NMBS, only two states of UP and Gujarat sent in the physical and financial reports for the year 2002-2003. The other states are yet to file previous and current returns. The centre circulated a request for returns only when the Commissioners requested for information on allocation and utilization of funds. (No: Z.14012/39/2001-NMBS, dated 8 October 2003, from the Ministry of Health and Family Welfare)

¹⁹ Source: Meeting held on 25th November 2003 at Shastri Bhavan with the DoWCD

worry is the fact that even this meagre allotment from the PMGY is not fully utilised. This means that even less funds are available for disbursement to meet the nutrition needs of children under six. (See section 1.3 above)

The Commissioners also recommend a change in the guidelines to allow for children enrolled under the PMGY to be provided food (preferably cooked) at the centre itself. While the policy of take home rations may not be totally abolished, keeping in view the high rate of migration in Jharkhand, Bihar and other states²⁰, efforts must be made to persuade small children to come to the centre with their elder siblings and given feed appropriate to their age.

1.5 Inadequate Allocation by States for Supplementary Feeding:

The allocations made by state governments for nutrition has shown little or no increase in recent years. The prescribed financial norm indicated by the centre is Rs 1 per beneficiary per day on an average, which is to include the cost of food, transport, administration, fuel and condiments. However as [Table 4](#)²¹ illustrates many states have effective expenditure of less than a rupee a day which is obviously too little to provide good quality and nutritious food. **In Bihar the state government is spending just 15 paise per day per child on the cost of grain and its conversion to a cooked meal²²! In West Bengal the district officials (Jalpaiguri) cited a meager budget of 80 paise per child, to be the reason why adequate standards could not be maintained.** According to them it would require 60-70 gms of rice and 20-25 gms of pulses to provide each child with the stipulated calories. However budget restrictions has meant that they are able to procure only 40-45 gms of rice and 15-20 gms of pulses in the allocated amounts. **In Uttaranchal allocations are even less with a provisions of just 67 paise per child per day.** Once again it is for the central ministry to monitor the performance of the states to ensure that atleast the minimal norms laid down are complied with.

²⁰ Brief Review of Food Security Schemes in Jharkhand (11th to 14th March, 2004), Dr Saxena

²¹ The figures in the table are indicative and have been calculated for the purpose of this report. They are not the official figures as given by the states.

²² Computed given expenditure of 36.7 and 20.24 crores under PMGY and the non-plan state budget (2002-2003) and the number of children to be covered under ICDS to be close to 1 crore (actual number in the age group 0-6 is close to 1.7 crores).

Table 4: Inadequate allocation per beneficiary per day under SNP (Non Plan)			
Select States	Planning Commissions computation of funds needed for SNP for children (0-4) and mothers (Rs in crores)	Allocation for SNP by State Governments (2002-2003) (Rs in crores)*	Funds allocated against central norm of Rs 1 per beneficiary per day**
Andhra Pradesh	80	85	0.57
Haryana	30	9	0.22
Himachal Pr	9	10	0.48
Jharkhand	Not Available	7	0.42
Karnataka	85	39	0.33
Madhya Pradesh	211	59	0.49
Maharashtra	174	45	0.35
Orissa	93	85	0.87
Uttar Pradesh	439	85	0.51
West Bengal	143	56	0.98
<i>Note: Planning Commission computation is for undivided MP and UP</i>			
<i>** Authors Calculations, calculated using the central norm of 100 beneficiaries per centre with feeding to take place for a minimum of 300 days in a year.</i>			
<i>Source: *Annexure 5.8.7, Annual Report 02-03, Planning Commission,</i>			

Even when compared with estimations made by the Planning Commission, current allocations are meager in most states. Only a handful of states including Tamil Nadu, Gujarat, Andhra Pradesh, Himachal Pradesh and Rajasthan have kept aside more resources than was estimated would be required. As [Table 4](#) illustrates in others, allocations are far lower. **For West Bengal, against an estimated requirement of more than 140 crores, allocation for SNP was just 56 crores in 2002-2003. Similar is the case of Maharashtra with corresponding figures of 174 and 45 crores respectively.** This is the case when estimates have not accounted for nutrition costs of children in the age group 4-6, adolescent girls and for universalizing it to all groups as directed by the court. Given this, current allocations for supplementary nutrition would be even more insufficient.

What clearly emerges from this desk review and field studies conducted is the stark inter state differences in the quality of services delivered. In Tamil Nadu for instance against an estimated requirement of 89 crores, the state allocated more than 150 crores for SNP. The allocation per beneficiary per day is also the highest at Rs 1.69. Clearly higher allocations and greater utilization means a higher quality programme.

The norm of Rs 1 per child per day was set in 1991 and has shown no revision thereafter. The centre has also admitted to the need for a review in these norms. In a letter²³ sent to all the states, they indicated that “the financial norm needs review in view of price escalation over the years.” There is thus an urgent need to revise these norms and to increase it to Rs 2 per child per day at the very least²⁴. This must be implemented by all states/ UT’s in the current year itself.

Box 1: Non-Implementation of Supreme Court Order under ICDS - Complaints from the Field				
Supreme Court Directive/ Central Norms Violated	State from where complaint was received	District(s)	Block(s)	Reference Number of Commissioners letter with action needed in response to complaint received
The Scheme is non functional	Madhya Pradesh	Shivpuri	Shivpuri, Badarwas & Kolaras	Report sent by Advisor dated 7.8.04 Letter no. ICDS Shivpuri.154 /MP dt. 3.3.04 Reminder on 10.3.04
	Bihar	Madhepur	Ghelarh	Written by Advisor to the commissioners letter dt 3.12.04
Irregular Opening of Anganwadi	Uttar Pradesh	Allahabad	Shankargarh	Letter no. ICDSpilot/178/UP dt. 16.3.04
	Chattisgarh	Koriya	Manendragarh	Letter no. ICDS/143/Chatt dt. 24.11.03
Inadequate coverage under ICDS	Chattisgarh	Koriya	Manendragarh	Letter no. ICDS/143/Chatt dt. 24.11.03
	West Bengal	Jalpaiguri	Dheklapara, Mujnai, Raimatong, Ramjhora and Dheklapara	Letter no. Teareport/150/WB dt. 11.01.04
	Uttar Pradesh	Allahabad	Shankargarh	Letter no. ICDSpilot/178/UP dt. 16.3.04
	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
Non distribution of Supplementary food	Madhya Pradesh	Shivpuri	Pichor	Report sent by Advisor dt 7.8.04 Letter no. ICDS Shivpuri.154 /MP dt. 3.3.04 & Letter no. reminder ICDS Shivpuri.154/MP dt. 10.3.04

²³No 12-15/2001-CD I, dated 21 February 2002, DoWCD, MoHRD

²⁴ However some states have indicated the need for much higher allocations. The GoArunachal Pradesh has written to the Commissioners proposing a “minimum unit cost of Rs 4 per head per day to maintain the level of nutrition as per the directives of the Supreme Court.” (No: CS/SC/1/2004, dated 30 June 2004). The GoBihar also proposes to set aside Rs 3 to meet the nutrition needs of mothers and also asked that allocation for children be revised to Rs 1.75 per beneficiary per day atleast.

	West Bengal	Jalpaiguri		Letter no. Teareport/150/WB dt. 11.01.04
	Uttar Pradesh	Allahbad	Shankargarh	Letter no. ICDSpilot/178/UP dt. 16.3.04
Irregular distribution of supplementary food	West Bengal	Purulia	Balrampur & Santuri	Report sent by Advisor in West Bengal dated 12.8.04
	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
Non enrollment of eligible persons	Chattisgarh	Koriya	Manendragarh	Letter no. ICDS/143/Chatt dt. 24.11.03
	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
Non utilization of funds	Madhya Pradesh	Shivpuri		Letter no. SNP Shivpuri/185/ MP dt. 20.4.04
BPL used as eligibility criteria in selection of beneficiaries	Uttar Pradesh	Allahabad	Shankargarh	Letter no. ICDSpilot/178/UP dt. 16.3.04
Neglect of SC/ST in location of Anganwadi and selection of beneficiaries	Uttar Pradesh	Allahabad	Shankargarh	Letter no. ICDSpilot/178/UP dt. 16.3.04
Anganwadi worker/helper not being paid on time	Madhya Pradesh	Anuppur	Kotma	Letter written by Advisor in Madhya Pradesh dated 14.7.04
		Shivpuri	Shivpuri	Report sent by Advisor dated 7.8.04
Caste discrimination with dalit helpers	Madhya Pradesh	Shivpuri	Pichhor	Report sent by Advisor dated 7.8.04

1.6 Use of BPL as eligibility criteria:

A disturbing finding has been the use of 'BPL' as eligibility criteria for families enrolling their children in the Anganwadi. This has happened because the ICDS was in operation much before the system of targeted public distribution when the consequent use of the term 'BPL', came into operation. However now the latter with all its proven inadequacies and errors is being used to identify and target potential beneficiaries. While this is clearly against the concept of universalisation as interpreted in the Supreme Court Order, the immediate need is to issue revised guidelines to the contrary, so that those inadvertently excluded from the BPL lists are not made to suffer similarly under the ICDS. This holds for PMGY as well which explicitly requires families to be identified as 'below poverty line' to be entitled to take home rations. The guidelines under both schemes need to be revised immediately and disseminated so that field officers are well aware of the change.

1.7 Lack of attention to the needs of children under three:

Infant feeding practices have significant effects both on mothers and children. Proper infant feeding, starting from the time of birth, is important for the physical and mental development of the child. According to the NFHS (98-99), 47% of children under the age of three are malnourished (weight for age). The proportion of children who are undernourished increases rapidly with the child's age through 12-23 months, where it peaks at 22 per cent for wasting and 58-59 per cent for underweight and stunting. Only 33% of children are introduced with semisolid food at six months. While the tenth plan on the one hand seeks to increase this to 75%, little effort is made to use available instruments like the ICDS to do so.

This age group gets little attention from state authorities. According to GoI guidelines, the allocation under PMGY is essentially meant as additionality for providing enhanced nutrition requirement to children under the age of 3 years. **In many states including Bihar, the state government does not provide any funds from its resources for this age group, and depends entirely on PMGY²⁵.** In most impoverished states the meal in the AWC substitutes what the child might get at home. The take home rations for young children (provided under PMGY) is often merged into the general household food kitty. The case therefore for supplementing these dry rations with suitable food for the age group 6 months to 3 years at the centre only becomes stronger and is supported by field studies. AWW's in Rajasthan "admitted that the weekly rations given to children and pregnant / lactating mothers were often consumed by the entire household in very poor families"²⁶.

Even where special food is available it often does not reach the intended group. According to AWWs in Bahraich district of UP, "the Supervisors had asked them to distribute the weaning food among the 3-6 year olds to ensure regular attendance at the centre. However in the stock register, the entries were against distribution to 0-3 years olds!"

Despite numerous studies and mention in the ICDS guidelines on the need for special/weaning food for this age group, no effort has been made to ensure that theory is reflected in practice. A cursory look at the menu provided in some states would show that the rations provided are inappropriate for children that age. In some states like Rajasthan discontinuance of food by CARE has meant that the 'Babymix' provided to infants has not been replaced by special weaning food. In Uttaranchal, 'India mix' a mixture of wheat and soyabean is given to all age

²⁵ "ICDS Programme in Bihar", Dr Saxena, November 2003

²⁶ "Analysis of positive deviance in the ICDS programme in Rajasthan and Uttar Pradesh, Qualitative study commissioned by World Bank", Educational Resource Unit, New Delhi, Lucknow and Jaipur, Version 2, 14 April 2004

groups irrespective of their age. In Uttar Pradesh weaning food is being supplied only in state funded schemes. In the rest WFP programmes and CARE assisted schemes, Panjiree is provided to all beneficiaries because nutrition supply is not covered under the PMGY. Thus in a total of 116 projects weaning food is not being supplied to young children²⁷. There is an urgent need for states to ensure that the needs of children aged 3 and under are identified and met with immediately.

1.8 Un-Operational Sanctioned Projects/AWC's:

While many states like Himachal Pradesh and Chattisgarh²⁸ have been using the Supreme Court orders to request the centre to sanction more projects, others like Uttar Pradesh, Bihar, Assam and Jharkhand are unable to do so. This is because the state authorities have made little effort to make operational many of the existing sanctioned projects. The state governments of Bihar, Jharkhand and Uttar Pradesh have 145, 52 and 183 un-operational projects, or 37%, 25% and 22% of the number sanctioned. Since each project covers approximately more than a 100 Anganwadi's, delay in operationalising projects excludes a large number of potential beneficiaries. To illustrate of the over 1 lakh Anganwadi's sanctioned by the GoI in Uttar Pradesh, about 28,000 or 27% of those approved are yet to be made functional.²⁹

The Supreme Court in an order dated 27th April 2004 has ordered all states to ensure that sanctioned projects start providing services by 30th June 2004. Before the hearing, the centre had given erring states a deadline of 31st May 2004. A subsequent visit to Uttar Pradesh in June 2004 however, shows that little effort has been made in this regard. In Meerut district for instance, nine out of the twelve sanctioned blocks have no operational AWC!³⁰ It would be useful to have states submit affidavits specifying the time frame within which they plan to implement this order, otherwise compliance might be further delayed.

1.9 Lack of Infrastructure:

A qualitative study commissioned by the World Bank identified two positive inputs seen in better performing Anganwadi's; location of the centre and ownership of own building. "Where the AWC was located in a public space (Primary School, Panchayat) the community leaders and

²⁷ Information sourced from letter NO 8614/P.S/SMK/2004 dated June 9 2004 from the DoWCD, GoUP

²⁸ These are states where the number of sanctioned and operational ICDS projects, are the same as per the status report of the ICDS on 30th June 2003. However their efforts have reaped little result with the centre citing "non availability of funds."

²⁹ Data for Bihar from Ref.No.9/ICDS-40-166/2001(Part), dated 22 July 2004, for Jharkhand from a letter dated 29 April 2004 and for UP see above.

³⁰ For Meerut district a total of 1388 AWC's have been sanctioned of which only 302 are operational as of June 2004. (Source: Reported by the state government to the Department of Women and Child Welfare, MoHRD)

women were aware of its timings and the services they provided. Such AWCs presented a safe and secure place where mothers could leave their children for a few hours every day, even when there was no regular supply of nutrition supplements (Uttar Pradesh is a case in point). The rapport between the AWW and the ANM, schoolteacher and panchayat made considerable difference - in communicating with women, ensuring repair and maintenance of the centre (through the panchayat) and, most importantly, in facilitating immunisation, referrals and school enrolment.”³¹ The recent announcement by the GoUP of shifting all centres currently housed in worker/ helpers home to the primary schools is encouraging and similar steps need to be taken by other states as well.

While a separate space is required, what is also important is to ensure that the centre is supplied with all necessary equipment and infrastructure. The same study cited above found the presence of a hand pump and drinking water source on the premises; clean, painted and attractive structures; cooking and storage utensils along with adequate space for storage and cooking and the availability of PSE/IEC material, to be positive inputs required to retain children’s interest and for the general success of the programme.

In a visit to **Bihar** and **Jharkhand**, Dr Saxena found that many centres had no utensils either for cooking or for feeding. Although orders were issued in Bihar on the 15th January, 2004 to buy new utensils for Rs 1200 per centre (this was an administrative order but without financial sanction), not much has happened because of lack of budget. There was no arrangement for potable drinking water or hygienic sanitation facilities in most of the centres. Similar was the case in **Uttar Pradesh**, where only 25% of the AWCs have permanent brick structures with ample space for cleaning, packaging and roasting of foodgrains or a source of safe drinking water. Basic facilities required for running SNP such as utensils, stove/chulha, serving utensils etc were also not available at the AWC’s not sponsored by the World Bank³². Further, many centres are being run in very tiny kuchha huts where barely 20 children could sit. Only 28 out of 129 centres in the project visited were in a cemented building, the rest were in huts. This was because of a measly rent allowance of Rs 25 per month in Bihar and Rs 50 in Jharkhand. This needs to be immediately enhanced to atleast Rs 100 per month. Although rented buildings for AWC should be promoted with caution as they tend to be in the area dominated by the rich and upper castes, giving little opportunity for dalit and poor children to benefit from the centres, except those whose families work for the rich. This perpetuates dependency. Contrast this with the situation in Turichi

³¹ “Analysis of positive deviance in the ICDS programme in Rajasthan and Uttar Pradesh, Qualitative study commissioned by World Bank”, Educational Resource Unit, New Delhi, Lucknow and Jaipur, Version 2, 14 April 2004

³² *ibid*

district of Tamil Nadu, where most centres are permanent structures provided with separate rooms for cooking and storage. There is an immediate need for quality safeguards to be put in place and guidelines issued for the purpose by all states with adequate monitoring by the centre.

1.10 Shortage of manpower:

A common reason for irregularities and implementation is caused due to shortage of staff both at the project level and the field level. In **Jharkhand** for instance while the GoI has sanctioned another 161 projects these are not yet operational, as procedure for filling up vacant posts of CDPOs and Lady Supervisors has still not been finalised. A successful experiment to increase speed of appointment used in Bihar has been the delegation of selection to the Gram Panchayats. However considerable vacancies still remain. Even where they are appointed it is often as additional charge, which dilutes the attention given to monitoring the programme. In **Bihar** of the 249 CDPO's appointed, 208 have been given it as 'additional charge', rendering them incapable of doing a good job. Dr Saxena was told in November 2003 that the proposal for filling up these posts in Bihar on a contract basis through PRIs is under active consideration of State Govt. However it has remained under 'active consideration' since then. The establishment costs of staff salaries, etc are cent per cent borne by GoI, and therefore there is no justification for such substantial shortages to continue. As can be seen in [Table 5](#) given below, the states of **Gujarat, Uttar Pradesh, Uttaranchal, HP, Haryana and Andhra Pradesh** also have high proportion of vacancies of staff at the project level.

State	% Vacancy (CDPO/ACDPO)	% Vacancy (Supervisor)	% Vacancy (AWW)	% Vacancy (AWH)
Andhra Pradesh	25	40	2	1
Assam	16	32	2	16
Bihar	61	92	54	57
Chattisgarh	41	32	1	1
Gujarat	41	46	10	10
Haryana	28	26	1	0
HP	25	75	1	0
Jharkhand	51	61	9	11
MP	26	19	4	5
Maharashtra	23	12	9	10
Orissa	16	39	5	2
Rajasthan	58	22	1	1
Uttar Pradesh	34	43	29	33
Uttaranchal	30	34	11	14
West Bengal	32	5	9	10
India	29	33	14	18

Note: Vacancy as a percentage of sanctioned strength
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Source: Indiatat.com

1.11 Disruption in Provision of Measles Vaccines:

The provision of measles vaccines is a vital component of the immunization services provided under the ICDS. The supply of measles vaccine was however stopped in September 2003 throughout the country and resumed only in February 2004. Thus for almost six months no vaccines were distributed in any state. The disruption has been traced to delay's in procurement just as the effect of such callousness continues to be reported in the media. According to an article³³ in the Indian Express the outbreak has claimed the lives of more than 50 children across the district of Shivpuri in MP. There is also a danger of it spreading from Madhya Pradesh to Chattisgarh and Rajasthan. What is ironic is that despite there being only one supplier for the last two decades, the Government delayed the floating of tenders and orders were placed in October instead of in April last year. Even the supply of medicines, Vitamin A, folic acid tablets and iron tablets has been irregular or disrupted in several places including Chattisgarh, Uttar Pradesh and Himachal Pradesh³⁴.

Box 2: Failure of Authorities to take appropriate action despite Commissioners Interventions: The Case of Madhya Pradesh

Over the past few months the Commissioners have received reports from various citizens organizations regarding irregularities in the implementation of SGRY, ICDS, Antyodya and TPDS across the state. Despite repeated interventions and communications from the Commissioners, little action has been forthcoming by state authorities. The Court is requested to take appropriate action in all the following cases along with a clear direction to the state government to provide compensation at the rates mentioned in this report to all the aggrieved parties. Compliance and proof of payment of compensation with retrospective effect must be submitted to the Court by 1st November 2004.
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Irregularities in Employment works in Badwani District: In the month of April 2003, a complaint was received from Advasi Mukthi Sangathan (AMS) in Badwani District regarding the use of labour displacing machines and arrears in wage payments due in SGRY works. The Chief Secretary was immediately requested to initiate an enquiry into the issue ³⁵ and to ensure that redressal measures are undertaken. However no enquiry were conducted by the State Government, after which further complaints were received about flagrant violations of Supreme Court orders. The Commissioners followed up by sending a representative for a field-visit, which corroborated the complaints received over the past few months. The following issues in particular were brought to the notice of the state government once again: ³⁶

- | |
|---|
| <ul style="list-style-type: none"> • Illegal use of tractors and other labour displacing machines at relief works • Wage arrears with delays extending to almost a year • Non-payment of minimum wages • Irregularities in the payment of wages in cash instead of grains |
|---|

³³ Source: "Vanishing Measles Vaccine," The Sunday Express, May 1, 2004

³⁴ See Annexure 2 for lack of provision of other services in Shankargarh, Source: "Implementation of ICDS in Shankargarh block of Uttar Pradesh," Shonali Sen, March 2004, mimeo Centre for Equity Studies

³⁵ Letter dated 30 April 03, to the Chief Secretary.

³⁶ Letter dated 12 June, 2003 (Irregularities (Badwani) No. 101/MP) to C.M., Government of Madhya Pradesh and Secretary, Ministry of Rural Development.

- **Widespread corruption**
- **Inadequate response by the administration, including refusal to accept written complaints**

The State Government finally responded by directing the Collector, Badwani District to conduct an enquiry on the issues raised by the Commissioners³⁷. A reminder needed to be sent when no response was forthcoming from the Collector even after a month had passed³⁸. The only response³⁹ received from the district administration thereafter was a standard denial of the findings even though in most cases the report had been supported with adequate evidence often in the form of photographs. Not satisfied with this, the Commissioners thereafter requested the State Government to form a 'Joint Enquiry Committee' (JEC) comprising representatives from civil society along with those from the state administration⁴⁰. Though the JEC was formed shortly thereafter, its report is still pending, despite a series of reminders.⁴¹

Meanwhile the complaints continue despite written orders from the Tehsildar and Naib Tehsildar to start works and gram sabha resolutions passed on issue regarding non payment of wages in Limbi Village. This is despite the fact that the violations have been brought to the notice of the Chief Secretary and the Collector, Badwani District through letters⁴², personal email from Dr Saxena and finally through a direct telephone call⁴³ to the Collector, who maintains that pending payments would have been made if the AMS were not involved in the matter⁴⁴. It remains to be seen how involvement of an NGO, has anything to do with payment of wages due to labourers who have worked on government works. **This entire episode indicates what little regard is shown to the Supreme Court and the Commissioners appointed by them, with the administration refusing to take any action despite adequate proof of violation of Court orders.**

Violation of Supreme Court Orders in Dhar District: In mid August 2003, the Commissioners received a complaint on behalf of a local organization, regarding non-payment of minimum wages to labour employed in works government employment works in Dahi block. The complaint had been sent to the Commissioners after a series of letters had been written to several officials both at the block and district level, including the Collector, SDM and the CEO, and after they had taken no action. On receipt of this complaint, the Commissioners requested the state government to conduct an enquiry to verify the claims, which were found subsequently to hold merit. This along with the action taken by the local officials, which included payment of the balance amount to six women belonging to one hamlet in Dahi village was communicated to the Commissioners. However the optimism brought out by the experience was short lived. Further correspondence and field visits revealed that the phenomenon of non-payment of minimum wages was widespread, plaguing more than sixty villages making up Dahi block. Moreover despite this intervention and bringing the situation to the notice of the authorities, the institution of 'officially' paying less than minimum wages continued unabated, even in the village against which the original complaint had been found to be true. Given the magnitude and nature of the problem a visit was arranged by a team representing the Commissioners to ascertain what action if any, had been undertaken by the local government to rectify the situation. The visit revealed the following⁴⁵:

- **Payment anywhere between Rs 30 to Rs 40 full a full days work as against the minimum wage of Rs 52.87 per day, on all panchayat works (SGRY II)**
- **Irregularities in the payment of wages by task rate**
- **Large-scale corruption in employment works under SGRY I. In two of the projects where computation was possible close to Rs 1,55,243 and Rs 57,700 remains unaccounted for.**

³⁷ Letter dated 23 June 2003, letter no. D.O. No. 392/SCM/GR/2003 from Secretary to the Chief Minister

³⁸ Letter dated July 28, 2003, Reminder, to Collector, Badwani District.

³⁹ Letter dated 23 July, 2003 no 8188/22/v-7//2002, From Collector, Badwani District

⁴⁰ September 2, 2003, Jnt.Enqy.Comtt./116/MP, To Chief Secretary, M.P.

⁴¹ Letter dated, 25 May 2004 and Letter dated, August 01, 04 JEC.Badwani/203/MP to the Chief Secretary, MP.

⁴² Letter dated, August 01, 04 JEC.Badwani/203/MP to the Chief Secretary, MP, E-mail dated August 22, 2004, to Collector, Badwani District.

⁴³ Telephone conversation on 22/08/04, between Dr. N. C. Saxena and Mrs Baghel District Collector, Badwani, in addition to emails sent to the DM on August 22 and August 30, 2004.

⁴⁴ Letter dated August 25, 2004 by District collector, Badwani.

⁴⁵ Communicated to the Chief Secretary through letter No: Dahi.visit/142/MP dated 24 November 2003

- **Refusal to provide dissenting parties employment on panchayat works**
- **Non timely and Inadequate relief from employment works**
- **Failure to provide Antyodya cards to Bharia's, a primitive tribal group**
- **Withdrawal of Annapurna benefits without provision of any alternative**
- **No follow-up though the administration both at the block and district panchayat level are well aware of the problem**

Despite the verbal agreement of the CEO, Dhar with the findings (regarding non payment of minimum wages), the state administration has chosen to take no action. With regard to the denial of Antyodya benefits to the PTG Bharia, the administration continues to question the authenticity of the claims made by households with requests from the Commissioners office to cover them under the safety net being repeatedly rejected.

Violation of Supreme Court Orders in Shivpuri District: The reports started with the failure of the ICDS to alleviate the health and nutrition status of children in the district. Despite a budget of Rs 2,51,23,000 for supplementary nutrition, the department has spent only 90,19,557 in the year 2003-2004. The result long and interrupted disruptions in the supply of nutrition to highly vulnerable children and mothers living in the Sahariya dominated area of the state. It is reported that not a single Anganwadi in the blocks of Pichore, Kolaras and Badarwas are distributing Supplementary nutrition. This is also in clear violation of the Supreme Court Orders that ICDS be implemented in full. The problems do not end there. Disruption in the supply of measles to the Anganwadi's for much of last year has resulted in deaths of more than 50 children in the district over a period of three months alone. As per one estimate there were about 6000 affected from an outbreak of Measles in the district with the blocks of Narwar, Karera, Pohri and Manpura being particularly afflicted. In the case of Antyodya Ann Yojana, the district officials claim that grain allotted from the state authorities is less than required. As a result beneficiaries in the state are receiving just 31 Kilos as against the 35 they are entitled to. In the case of employment schemes more than 3220 lakhs has not been received by the district administration as a result of which wages due to labourers remains pending. This is a clear violation of the directions of the Supreme Court, which has directed that all wages be settled no later than one week. The response of the administration to the Commissioners intervention on all these issues has not been forthcoming. **Several letters sent to the state administration written have received no reply.**

Adapted from submissions received from Sachin Jain (Vikas Samvad), S.K Singh (Sambhav), S Vivek and news articles in the Indian Express. Also see all other Boxes given in this report and reports on field visit made to Dahi block in Dhar district.

Section 2: Midday Meal Scheme

In the Fourth Report of the Commissioners submitted in August 2003, attention had been brought to states of Bihar, Uttar Pradesh and Jharkhand that had failed to make a start. The order of 20th April 2004 mentioned the failure on the part of the State/ UT's governments to clearly spell out the status of compliance in the provision of cooked meals in all government and government aided primary schools. This section first highlights those states that are yet to comply with the November 2001 order, followed by other issues like low allocations, poor lifting and inadequate allotment of grain by the centre.

2.1 Status of Compliance with order dated 28 November 2001

[Table 6](#) given below provides the status of compliance with the court order directing states to implement cooked meals. As of August 2004, the number of children covered under the Cooked

midday meal programme is a little over half of those enrolled during 2004-2005⁴⁶. Assam, Arunachal Pradesh, Manipur, Bihar, Uttar Pradesh, West Bengal, Jharkhand, Himachal Pradesh and Goa are yet to implement the order in full. Punjab, Orissa, Jammu & Kashmir and most of the Northeastern states except for Arunachal Pradesh and Assam, have not replied to letter⁴⁷ enquiring about their status. Further details about the number of eligible schools and children and those covered under the programme, is given in Appendix Table 21.

Table 6: States not complying with Court order dated 28 th November 2001 (2003-2004)		
State	Status of Implementation of SC order	Extent of Coverage
Arunachal Pradesh	Partial implementation	Only 34% of the eligible schools and 41% of eligible children are being covered. It is believed however that the state is only distributing dry foodgrain in the current academic year.
Assam	No Implementation	"The state government <i>hopes</i> to introduce cooked midday meals for a limited number of days in the FY 2004-05" No money was disbursed by the state government in the FY 2003-04 and 2002-03 on account of conversion costs, however construction of kitchen sheds within SGRY funds has been initiated. The scheme was tried on a pilot basis in one block with funds sanctioned under SSA, but only for limited days. Further in two districts the cooked meal programme was started by asking for "Public Participation and help from Panchayati Raj Institutions" with no corresponding allocation by the state government.
Bihar	Partial implementation	Only proposal for initiating process has been outlined. Coverage is to be limited to cover 2578 schools in 30 blocks across 10 identified districts, and that too not all the eligible schools in these selected blocks. Funds worth 13.5 crores are supposed to be transferred to the districts for this purpose.
Goa	Partial implementation	6 out of 11 Talukas have been covered and children are provided only <i>ready to eat</i> food
Haryana	Partial implementation	Only 1382 schools across 17 blocks are being covered
Himachal Pradesh	Partial implementation	9 (tribal) blocks across 3 districts are being covered. According to the Director, primary Education, HP "the decision to extend this program to other non-tribal areas of the state is likely to be taken by the Government of HP on the availability of funds for the state".

⁴⁶ Of the 108,727,254 enrolled in the current academic year, 58,491,685, are covered under the cooked meal programme or 53.8%. Source: NPNSPE (Midday Meal Scheme), Planning Commission, GoI

⁴⁷ Letter No: MDM guidelines/159/<state_code> dated March 11, 2004

Jharkhand	Partial implementation	200 schools per seven districts to be covered Moreover even in the areas that are deemed covered (eg Nini centre in Lohardaga district), cooked meals are not provided everyday (Visit of Dr Saxena to the state in March 2004)
Karnataka	Partial implementation	95% of eligible schools are covered while all government <i>aided</i> primary schools remain to be covered
Maharashtra	Partial implementation	80% of eligible schools are covered
Manipur	No Implementation	Information from Planning Commission documents. No information provided to the Commissioners despite several letter sent to the state
Meghalaya*	Partial implementation	88% of eligible children are covered under the cooked midday meal scheme.
Mizoram	Partial Implementation	Only 91105 students across 911 schools are covered under the programme.
Nagaland	No information provided to the Commissioners despite several letters sent to the state ⁴⁸	
Orissa*	Partial implementation	35% of the enrolled students are being covered under the scheme and 47% of eligible schools are covered.
Uttar Pradesh	No Implementation	Only proposal for initiating process has been outlined. It had been decided in April 2003 to initiate the scheme in six districts. However even a year later no start has been made.
West Bengal	Partial implementation	Only 2% of the eligible students are being covered. According to the latest correspondence received the state government plans to extend coverage to all eligible only by 31 st March 2005.
Delhi	Partial implementation	77% of eligible schools are being covered
<i>Note: Information is for the academic year 2003-2004. Source: State Correspondence to the Commissioners, *Fourth Report of the Commissioners</i>		

Lack of funds has been cited by many of the North Eastern States, as the reason for their inability to provide a cooked meal. These letters mention prohibitive costs arising due to the particular nature of the terrain, lack of surface connectivity and lack of adequate storage facilities in the district and block headquarters. Arunachal Pradesh for instance has implemented the scheme only in areas where the transport subsidy given by the centre is able to cover transportation costs. The solution is greater investment in basic infrastructure such as storage facilities and construction of kitchen sheds and store rooms in schools, not in the failure to implement the order.

In light of the fact that the share of the north eastern states in normal central assistance and Finance Commission devolution given by the centre, is disproportionately high, lack of funds cannot be cited as the reason for non implementation of the scheme. For instance the Planning Commissions assistance to the States Plan for the north-eastern states comprises of 90% grant in

⁴⁸Letter no. MDM/124/N-Eastern States, dated September 16, 2004

contrast to the 30% grant given to other states. Moreover the nature of central assistance granted implies that these states can use the central assistance for non-plan purposes as well. Even in terms of per capita, the assistance given to these states is very high. The overall allocation to the Special Category States including the north eastern states is 33% of the normal central assistance as against their share of 6% in total population. Thus none of these states can rid themselves of the responsibility to ensure compliance with the court order.

The Commissioners have also received requests that ready to eat food may be supplied in place of a hot cooked meal. States like Chandigarh, Haryana and Goa are at present providing ready to eat food. In Delhi while biscuits were being provided till last year, the menu has undergone a change with the provision of a full meal in the current academic session.

2.2 Inadequate Allocation of grain by the Centre

A disturbing trend emerging over the last few years is one of falling allocations of dry rations but rising enrollment. Allocations for the midday meal scheme had initially fallen from a high of 2767 in 1999-00 to 2480 in 2000-01. This was commensurate with an increase in enrollment of 64 lakh children between the two years. A similar trend emerges between the years 2002-03 and 2003-04. An increase in enrollment has seen a decline in the grain allotted from 2826 to 2679 in the FY 2003-2004. **For the country as a whole enrollment figures in 2003-2004, suggest that allocation of grain for the Midday Meal Scheme should be close to 3200 against the present allocations of 2700. This seems to corroborate Government of Bihar's contention of a reduction in the quota by the centre from 3 to 2 kg per student per month without any justification⁴⁹. (all figures in '000 tonnes)**

A state wise analysis of the grain allotted under the Midday meal scheme will show that actual allocations to states falls very short of their entitlement of 3 Kgs per child per month. Only for the states of Uttar Pradesh, West Bengal, Arunachal Pradesh and Uttarakhand were allotments made as per requirements. As [Table 7](#) illustrates allotment of grain to states of Chattisgarh, Gujarat, Tamil Nadu and Kerala was close to only 2 Kgs per child per month.

⁴⁹ Verbal Communication to Dr Saxena, on his visit to the state in March 2004

Table 7: Shortfall of Allocation of MDM grain by the Centre (2003-2004)	
Select States	Allocation for 2003-2004 (in Kgs per child per month)
Entitlement	3.00
Chhatisgarh	1.96
Gujarat	1.30
Kerala	2.00
Madhya Pradesh	2.15
Maharashtra	2.30
Meghalaya	2.12
Orissa	2.67
Rajasthan	2.22
Sikkim	2.00
Tamil Nadu	2.00
Tripura	2.00
West Bengal	2.96
All States Average (2002-03)	2.70
<i>Source: Enrollment figures used in calculation have been provided by the state governments, Allotment figures taken from Monthly Foodgrain Bulletin, February 2004</i>	

Recent media reports have also cited Planning Commission sources indicating the transfer of the scheme to the state governments. At present the centre provides the grains as well as a part of the transportation costs. It would be useful for the centre to remember that the Supreme Court has directed that no schemes coming under the purview of the orders, can be withdrawn or amended in any way without the prior consent of the Court. (Order dated 27th April 2004). It is the Commissioners view⁵⁰ that the quality and effectiveness of the scheme will be seriously undermined if the centre were to withdraw support. Under no circumstance therefore must this be done.

2.3 Poor Lifting of Grain

While complete coverage under the cooked meal scheme is awaited in all states there is ample evidence of disruptions in the supply of dry rations to schools as well. The situation is particularly bad in the states that are yet to implement the Court order. Thus not only are

⁵⁰ A letter was sent to the Secretary, Department of Elementary Education by the Commissioners on the issue of transferring the scheme to the states. (Letter No:MDMS/209/MoHRD.Edu, dated 9 August 2004)

students in Bihar, Uttar Pradesh, Jharkhand and Arunachal Pradesh being deprived of the benefits of a cooked meal but are in addition not receiving their entitlement of dry rations.

As can be inferred from [Table 8](#), while **national offtake as a percentage of allocation stands at 79%, lifting in Arunachal Pradesh, Bihar, Gujarat, Jharkhand, Karnataka, Punjab, Tamil Nadu, and Delhi remain much below the national average. In these states, the offtake as a proportion of allotment stands at a paltry 60%.** Moreover offtake in the states of Madhya Pradesh, Maharashtra, Nagaland, Sikkim, Uttar Pradesh and Rajasthan, have shown a sharp drop between the last two years. For eg, **offtake fell from 91% (2002-03) to 81% (2003-04) in Rajasthan, 100% to 78% in Nagaland and 92% to 83% in Uttar Pradesh over the corresponding years.** One of the reasons for poor offtake particularly in Bihar and Uttar Pradesh is the procedure of allocating foodgrains once every quarter. This system should be changed so that allocations are made annually. This will significantly reduce delays due to coordination and administrative procedures.

Table 8: Allocation and Lifting of Grain (Rice and Wheat) under the MDM for the year 2003-2004				
State	Allocation (‘000 tonnes)	Offtake (‘000 tonnes)	% Offtake (03--04)	% Offtake (02-03)
Arunachal Pradesh	5	2	35	15
Bihar	245	171	70	55
Gujarat	60	40	66	42
Jharkhand	52	23	44	32
Karnataka	146	87	60	76
Maharashtra	224	185	83	84
Nagaland	5	4	78	100
Punjab	45	24	52	74
Rajasthan	169	137	81	91
Sikkim	2	1	84	94
Tamil Nadu	111	79	72	73
Uttar Pradesh	491	410	83	92
West Bengal	306	252	82	74
Delhi	22	7	33	NA
Total	2687	2131	79	

Source: MoHRD, *Indiastat.com*

2.4 Inadequate Financial Allocations by State:

Recognizing the importance of a good quality midday meal scheme, the Court had asked the centre and the states to provide better infrastructure, improved facilities and quality safeguards. The easiest way of identifying whether the state is serious about the quality of the programme is by estimating the amount it spends per child on conversion costs and in the provision of basic facilities like cooking sheds, gas stoves, utensils and storage facilities. Letters⁵¹ were sent to all State and UT governments enquiring about the amount they allocate per child and the funds released to meet such costs in the last year. A summary of the replies received is given in [Table 9](#).

As [Table 9](#) shows **states like Rajasthan, Maharashtra, Meghalaya and Himachal Pradesh, do not even meet the minimum requirement of Rs 1 per day per child, the norm given by the centre to the states**⁵². Recent announcements by Chattisgarh and Madhya Pradesh to increase allocations are not supported, with several complaints received about inadequate implementation. Noteworthy also is the case of Assam and Mizoram, where the state governments have not released a single rupee for the programme. The DC's in lower Assam claim that they have "neither received any written order that makes it compulsory for all primary schools to serve cooked meals, nor have they received any guidelines or funds to do so⁵³." Even in states with allocations as per central norms, complaints about the quality of meals suggest that a lot more needs to be done.

Table 9: State wise allocation and expenditure on Cooked Midday Meal Scheme (2003-2004)			
State	Allocation as per State government* (per child per day)	Effective Expenditure per Child per day for 200 days**	Other facilities to improve Quality of programme provided by States
Andhra Pradesh	1.25	1.62	- Provides MDM to students of upper primary as well - Arrangements for provision of egg and banana have also been made - 20% of the allocation is used to provide

⁵¹Letter no: MDM Guidelines/159/<state_code> dated March 11, 2004

⁵² "Minutes of the meeting on possible convergence between rural development programmes and midday meal scheme of the department of elementary education and literacy" January 7, 2004. Meeting held at Krishi Bhawan, New Delhi

⁵³"Study of Midday Meal Scheme/ Antyodya/ Annapurna schemes in lower Assam," sent by Mr Sunil Kaul, Advisor to the Commissioners in Assam. Subsequently a letter no: MDM.AAY/200/Ass dated 1 August 2004, was sent to Secretary, Government of Assam, for immediate action.

			infrastructure facilities like kitchen sheds and drinking water - Detailed proforma made for monitoring checks
Arunachal Pradesh	1.23	0.32	
Assam	0	0	No funds are provided by the state government. It is hoped that a token implementation can be started when the PMGY funds from the central government is received.
Chhatisgarh	0.75		- Allocation to be increased to Rs 1 per child per day from the new academic year - Kitchen shed to be provided to each school - 'Kheer' is part of the menu for some days of the week - Provides Rs 800 per school for purchase of utensils and provision of drinking water through the 'Jal- Nal' scheme run by the health department - Detailed proforma made for monitoring checks
Delhi	2.00	1.05	
Gujarat	1.75		- The scheme has been extended to non government primary schools as well - State provides Vitamin A tablets, Deworming and Iron supplements - Number of cooks and helpers is variable according to the strength of the school -Proposal to increase allocation to Rs 3 per child per day has been submitted to the Education Department
Haryana	2.25		- Utensils and water for cooking is provided
Himachal Pradesh		0.04	- Lumpsum grant of 1000 per school is provided -The scheme is being run through the Anganwadi functionaries for which they are paid an additional honorarium - No separate provisions have been made
Karnataka	1.00	1.35	- Iron tablets, deworming and Vitamin A tablets provided for - Additional staff employed - Utensils provided to all schools - source of drinking water supplied to all schools

			- Rs 35,000 per school given to meet fixed costs.
Kerala	0.20 - 0.50	0.60	- Contingent charges @ Rs 0.50 per child per day upto a total of 100 children and @ Rs 0.20 where more than 100 children are studying. Of this 50% is paid as cooking charges subject to a minimum of Rs 20 per day and the balance is utilized for meeting transportation charges, cost of fuel for cooking, cost of condiments etc. - Additional funds are disbursed to the KSCSC on account of handling charges and cost of pulse items. - Cooked midday meal is given to students of class six and seven as well - State government has given orders that compensation be provided @ rates prescribed by the Commissioners in case administrative negligence is found to be the reason for non receipt of entitlement.
Madhya Pradesh	0.6 for rural and 0.9 for urban areas	0.19	- The scheme will undergo a change from the academic year 2004-2005, with an increase in the per child allocation ranging from RS 1.23-1.55 per child per day, including wages. - The new scheme also makes the construction of a kitchen shed with each school compulsory
Maharashtra	0.50	0.42	- The implementing agencies have to bear the transport costs of lifting the rice from the ration shops, within these allocations
Meghalaya		0.14	
Mizoram	0	0	The VEC's have been entrusted with the job and no extra financial allocation has therefore been made. In addition the state is not making any provision to ensure that cooking sheds, cooks and helpers are placed in every school eligible to provide the meal. "Wherever available the services of the helpers in the Anganwadis may be utilized" for the purpose.
Orissa		0.47	- A cook and helper provided to each school with additional helper in schools that have a student strength of more than 200

Rajasthan		0.65	- No change in menu and no vegetables, pulses provided for
Tamil Nadu	2.19-2.34	5.96	- provides benefits to pensioners and NMBS beneficiaries as well. - every school has a kitchen shed - additional cooks/ helpers and assistants are provided to each school - Iron and Iodine supplements provided for children - Detailed proforma made for monitoring checks
Uttaranchal	1.00		- Provides for a kitchen shed in most schools and a store room where needed - All schools to be provided with water tanks, utensils and cooking gas in addition to given allocations
West Bengal	1.00		- This includes honorarium paid to workers
A & N Islands	4.00	3.86	This per child allocation includes expenditure on cooking, distribution, transportation, labour, purchase of food items and other charges if any
<i>Note: ** Effective expenditure has been calculated using the Funds Allocated/ Released in the year 03-04 and enrollment figures for those eligible under the cooked meal scheme</i>			
<i>Source: Correspondence and Guidelines received from state governments</i>			

While analyzing the state wise allocations, it is important to keep a few things in mind. **First in many cases while the allocations are done using the state norm, actual expenditure or funds released make the effective resources spent on every child much lower.** This was seen to be the case in states like Delhi, Maharashtra and Madhya Pradesh. While government of Delhi makes allocations @ Rs 2 per child per day, poor utilization means it is spending just about half of that amount. Low utilization can be on account of poor quality meals (complaints received from Delhi), arrears in wage payments to salaries and cooks (complaints received from Chattisgarh) or arrears in transport costs due to implementing agencies (complaints received from Madhya Pradesh)⁵⁴. These issues affect the quality of the meal provided and all efforts should be taken to ensure that wages are paid and transport costs are reimbursed in time and regulary.

Second is the need to distinguish clearly what elements of cost are included in the allocations made. This is a useful exercise in ascertaining to what extent recurring costs like vegetables, pulses, oil, fuel for cooking and other condiments are being met to ensure a good quality meal for

⁵⁴ Also see section on micro complaints given in [Box 3](#)

children. Even the human resource provisions differ from state to state. States like Karnataka and Tamil Nadu arrange for additional manpower like “Head Cooks” and “nutritional meal organizer” for every school in addition to a cook and a helper, along with additional manpower for schools with greater strength of students. Contrast this with the situation in Maharashtra, which does not provide for transportation costs and allocates just 50 paise per child per day for implementing agencies. This amount must be used to meet conversion costs as well as transportation charges from the ration shops to the schools. Further **some states like West Bengal, Maharashtra, Orissa and Rajasthan have allocated a rupee or less per child per day to meet all costs including those paid on account of salaries.**

Third is the need to identify which states have accounted for the non-recurring costs of the programme, including kitchen sheds, storage facilities, utensils etc. “In Rajasthan, there is no mention of any expenditure on infrastructure and equipment in the official guidelines, and it seems that this matter is left to local initiative⁵⁵.” Contrast this with the situation in Karnataka, Uttaranchal, Tamil Nadu and Andhra Pradesh, where state governments allocate additional funds to meet infrastructure requirements like kitchen sheds. *Last* are the state wide initiatives taken to improve the nutrition and health of children attending primary schools. States like Tamil Nadu, Gujarat and Karnataka provide additional nutrition supplements like Iron and Iodine as well as simple health safeguards like deworming as part of the programme. These measures must be replicated in others states as well which would require an additional allocation of just Rs 10 per child per year. (See [Table 9](#) for details)

In light of the above findings revised guidelines should be issued keeping in mind the following:

1. States must ensure that (a) minimum of Rs 2/day per child is allocated from the state budget to meet “conversion costs” (b) funds so allocated are fully utilized. These funds must be spent to meet the costs of vegetables, pulses, condiments etc alone and additional resources must be allocated to meet costs on account of salaries, physical infrastructure, micronutrients, provision of drinking water etc.
2. Recent budgetary announcements to provide central assistance for the cooked midday meal programme should not substitute but supplement the required allocations to be made by the state using this revised norm. The same holds for resources sourced from the PMGY (education) which may be used by states to provide budgetary support but in no way must it replace the required amounts to be met from state funds.

⁵⁵ The Future of Midday Meals, Dreze and Goyal, 2003

3. Cooks and helpers should be appointed from the village/ locality itself and should be Dalits, Scheduled Caste and Scheduled tribes only, with preference being given to women, particularly widows and destitute.
4. Every school should be provided with adequate space separately for storing and cooking the midday meal, with a source of clean drinking water and adequate utensils to store water and cook food. Funds allocated under related schemes implemented by the Department of Rural Development, Drinking Water Supply and Health should be mobilized for the purpose.
5. The midday meal should be supplemented with micronutrients like Iron, Vitamin A, and Iodine in addition to mass deworming. Efforts should also be made to identify specific nutritional deficiencies (like that of iodine in goiter affected areas) that can be treated in a relatively simple and cost effective manner (eg through the provision of iodized salt).
6. The states are permitted to use; (a) funds sanctioned under SGRY to construct kitchen sheds; (b) SGSY funds for giving the task of preparing cooked meals to SHGs of women as is done in Andhra Pradesh; (c) PMGY funds to organize cooking and for buying utensils⁵⁶.

2.5 Contributions from Parents and Community

In Assam where the scheme has been initiated in a handful of schools, lack of funds is undermining the regularity and quality of meals provided. A survey conducted in Bongaigaon, Goalpara, Dhubri and Kokrajhar districts of Assam⁵⁷, concluded that lack of physical infrastructure, inventories and manpower has eroded all possibility of implementation of a good quality midday meal scheme. Schools in these districts use a variety of measures to compensate for lack of funds. Dry rations are sold to purchase mustard oil, pulses, salt and kitchen utensils. Rations are also used to pay for the cooks daily wages. Further with no fixed cooks and helpers in place, 'voluntary' services of parents, village committees and mothers groups are called upon to help. These measures are in addition to a 'carrying charge' taken from the children to meet different costs.

The Commissioners have also heard accounts from Assam (Barpeta and Sonitpur District) and Maharashtra (Pune District) of the midday meal being financed from fees taken from children

⁵⁶ Meeting held at Delhi in July 2003 where Secretaries of Rural Development and Elementary Education, GoI were present cited in "Implementation of Poverty Alleviation & Food-based Schemes in Bihar", Dr Saxena, August 2003

⁵⁷ "Study of Midday Meal Scheme/ Antyodya/ Annapurna schemes in lower Assam," sent by Mr Sunil Kaul, Advisor to the Commissioners in Assam. Subsequently a letter no: MDM.AAY/200/Ass dated 1 August 2004, was sent to Secretary, Government of Assam, for immediate action.

enrolled at the school. During the visit to Maharashtra, instances of parents being asked to contribute (Rs 5-15 per student) towards the conversion costs⁵⁸ in Purandhar and Pargaon Taluks of Pune district was brought to the notice of Mr Sankaran who had asked the state government to stop this practice. In June 2004 a survey conducted in Bongaigaon, Goalpara, Dhubri and Kokrajhar districts of Assam, showed that children are asked to pay a “carrying charge” either in cash or by parents providing labour services. The amount can range from 90 paise to Rs 3 per child or ‘contribution’ in the form of firewood and labour services.

In many states the scheme is being run with the help of public participation and Panchayati Raj Institutions. Infact the state guidelines issued by Maharashtra and West Bengal explicitly allow for accepting “donations,” “active participation of public representatives like teachers, educational institutions, NGO’s” and “community contributions”(in the case of West Bengal). **Accounts have also been received from Madhya Pradesh and Mizoram where responsibility for cooking has been ‘delegated’ to panchayats without earmarking any resources for them to do so.** In Orissa, insufficiency of funds for vegetable, fuel and salary of cook, has meant that teachers sell the rice for money⁵⁹. While contributions from panchayat funds can prove to be an important tool of community ownership and partnership, ultimate responsibility rests with the state governments. In short it is necessary to clarify that no deviation from the Court orders of April 2004⁶⁰ will be permitted, a copy of which should be sent to all district and block authorities as well.

Box 3: Non-Implementation of Supreme Court Order under Mid Day Meal Scheme - Complaints from the Field				
Supreme Court Directive/ Central Norms Violated	State from where complaint was received	District & Block	Gram Panchayat	Reference Number of Commissioners letter
The Scheme is not functional	Assam	Dhubri and Bongaigaon districts		Letter no. Starvation.deaths/198/ASS dt. 15.7.04
Low coverage of Children	West Bengal	Jalpaiguri		Letter no. Teareport /150/WB dt. 11.01.04
	West Bengal	Purulia	Balrampur	Repost sent by Advisor in West Bengal dated 12.8.04

⁵⁸ Summary record of the discussions held on the 3 December 2003 by S.R.Sankaran with the Government of Maharashtra at Mantralaya, Mumbai

⁵⁹ Source: Survey on Midday Meal Scheme by Mr Bikash Das, Advisor to the Commissioners in Orissa.

⁶⁰The Supreme Court Order dated 20 April 2004, directed states to ensure that parents or children are not asked to contribute in any form to meet costs arising in the provision of a cooked meal

Scheme discontinued due to delay in release of funds	Punjab	Bathinda, Muktsar, Faridkot and Mansa districts		Letter no. Complaint.MDM/138/Pun dt. 13.10.03
Poor quality of grains/cooked meals	Madhya Pradesh	Singrauli , Sidhi & Rewa districts		Letter no. Sidhi.MDM/180/MP dt. 10.4.04 and Letter no. MDM-Complt/Rewa/130/MP dt 1.10.03
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
Cooked meals not being provided in violation of Supreme Court Order	Bihar	Ghelarh block Madhepur district	Shrinagar village Bilokri	Written by Advisor to the Commissioners dt 3.12.03
	Chattisgarh	Manendragarh block Koriya district	Kelua & Dehuli	Letter no. Koriya Adv Rep/187/Chat dt. 20.4.04
	West Bengal	Jalpaiguri		Letter no. Teareport /150/WB dt. 11.01.04
	West Bengal	Purulia	Balrampur, SAnturi, & Puncha	Repost sent by Advisor in West Bengal dated 12.8.04
	Madhya Pradesh	Rewa		Letter no. MDM-Complt/Rewa/130/MP dt. 1.10.03
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
	Assam	Goalpara & Kokrahar districts		Letter no. Starvation.deaths/198/ASS dt. 15.7.04
	Uttar Pradesh	Barabanki		Letter dt. 16.11.03
Irregular distribution of dry ration/cooked meals	Chattisgarh	Koriya, Lakhanpur and Surguja districts	Kelua, Dehuli, Biharpur & Charwahi Panchayats of Manendragarh block	Letter no. Koriya Adv Rep/187/Chat dt 20.4.04, Letter no. SurgujaMDM/139a/Chatt dt. 31.12.03 Letter no. MDM. Sarguja/Chatt dt. 24.10.03
	West Bengal	Jalpaiguri		Letter no. Teareport /150/WB dt. 11.01.04
		Purulia	Santuri & Balrampur	Repost sent by Advisor in West Bengal dated 12.8.04
	Madhya Pradesh	Shivpuri	Pohri	Report sent by Advisor in Madhya Pradesh dated 7.8.04
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
	Report of discrimination with dalit cooks	Karnataka	Thruvikare Timkur districts	Chikka Turuvikere, Marati Palya, Madihalli,

			Thalakere and D.Kalkere	
Delay in receipt of wages due to Cooks and helpers	Chattisgarh	Manendragarh Koriya district	Charwahi & Biharpur	Letter no. Koriya Adv Rep/187/Chat dt 20.4.04
	Madhya Pradesh	Anuppur	Kotma	Letter written by Advisor in Madhya Pradesh dated 14.7.04
No Kitchen sheds in schools	Madhya Pradesh	Shivpuri	Pichhor, Pohri & Shivpuri	Report sent by Advisor in Madhya Pradesh dated 7.8.04

Section 3: Antyodya Anna Yojana

The Supreme Court in an order dated 20 April 2004, had directed all states to accelerate the issue of Antyodya cards to priority groups listed earlier. This section starts with a status check on the states that are yet to complete the process of identification, issue and distribution of cards. A case will also be made for an expansion in the ceiling of beneficiaries issued to the states by the Centre. This would be in light of the Supreme Court order⁶¹ directing the states to issue Antyodya cards to all priority groups, since estimates reveal that the present quota is insufficient to cover the identified number.

3.1 Delay in distribution of Antyodya Cards

As mentioned in previous reports progress in the identification and issue of cards has been extremely slow in some states. **Only ten states of Andhra Pradesh, Chattisgarh, Karnataka Kerela, Madhya Pradesh, Maharashtra, Mizoram, Nagaland, Uttar Pradesh and Sikkim have completed the process⁶².** The delay was caused both by the centre and the state. Instructions were given by the centre, to the states only in June 2003 despite the announcement being made as early as March 2003. Thereafter time was given till September 2003 to states to finish the process, after which the allocations would be made. **The erring states have in effect therefore, denied potential beneficiaries from over eight months of subsidized grain under the scheme. What is particularly distressful is the fact that West Bengal, Haryana, Delhi, Chandigarh and**

⁶¹ The Supreme Court in an order dated 2 May 2003, directed "the Government of India to place on AAY category the following groups of persons; (1) Aged, infirm, disabled, destitute men and women, pregnant and locating women, destitute women ; (2) widows and other single women with no regular support; (3) old persons (aged 60 or above) with no regular support and no assured means of subsistence; (4) households with a disabled adult and assured means of subsistence; (5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house; (6) primitive tribes."

⁶² Source: PIB press release as on February 13, 2004 and MFB, May 2004

Pondicherry, more than a year and a half later, are yet to complete the initial round of identification⁶³. In short more than a year later, the number identified in the entire country is 1.25 crore as against the 1.50 that it should be⁶⁴. This shows the indifference shown by the state machinery and the low priority given to this scheme in these states⁶⁵ and a clear disregard for the provisions made in paragraph 3 of the Annexe to the PDS Control Order 2001 which mandates the states to identify BPL and Antyodaya families within 3 months of the issue of the order and to review the lists every year.

Guidelines and instructions for identification of another additional 50 lakh cards have been issued wef 1st August 2004. Given the delay by states in completing the process the first time around, it is suggested that all state governments be given a deadline so that the process might be completed by the 31st of October 2004, at the latest.

3.2 Inadequate Allocations by the Centre

Insufficient allotment appears to be a uniform trend across all grain based schemes including the TPDS, Midday Meal and Annapurna. Happily in the case of Antyodya, performance both in terms of offtake and distribution is very good. In most of the states offtake as a percentage of allotment is cent percent or negligibly lower. There is therefore no case for the centre's refusal to allot grain as per requirements. Moreover the shortfall as a proportion of required allotment seems to be increasing over the last two years from 2% to 13%. The shortfall would further increase if the number used to estimate requirements is taken to be 1.5 crore rather than the 1.25 identified at the time of writing this report. [Table 10](#) clearly illustrates that allocation is enough for only 1 crore beneficiaries as against the 1.5 crores that should be covered under the programme or even the 1.25 crore that have been identified.

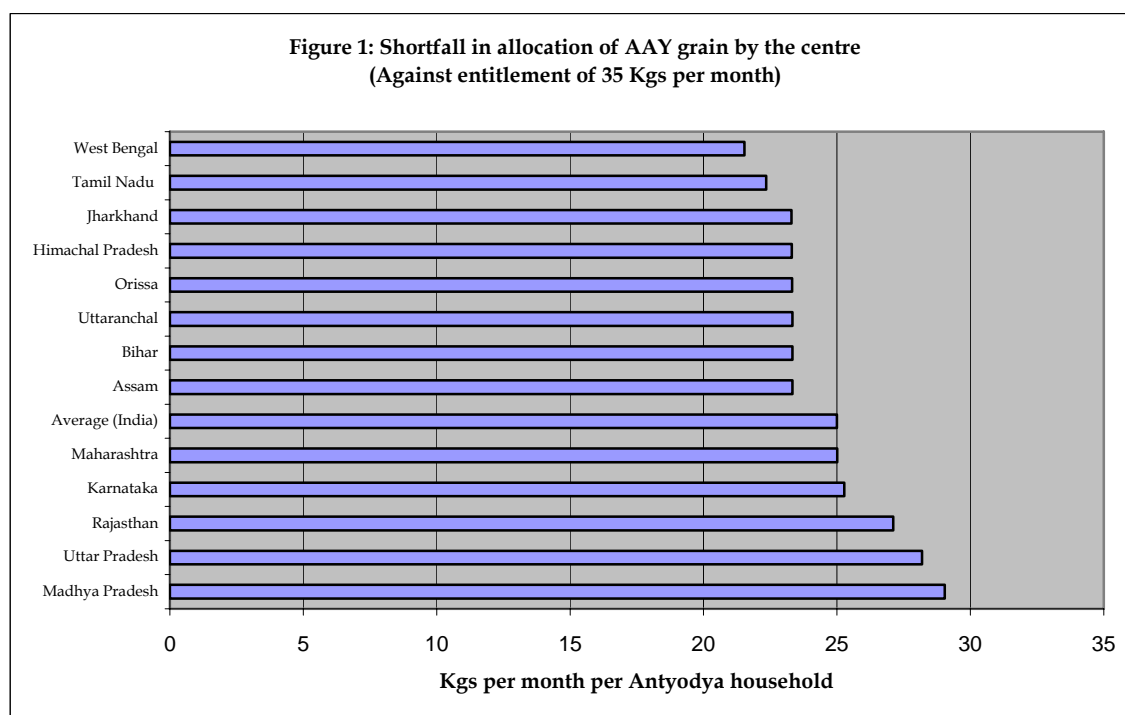
⁶³ The initial number of Antyodya households which formed 15% of BPL was announced in 2001. WB and Delhi were given 7,93,900 and 62,600 families respectively to identify and distribute cards to. But as on 20th June 2003, the states had issued only 7,40,941 and 32,000 cards respectively.

⁶⁴ Monthly Foodgrain Bulletin, May 2004, MoFCA

⁶⁵ The situation in West Bengal is particularly distressing according to the Advisor to the Commissioners. Visits to different parts of the state reveals that though the GO regarding identification of eligible families was sent out in September 2003, BDO's in the districts of South and North Parganas, Nadia and West Midnapore did not know about it or the Court order as late as December 2003. This was brought to the administrations notice in a letter addressed to the Nodal Officer dated November 25, 2003, sent by the Advisor, Ms Anuradha Talwar.

Table 10: Shortfall in Allotment of Antyodya Grain by the Centre		
	2003-2004	2002-2003
Estimated Number of Beneficiaries (in lakhs)	125.15	99.94
Total Allotment ('000 tonnes)	4556	4127
Required Allotment ('000 tonnes)*	5256	4197
% Shortfall as a proportion of required allotment	13	2
<i>Note: * computed for the estimated number of beneficiaries @35 Kgs per month</i>		
<i>Source: Monthly Foodgrain Bulletin, May 2004, MoFCA</i>		

Figure 1 illustrates how present allotment is far less than requirements in most states including Karnataka, Kerala and Andhra Pradesh where identification of additional families has been completed. Against the entitlement of 35 Kgs per month, present allotment levels in these states would permit beneficiaries to lift a maximum of 25 Kgs. Since the average levels of offtake in these states is more than 90%, households are receiving less than they are entitled to because of inadequate allotment by the central authorities.



3.3 Low Offtake of Grain:

As far as offtake under the scheme is concerned, Gujarat, Uttaranchal, Punjab and West Bengal performed much below average. As seen in [Table 11](#) against a national average of 85%, offtake as a percentage of allotment was as low as 41% in Gujarat and 49%, 56% and 71% in the other states respectively. If the state is incapable of lifting the available grain, the question of distribution to beneficiaries does not arise.

Table 11: Allocation and Offtake of Grain under AAY in 03-04 (’000 tonnes)			
Poor performing States	Allotment	Offtake	% Offtake
Goa	3	2	78
Gujarat	137	55	41
Maharashtra	451	391	87
Punjab	30	17	56
Uttar Pradesh	831	627	75
Uttaranchal	32	16	49
West Bengal	308	219	71
Total/ Average India (03-04)	4556	3824	84
Total/ Average India (02-03)	4128	3527	85

Source: MFB May 2004, MoFCA

3.4 Cards not given to priority groups as a ‘matter of right’

The Court order had directed that all persons belonging to the priority groups should be covered under the Antyodaya programme. Consequent to the Court Order in June 2003, sanction for an additional 50 lakh cards for the country as a whole was announced. Subsequently the Ministry has announced another 50 lakh cards in Budget 2004, taking the total number of Antyodaya families to 2 crore. While it is important to increase allocations, attention should also be given to ensure that families are correctly identified. The last few months have revealed gross irregularities in the selection process.

3.4.1 Incorrect Selection Procedure Used: Many states have interpreted the order incorrectly to mean that the percentage cards issued in every district must increase from 15% of the existing BPL population to 23%. Such an automatic increase does not allow for differing numbers between districts of the priority groups mentioned in the order. The states of Madhya Pradesh, Uttaranchal and Meghalaya have followed this procedure and have made little effort to identify

areas of concentration where priority groups may be found in greater numbers⁶⁶. The Commissioners have also heard accounts of incorrect procedure being used to identify beneficiaries. A visit to **Maharashtra** by Mr Sankaran, revealed cases where the PDS dealer had been entrusted with the responsibility of selecting Antyodaya beneficiaries. Further, little effort had been made to issue cards to the Primitive Tribal Group 'Katkari'⁶⁷. Migration patterns of this group, has meant that they were not present at the time of identification and have consequently lost out.

The Advisor to the Commissioners in **Chhattisgarh** reported "the systematic non-compliance with regard to the issuing of Antodaya cards to members of primitive tribal communities. Despite clear instructions from the Department of Food and Civil supplies, district administrations have failed to implement these orders. Stark instances of non-compliance were found in Kawardha (Pandaria and Borla Blocks) and Bilaspur districts where entire settlements of 'Baigas' have been left out of the Antodaya scheme. In Nagari-Sihawa Block of Dhamtari district, only a few members of the Kamar community have managed to get included in the Antodaya list."⁶⁸

In **West Bengal** a recent report of the situation in Binpur 2 block (Paschim Midnapore District) has revealed that the majority of families belonging to the Lodha Sabar primitive tribe have not received Antyodaya cards⁶⁹. This is despite the fact that more than nine months have passed since the issue of a Memo⁷⁰ identifying 'Lodha Sabar' families as one of the primitive tribes to whom cards were to be immediately provided.

Subsequent to the order of 2 May 2003, the government of **Madhya Pradesh** ordered that all families belonging to Bharia, Sahariya and Baiga⁷¹would be given Antyodaya benefits. A fax, in reply to letter⁷² written by the Commissioners confirmed that *all* primitive tribal families had indeed been identified and given Antyodaya cards. However the Commissioners team on a visit

⁶⁶ The increase in the number of cards to 1.5 crore comes to 23% of the existing BPL quota up from 15%. The states mentioned here have issued instruction to all districts to increase it without accounting for areas where for instance primitive tribes might be found in concentration. Further little heed has been paid to the migration patterns of these groups causing many to be inadvertently left out.

⁶⁷ Summary record of the discussions held on the 3 December 2003 by S.R.Sankaran with the Government of Maharashtra at Mantralaya, Mumbai

⁶⁸ "Violation of Interim Orders (May 3rd, 2003) of the Supreme Court in Dhamtari, Raipur, Bilaspur and Kawardha districts of Chhattisgarh". March 8th, 2004 and "Violation of Interim Orders (Nov 28th, 2001) of the Supreme Court with regard to the Mid-Day Meal Scheme and the Public Distribution System in Manendragarh Block of Koriya district, April 3rd, 2004. Reports by Mr Biraj Pattnaik, Advisor to the Commissioner in Chhattisgarh

⁶⁹ "Report On Starvation Deaths in Amlashole Village," July, 2004 sent by Ms Anuradha Talwar, Advisor to the Commissioners in West Bengal and Right to Food and Work, West Bengal Network

⁷⁰ No 5797(18)-PN/O/IV/3F-1/2001 dated September 19th, 2003, GoWB

⁷¹ "Status Of Implementation Of Supreme Court Orders In Dahi Block, A Report Based On A Field Visit To Dhar District, Madhya Pradesh", Shonali Sen, December 2003, Mimeo, CES

⁷² Letter No: PTG Bharia /156/MP dated March 4, 2004

to Dhar district came across several eligible 'Bharia' families who had not been given Antyodya cards because of administrative negligence and oversight. Several letters written to the administration has not changed much in the field, with district officials refusing to accept these families as eligible for benefits under this scheme. Similar reports have been received from Kotma block in Anuppur district. Out of the three villages visited by the Advisor's team, nearly 40 Baiga families across two villages are yet to receive Antyodya cards⁷³. In Jaithari block (Anuppur district) and Sohagpur Block (Shahdol district), close to 200 PTG across just five villages have been denied Antyodya cards⁷⁴. Thus there appears to be no systematic effort to ensure that cards are distributed as a 'matter of right' to the groups listed in the court order.

3.4.2 Incorrect use of 'BPL' as eligibility criteria: The Commissioners have received several complaints of the poor being asked to produce BPL cards as eligibility for Antyodya. While the centre had agreed⁷⁵ to send a letter to all states clarifying that BPL should not be used, this has not yet been done. As per the latest guidelines issued by the central department, "identification of the additional Antyodya families will have to be carried out from amongst the BPL families⁷⁶." This is in clear contradiction of a letter sent out earlier⁷⁷, directing states to include all eligible families under the Antyodya Ann Yojana and simultaneously in the BPL list as well. In order to ensure that the poorest are issued cards it is important that individuals from the priority groups be given Antyodya cards even if they have been inadvertently excluded from the BPL lists. The Commissioners have sent out clarifications to this effect but greater monitoring is required to ensure that orders are carried out. A clarification on the part of the Nodal department at the centre must also be sent out immediately, so that all priority groups are covered at the earliest and subsequently those denied BPL benefits earlier are included under that as well.

⁷³ Source: Mr Mihir Shah, Advisor to the Commissioners in Madhya Pradesh. This was brought to the notice of the Collector of the district in a letter dated 14th July 2004. A reminder sent on the 5th of August has also not received any reply.

⁷⁴ Though explicit mention has been made of exclusion of PTG's under Antyodya, several complaints have also been received about other priority groups especially widows both destitute and disabled being denied these benefits in these areas. Source: Right to Food campaign, MP. Also see [Box 4](#)

⁷⁵ Meeting held at Krishi Bhavan, on 29th September 2003

⁷⁶ Guidelines for Identification of Additional Families under the expanded (second one) Antyodya Anna Yojana, Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution

⁷⁷ Letter No: 21(5)/2002-PD-II, dated 16th March 2004, from the Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution, New Delhi

3.4.3 Ceiling on the number to be identified: Lastly Government Orders have directed that the number of new cards issued, are not to exceed 1 crore (including the recent announcement in the budget) for the country as a whole. However, field surveys and numerous studies indicate that the numbers of destitute defined as per the Courts orders is much higher⁷⁸. Requests from Chattisgarh and West Bengal to increase quotas have been turned down by the MoFCA. If Antyodya cards need to be given as a 'matter of right,' in accordance with the Supreme Court order then requests from states for additional quotas to cover all priority groups must be given due consideration by the centre. The centre must issue revised guidelines urging states to compile complete lists of all eligible persons identified so that complete distribution of cards may be ensured. If this requires an increase in the allotment to states, the centre must also do so without further delay.

The above mentioned cases illustrate that while official orders are issued not enough is done by local authorities to ensure that implementation is in compliance with Supreme Court Orders. Special efforts need to be made to identify and ensure that all families belonging to the priority groups are given Antyodya cards as a 'matter of right'.

3.5 No Commissions for PDS Dealers on Antyodya Grain:

It has come to the notice of the Commissioners that PDS dealers are not given any commissions on grain lifted under the Antyodya Ann Yojana. A letter⁷⁹ sent to the Ministry of Food and Consumer Affairs asking for clarification on the same is yet to receive a reply⁸⁰. This situation is concurrent with field reports of overcharging and undercutting in the quantities given to cardholders. Reports from Bihar and Jharkhand reveal that the dealer charges Rs. 10 extra from each beneficiary in the guise of transportation costs.

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 and nothing in the case of Antyodya Ann Yojana. This leaves them little choice but to extract payments from beneficiaries in other ways. With the viability of PDS shops already in question due to low offtake of APL grain, the negligible commissions paid to PDS dealers abets corruption and overcharging to meet costs incurred including those on rent

⁷⁸ Even as the existing number of cards are proving to be insufficient to cover all priority groups as a 'matter of right,' the centre has increased the category of persons eligible under the scheme to include "landless agriculture labourers, marginal farmers, rural artisans/ craftsmen like potters, tanners, weavers etc, slum dwellers and persons earning their livelihood on daily basis in the informal sector like porters, coolies, rickshaw pullers..." according to guidelines issued wef August 2004.

⁷⁹ Letter no. Issues AAY/188?MoFCA dt. April 21, 2004

⁸⁰ A letter addressed to the Secretary, Department of Food and Public Distribution (Letter No: Issues AAY/188/MoFCA) dated April 21, 2004 was sent to the concerned Ministry.

seeking activities. PDS dealers in Jamshedpur district of Jharkhand have complained that the list of endless 'commissions' and 'bribes' that they are required to pay at every level makes distribution of grain through the PDS an unviable option. They thus need to sell the grain in the black market in order to recover their dues. The centre should take into active consideration the recommendation that commissions on lifting of Antyodya grain be initiated at the earliest.

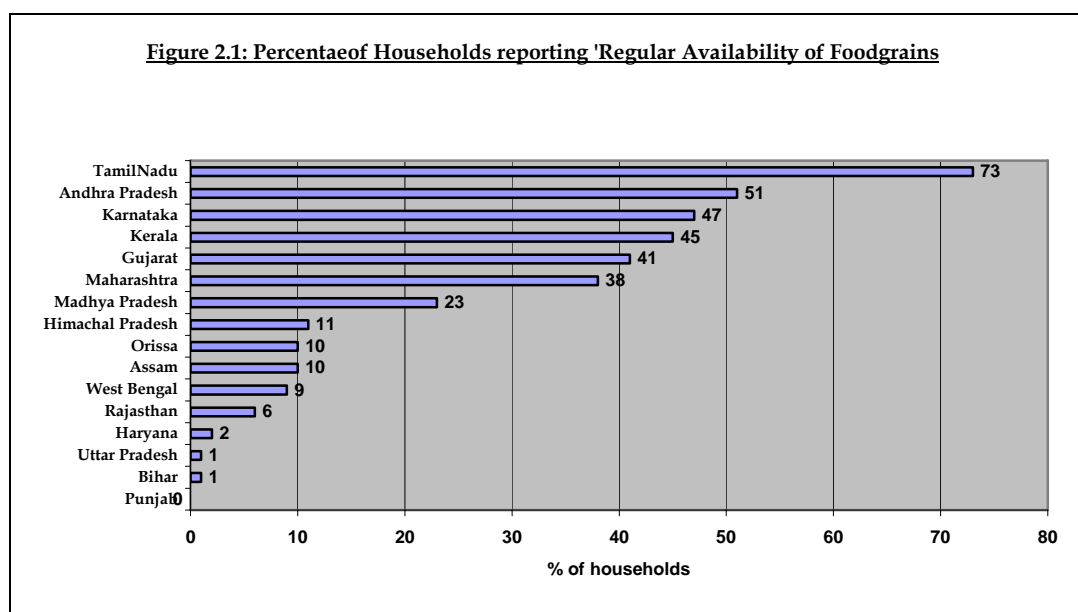
Section 4: The Targeted Public Distribution System (TPDS)

The performance under the BPL varies considerably across states, with the weakest links in states with the highest concentration of the poor. A report⁸¹ on the state of India's public distribution system ranked Tamil Nadu, Andhra Pradesh, Kerala, Gujarat and Karnataka to be the top five performers. At the bottom were Punjab, Rajasthan, West Bengal, Maharashtra and Bihar. Problems of low offtake, overcharging, low quality of grain, poor coordination between agencies, lack of information about entitlements, inaccessible ration shops and irregular opening hours continue to hamper the performance of the TPDS. Their study published in the EPW⁸², also showed the dependence of the non-poor on PDS to be much higher than that of the poor. Similarly, the dependence on PDS by the moderately poor is higher than the very poor, which clearly shows that the system is not properly targeted to the poor, with variations across states in targeting PDS to the poor. Further according to the study about 60 per cent of villages and about 85 per cent of urban households have easy access to PDS outlets. About 82 per cent of rural and 78 per cent of urban households possess ration cards. About 75 per cent of rural and 62 per cent of urban households possessing ration cards use PDS at least once in two months for procuring some items (including foodgrains). Usage is high even in states where foodgrain offtake is low, because villagers use the PDS outlet to procure subsidised kerosene and sugar. PDS outlets are required to display the prices of the supplies. About 47 per cent of users reported display of prices by PDS outlets. Display of prices by PDS outlets appears to be more in urban areas (56 per cent) than in rural areas (45 per cent). As far as regularity of supply is concerned, though the percentage of households reporting use of ration cards is high only one-fourth of rural and one-fifth of urban households have reported regular availability of staple foodgrains at the ration shop. Regular availability is reported by more than half of all rural households in the four southern states, viz, Andhra Pradesh, Karnataka, Kerala and Tamil Nadu. Regular availability is reported by 2 per cent (or less) of users in the states of Bihar, Haryana, Punjab and Uttar Pradesh.

⁸¹ PAC (2002) "State of India's Public Services, Benchmarks for the New Millennium"

⁸² Study published in EPW issue dated, 28th February, 2004

Thus these states have generally ignored Supreme Court's directions. (See figure 2.1 below and [Box 4](#) for details of complaints received from several states).



4.1 Inadequate BPL Allotment by the Centre

The allotment made by the Centre to the states is not as per their requirement given the number of households identified under BPL. The centres argument that allotment is demand driven with current allotment reflecting in part previous offtake in states, however does not hold much merit. While the centres stand may hold ground in the case of APL in general and for states like Bihar and Jharkhand with negligible BPL offtake levels, it fails in the case of states where lifting is high. As can be seen from [Table 12](#), states that have lifted more than 95% of their allotment like Andhra Pradesh and Karnataka are being given less than their entitlement. Shortfall in these states as a proportion of their requirements was as high as 25% and 20%.

Naturally, such shortfalls get reflected at the local level. A few states including West Bengal have reiterated their need for greater allocations from the Centre. The annual requirement of foodgrains for BPL cardholders in West Bengal is estimated at 8.74 lakhs MT of rice and 8.74 lakhs MT of wheat, while the allocation from the GoI is about 7.1 lakh under each category.⁸³

⁸³ Requirements according to Principal Secretary Food and Supplies, GoWB, revealed in discussion held with the Commissioner Mr Sankaran, in September 2003

Table 12: Shortfall in BPL Allotment by the Centre (2003-2004)						
('000 tonnes)						
State	Allotment	Offtake	% Offtake	Required allocations*	Shortfall	Shortfall as a % of required allocations
Andhra Pradesh	1368	1319	96	1706	338	25
Himachal Pradesh	196	177	90	216	20	10
Karnataka	1096	1048	96	1314	218	20
Kerala	535	440	82	733	198	37
Madhya Pradesh	1225	1044	85	1733	507	41
Rajasthan	758	619	82	1021	264	35
Tamil Nadu	1742	1656	95	2042	300	17
Note: *as per the number of BPL households identified in 2000						
Source: MFB, May 2004, MoFCA						

The required course of action is for the centre to formulate a strategy to ensure that grain allotted is viable for and reaches BPL households. It is not to cut down on allotments. This has been reiterated previously with the widespread belief that, "A situation has developed where the central government has virtually absolved itself of the need for developing the capacity of the weaker states to manage increasingly higher food allocations, while at the same time blaming them for failing to utilize these allotments. However, the central government should be as concerned as any other with the problems of management of the PDS at the field level which result in the denial of the legitimate entitlement of the poor to subsidized food⁸⁴."

4.2 Low Offtake of BPL grain:

When compared to Antyodaya, offtake under the BPL is low and stands at 65% of the grain allocated being lifted by the states over the last financial year. Against their entitlement of 35 Kgs every month, current offtake levels suggest that households can potentially lift only 18 Kgs, which would at best meet a fifth of the average family's requirement.

However as [Table 13](#) and Figure 2 illustrates, the performance varies across states. Between states while Andhra Pradesh, Karnataka, Tamil Nadu and Himachal Pradesh have high offtake of above 90%, the same cannot be said about many of the other states. Bihar (8%), Jharkhand (12%), Uttar Pradesh, Chattisgarh, Uttranchal, West Bengal and Orissa once again get special mention as those that have been unable to utilize the allocations, surrendering more than half of their entitlement. Moreover the situation has not changed much over the last few years, with little effort being made by these states to improve delivery of subsidized grain to households.

⁸⁴ A pilot proposal for mapping and disseminating best practices in PDS", 2003

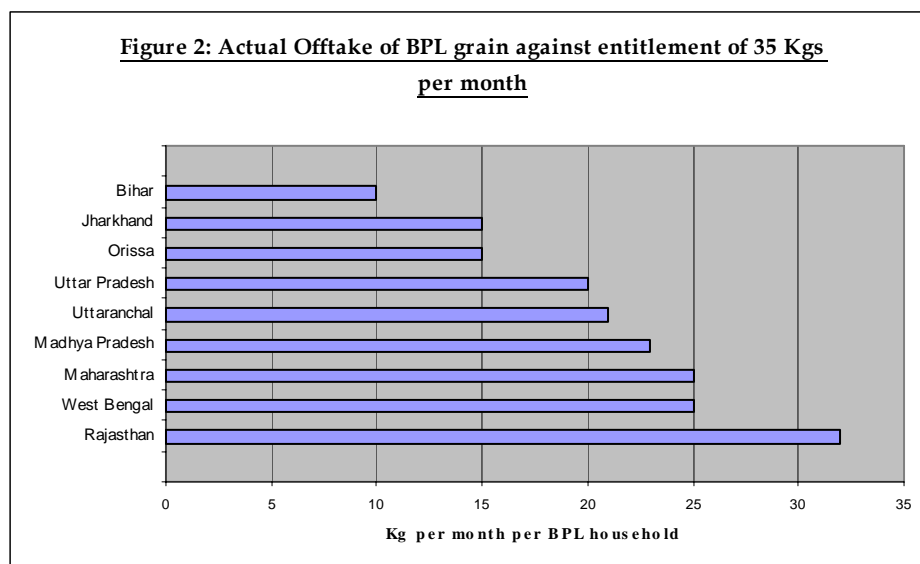


Table 13: Allocation and Offtake under BPL for the year 2003-2004

State	Allotment ('000 tonnes)	Offtake ('000 tonnes)	% Offtake (03-04)	% Offtake (02-03)	Offtake (Kg per month)
Bihar	2219	627	28	20	10
Chhatisgarh ⁸⁵	566	101	18	14	7
Goa	13	7	54	50	29
Gujarat	754	474	63	52	14
Jharkhand	839	297	35	28	15
Maharashtra	2293	1580	69	60	25
Orissa	1484	633	43	24	15
Punjab	166	120	72	53	19
Uttar Pradesh	3654	1845	50	64	20
Uttaranchal	177	89	50	59	21
West Bengal	1703	1039	61	44	25
Total (India average)	22549	14751	65	59	18

Note: * Computed using the prevalent number of BPL ration cards existent in the states, **The figure for offtake per BPL household should be interpreted with caution for these states. This is because the number of BPL cards distributed, far exceed the official number given by the Centre and on which allotments are made.

Source: Data on Allotment and Offtake, Number of BPL ration cards from the Monthly Foodgrain Bulletin, May 2004

⁸⁵Some of the figures reported in the Monthly Foodgrain Bulletin with regard to performance of Chattisgarh may be interpreted with caution. It is reported that the figures reflect under performance due to the decentralised procurement and use for food based welfare schemes. If this is so it is for the state government to ensure that accurate figures are reported to the Centre on a regular basis. If not then performance in many respects is extremely poor.

4.3 Non-Implementation of Supreme Court Orders: Analysis of the macro picture is dismal but accounts from the field, further erode any optimism that might arise. Though levels of offtake are low, accounts from beneficiaries suggest that the amount of grain reaching those for whom it is intended is lower still and negligible at best. Further as the experience in Delhi suggests, when the grain does reach, it is so only **in the last week of the month, and at times on the last day. This renders the entire food security program meaningless. The PDS Control Order casts a responsibility on the Governments to ensure that the supplies reach shops by the end of the first week of the month. In cases where this happens the Court is requested to direct the Governments to suitably compensate the beneficiaries for every day of delay.**

At a 'Public Hearing' on food security in Kelwara (**Rajasthan**), 29 ration cards were presented which did not have entries for some months, whereas records submitted to the government showed regular sales to the cardholders. The discrepancy between the amounts recorded in the cards and those recorded in the unit register amounted to more than 20 quintals of wheat. (See [Annexure 4](#), for more details). In recent Public hearings organized in **Delhi**, testimonies from card holders revealed that most of the grain meant for the public distribution system is being siphoned off. A social audit along with a door to door survey conducted in the Welcome area of East Delhi⁸⁶, revealed that 93% wheat, 96% rice and 55% of the kerosene that should have been distributed through the ration shops was siphoned off. This was established by comparing the records of the fair price shop dealer with the actual grain received by households in the area. Almost all the beneficiaries reported receiving no grain for the months of February-June, though in the records sale of grain had been made, the diversion in most of these cases being 100%⁸⁷. At a public hearing⁸⁸ organized in Circle 8 of Delhi, attended by the representatives of the Commissioners, over 300 local ration cardholders presented their testimonies and instances of violation of the orders of this Court (See [Box 6](#) for details). What is particularly distressing is that such violations have continued despite repeated complaints being made to officials of the Delhi Government including the Food Commissioner, Assistant Commissioner and Circle officers.

A field visit made to UP by Dr Saxena in 2003 showed that PDS was not working well. Many poor people holding BPL white cards are not being given rations. One such person Jagdev of

⁸⁶ By Parvirtan, New Delhi who obtained official records under the Delhi Right to Information Act. This and similar work done by the organisation illustrates why the need to enforce the 'Right to Information' is essential to making the 'Right to Food' a reality. Also see section 9 of this report.

⁸⁷ See Annexure 11 for details

⁸⁸ Public hearing organized by Satark Nagrik Sangathan, NCPRI, CES and Delhi RTI Manch

village Narayanpur complained that only Antyodaya cardholders get their rations, but regular BPL card holders are often turned away by the shopkeeper at Angadpur. This may be partly due to the fact that releases by FCI were not timely (which was admitted by SRM FCI too), but according to the DM Barabanki collusion between the Supply Inspectors and ration shop supplier cannot be ruled out. At another place in Hatauda village one Chedu complained that he had to pay Rs 5 per kilo for wheat, though the official rate is Rs 4.65 per kilo. Lifting in the last three years for TPDS in UP has been no more than half of the allocation. Thus on the one hand, the UP government is not able to lift its full allotment from GOI, on the other even this quota hardly reaches the poor. The Principal Secretary (Food) admitted that the Food Department has not done any independent evaluation that would suggest how many poor people are able to really get good quality foodgrains at the BPL price. Dr Saxena requested him to do at least a few such studies by involving civil society.

Another visit by Dr Saxena to a tribal village Koila Munda, in Budhidhar Gram Panchayat, Block Junagarh, district Kalahandi in June 2002, revealed instances of families that had been given new BPL cards that are currently in use in other parts of the district for more than a year. Three families present at the meeting showed him old BPL cards on which they used to get 16 kg per month up to the year 2000, but nothing after that. One family was given Antyodaya card but he got no rations. One person complained that the panchayat did not give them BPL cards because they were Adivasis (tribals). These problems were brought to the notice of state government by Dr Saxena, but the situation does not seem to have improved. From these and other instances the detailed list of which is given in [Box 4](#), it appears that most of the orders are being routinely violated in most states.

Box 4 : Non-Implementation of Supreme Court Orders under PDS - Complaints from the Field						
The Supreme Court gave a number of directions to facilitate better performance of schemes implemented through the public distribution system, including TPDS, Antyodaya Ann Yojana and Annapurna. However complaints received by the Commissioners reveals that most of them are routinely violated ⁸⁹ .						
Supreme Court	State	from	Name of District	Name of Block	Reference Number of	

⁸⁹ These findings also point to violations of Caluse 5,6 and 7 of the PDS Control Order 2001. Clause 5 specifies the scale and prices. Clause 6 lays down the procedure for distribution of foodgrains by the FCI to the states to ensure that the delivery of supplies reach FPS by the end of first week of every month and to avoid substitution and adulteration. Clause 7 provides for licensing of FPS and distribution of Essential commodities and in particular provides that (1) no ration cardholder will be denied his entitlement; (2) the shopkeeper shall not retain the ration card and; (3) The owner shall provide the relevant extracts of the record to the beneficiary on payment of prescribed fee.

Directive/ Norms violated	where complaint was received			Commissioners letter
Grain must not be black marketed	Rajasthan	Kelwara	Kumbalgarh	Letter no. Kelwara.Jan.Sunwai/163/Raj dt. 17.3.04
	Chhatisgarh	Koriya		Letter no. Koriya Adv.Rep/187/ Chatt dt. 20.4.04
	Madhya Pradesh	Hoshangabad	Kesla	Letter no. Hoshangabad PDS/181/MP dt. 10.4.04
	Madhya Pradesh	Sheopur		Letter dt. 26.8.03
	West Bengal	South 24 Parganas		Letter dt. 24.4.03, Reminder dt 14.7.03
	Orissa	Kalahandi		UNICEF in Orissa, June 2002, Dr Saxena's visit to the state
	Delhi	South District, East Delhi and others	Circle 8 - Malviya Nagar, Welcome Colony etc	
	Letter addressed to the Food Commissioner dated March 16 2004 and July 27 2004, letter addressed to the Assistant Commissioner dated April 30 2004 and letter addressed to the Commissioners of the Supreme Court dated August 25, 2004 all from SNS, Delhi			
Ration Shops must remain open throughout the month	Madhya Pradesh	Hoshangabad	Kesla	Letter no. Hoshangabad PDS/181/MP dt. 10.4.04
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.8.04
		Shivpuri	Pichhor	Report sent by Advisor in Madhya Pradesh dt. 7.8.04
	Delhi	Welcome (East Delhi), Circle 8-Malviya Nagar etc, (for reference see above)		
	Chhatisgarh	Koriya		Letter no. Koriya Adv.Rep/ 187/Chatt dt. 20.4.04
	West Bengal	Purulia Raidighi P.S	Balarampur, Mathurapur II block	Report sent by Advisor in West Bengal dated 12.8.04
	Rajasthan	Kelwara	Kumbalgarh	Letter no Kelwara.Jan.Sunwai/163/Raj dt. 17.3.04
	Bihar	Madhepura		Written by Advisor to the commissioners Letter dt. 3.12.03
	Assam	Bongaigaon, Goalpara, Dhubri and Kokrajhar		Letter no Starvation.deaths/198/ASS dt. 15.7.04
	Jharkhand	Latehar, Chaibasa, Palamau, Lohardagga, Dumka, Godda, Jamtara, Gumta, and E.Singhbhum districts		Letter dt 17.4.03 Letter no. M.cmp1t/202/Jha dt 2.8.04

	Jharkhand	Jamshedpur		Letter no. Complaint/135/Jhar dt. 7.10.03
Grain to be provided strictly at prescribed quantities	Chhatisgarh	Koriya		Letter no Koriya Adv.Rep/ 187/Chatt dt. 20.4.04
	Delhi	Welcome (East Delhi), Circle 8 – Malviya Nagar (for reference see above)		
	West Bengal	Jalpaiguri and Darjeeling districts		Letter no. Teareport/150/WB dt. 11.01.04
	West Bengal	Purulia	Balarampur	Report sent by Advisor in West Bengal dated 12.8.04
	Madhya Pradesh	Shivpuri		Letter no AAY Shivpuri/183/ MP dt. 12.4.04
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
	Bihar	Vaishali and Madhepura districts		Letter no. 8.12.03
	Orissa	Balasore	Jaleswar & Bhograi	Letter dt. 14.5.04 by Advisor to the Commissioners
		Kalahandi		UNICEF in Orissa, June 2002, Dr Saxena's visit to the state
	Maharashtra	Amravati		Letter no. 04.08.03
	Assam	Bongaigaon, Goalpara, Dhubri and Kokrajhar		Letter no Starvation.deaths/ 198/ ASS dt. 15.7.04
	Jharkhand	Jamshedpur		Letter no. Complaint/135/Jhar dt. 7.10.03
Grain to be provided strictly at prescribed rates	Jharkhand	Latehar, Chaibasa, Palamau, Lohardagga, Dumka, Godda, Jamtara, Gumta and E.Singhbhum districts		Letter dt. 17.4.03 Letter no. M.cmppt/202/Jha dt. 2.8.04
	Chhatisgarh	Koriya		Letter no. Koriya Adv.Rep/187/ Chatt dt. 20.4.04
	Delhi	Welcome (East Delhi)		
	Madhya Pradesh	Hoshangabad		Letter no. Hoshangabad PDS/ 181/MP dt. 10.4.04
		Shivpuri		Report sent by Advisor in Madhya Pradesh dt 7.8.04
	Assam	Bongaigaon, Goalpara, Dhubri and Kokrajhar		Letter no Starvation.deaths/ 198/ ASS dt. 15.7.04
	West Bengal	Purulia	Balarampur, Santuri and Pancha	Report sent by Advisor in West Bengal dated 12.8.04

	Bihar	Madhepura		Written by Advisor to the commissioners Letter dt. 3.12.03
Cards must not be retained by ration shop dealers	Rajasthan	Kelwara	Kumbalgarh	Letter n.o. Kelwara.Jan.Sunwai/ 163/Raj dt. 17.3.04
	Chhatisgarh	Koriya		Letter no. Koriya Adv.Rep/187 /Chatt dt. 20.4.04
	Delhi	Welcome (East Delhi), Circle 8 - Malviya Nagar, (for reference see above)		
	Assam	Bongaigaon, Goalpara, Dhubri and Kokrajhar		Letter no Starvation.deaths/ 198/ ASS dt. 15.7.04
	Jharkhand	Latehar, Chaibasa, Palamau, Lohardagga, Dumka, Godda, Jamtara, Gumta and E.Singhbhum districts		Letter dt 17.4.03 Letter no. M.cmplt/202/Jha dt. 2.8.04
False entries must not be made in ration cards	Delhi	Welcome (East Delhi), Circle 8 - Malviya Nagar, (for reference see above)		
	Madhya Pradesh	Shivpuri		Report sent by Advisor in Madhya Pradesh dt 7.8.04
	Jharkhand	Latehar, Chaibasa, Palamau, Lohardagga, Dumka, Godda, Jamtara, Gumta and E.Singhbhum districts		Letter dt 17.4.03 Letter no. M.cmplt/202/Jha dt. 2.8.04
Households to be permitted to buy in installments	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
	Cards to be distributed to all Primitive Tribal Groups (PTG's.)	Madhya Pradesh (Bharia, Sahariya, Baiga)	Dhar	Dahi
Anuppur			Jaithari	Letter received from Right to food campaign Madhya Pradesh dated 9.8.04
Shahdol			Sohagpur	Letter received from Right to food campaign Madhya Pradesh dated 9.8.04
Shivpuri			Shivpuri & Pohri	Report sent by Advisor in Madhya Pradesh dt 7.8.04
Chattisgarh (Pahari Korwa)		Surguja and Koriya districts		Letter no. AdvRep/174/Chat dt. 25.3.04
Orissa (Mankadias)				Letter no. newsreport/113/Ori dt 01.09.03
West Bengal (Lodha Sabar)		Paschim Midnapore	Binpur 2	
Maharashtra		Thane	Sahapur	M.Cmplt/207/Mah dt. 9.8.04

FAQ Grain to be distributed	Jharkhand	Latehar, Chaibasa, Palamau, Lohardagga, Dumka, Godda, Jamtara, Gumta and E.Singhbhum districts		Letter dt. 17.4.03 Letter no. M.cmp1t/202/Jha dt. 2.8.04
	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
	Bihar	Madhepura		Written by Advisor to the commissioners Letter dt. 3.12.03
Selection of beneficiaries should be as per guidelines	Jharkhand	Jamshedpur		Letter no Complaint/135/Jhar dt. 7.10.03
	Orissa	Cuttack		Letter no. AAY.Banki/189/Chat dt. 20.4.04
	Bihar	Madhepura		Written by Advisor to the Commissioners Letter dt. 3.12.03
	Assam	Bongaigaon, Goalpara, Dhubri and Kokrajhar		Letter no Starvation.deaths/198/ASS dt. 15.7.04
	West Bengal	Purulia	Puncha	Repost sent by Advisor in West Bengal dated 12.8.04
	Maharashtra	Amravatti		04.08.03
All identified should be distributed with cards	Bihar	Madhepura and Vaishali districts		Letter dt 08.12.03
	Chattisgarh	Koriya		Letter no. Koriya Adv.Rep/187 /Chatt dt. 20.4.04
	Madhya Pradesh	Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04
Allocation to be made in full	Madhya Pradesh	Hoshangabad and Shivpuri districts		Letter no AAY Shivpuri/183/ MP dt. 12.4.04 & Letter no. Hoshangabad PDS/181/MP dt. 10.4.04
	West Bengal	Purulia	Balarampur	Report sent by Advisor in West Bengal dated 12.8.04
Cards issued in the names of fictitious people	Delhi	Welcome (East Delhi)		
	West Bengal	Purulia	Balarampur	Report sent by Advisor in West Bengal dated 12.8.04

4.4 Reasons for Poor Performance of the TPDS:

Despite the potential of the programme and its reach across the country, the TPDS has failed to become a reliable delivery mechanism for transferring grain to poor households. The problems range from administrative delay, lack of monitoring by state governments to non-implementation of the Supreme Court Orders⁹⁰.

4.4.1 Validity of Sanctions Issued: Certain procedures adopted by the Centre and the FCI often lead to poor lifting and unnecessary delay's in the movement of grain for welfare schemes. In the case of Bihar for instance, the validity period of sanctions for BPL and Antyodya is only two months. This needs to be extended to atleast six months if not a year. This is because a limited validity period leaves little room for delay in the issue of release order's, which normally happens towards the end of the month giving only a few days time to the State Food Corporations and ration shop dealers to deposit bank drafts and lift foodgrains from the FCI godowns. This in some cases leads to further problems of lapse in quota's for which the entire procedure has to be repeated. Such unnecessary delay's can be done away with if the period of sanction is increased to one year⁹¹.

4.4.2 Consumer Preference not Accounted for: Currently there is no choice between wheat and rice for beneficiaries of the TPDS and other welfare schemes. The centre should consider giving a choice to the state government to lift either wheat or rice or a combination as per the consumer's convenience. Such a benefit can then be passed on to the PDS dealers and finally the consumers. Since current allocations are grossly under-utilised there is no danger of exceeding the quota if such a choice is given to the State Government.

⁹⁰ SC Order dated 2 May 2004 directed "(1) Licensees, who (a) do not keep their shops open throughout the month during the stipulated period; (b) fail to provide grain to BPL families strictly at BPL rates and no higher; (c) keep the cards of BPL households with them, (d) make false entries in the BPL cards; (e) engage in black-marketing or siphoning away of grains to the open market and hand over such ration shops to such other person/organizations; shall make themselves liable for cancellation of their licenses. The concerned authorities/functionaries would not show any laxity on the subject. (2) Permit the BPL household to buy the ration in installments; (3) Wide publicity shall be given so as to make BPL families aware of their entitlement of food-grains. What we have stated above in regard to BPL Cardholders for effective supply of grains to them, would equally apply for those, who are on AAY list.

⁹¹ In a letter the MoFCA have informed of their decision to make annual allocations to all states instead of the earlier practice of making monthly allocations. "This should give the state governments adequate time to plan the logistics of lifting foodgrains from the FCI godowns to FPS's." (No: D.O.no.5-22/2004-M.1, dated 2 April 2004)

4.4.3 Problems of Coordination: A visit by Dr Saxena to Jharkhand in March 2004, showed that the state was surrendering more than half of its quota largely on account of “the complete lack of coordination between FCI, SFC and the state government officials⁹²”. Similar complaints were received from the GoWB which felt that the “entire process of allocation, availability as well as payment procedures have to be streamlined by the Ministry of Food and FCI⁹³”. State officials believe that operational problems like FCI not accepting payments after the 25th of any month, non-availability of railway rakes and problems of logistics results in the lapse of monthly quotas and continue to hamper state performance.

A possible solution of local procurement has its own attending problems. For procurement operations, cash credit from the Reserve Bank of India (RBI) is available only against stocks. In the case of FCI, RBI lends against the guarantee of GoI, but does not accept the guarantee of the State Governments. Since domestic procurement affects supply of grain to the PDS in states like West Bengal, the problem clearly needs sorting out.

In order to improve delivery, the authorities should also consider installing more weigh-bridge in all FCI godowns since most of them currently operate with only one, which restricts lifting to a large extent. Also delivery of rakes should be made directly to the SFC at the railway station itself. This will avoid unnecessary handling and delays, since delivery at present takes place after several rounds of handling. The Commissioners have written to the Ministry of Food and Consumer Affairs⁹⁴ about the above, highlighting the need to improve coordination between the agencies involved including the Ministry of Food, FCI, Railways and their respective state government departments, but reply on action taken is still awaited.

4.4.4 Lack of Transparency and Dissemination of Information: The Supreme Court had ordered all states to undertake measures to improve transparency under the PDS⁹⁵. The Commissioners had reiterated the same to all states⁹⁶ and suggested several measures to enable states to do so. While only a handful of states have issued the required instructions (Gujarat, Karnataka, Andhra Pradesh, Maharashtra, West Bengal, Chattisgarh, Rajasthan, Haryana and Delhi), in the case of all

⁹² “Review of ICDS Programme in Bihar,” Dr Saxena, 14-17 March 2004.

⁹³ Summary Record of the discussions held on the 23 September 2003 by Mr Sankaran with the Government of West Bengal at Writers Buildings, Kolkata

⁹⁴ “Poor lifting of grain due to procedural problems of GOI and FCI,” letter No: Bihar.report/122/GOI, dated 16 September 2003 and an earlier letter “Large scale delays in payment of grain due to supply bottlenecks,” letter no: Specific Issues/ FCI, dated 26 May 2003

⁹⁵Specifically the orders passed on November 28, 2001 and May 8, 2002 had dealt with these issues. The orders included public display of orders and lists of beneficiaries, entitlement of the public to conduct social audits and public access to documents and records.

⁹⁶ Via letter number ‘PDS Transparency/120/ State,’ dated 16 September 2003, sent to all state governments

others no action has been forthcoming. The Government of Maharashtra as part of the “Hunger free Adivasi of Maharashtra” programme, for instance has decided to concentrate on the tribal areas for the proper implementation of the TPDS. All concerned authorities were issued instructions in August 2003 to arrange campaigns to issue ration cards and to educate Adivasis about PDS schemes and give wide publicity about the schemes through Gram Sabhas /Fairs/Newspapers /Cable network. While these efforts may be appreciated, it does not seem to have changed much at the field level.

Even in states which have issued the required orders, the situation in reality is however quite different. Information was not forthcoming even to the Commissioners representatives when visits were made to the districts of Dhar and Sheopur in Madhya Pradesh and to others in Rajasthan and Delhi. All possible means are employed by dealers to avoid giving information needed to establish corruption. (Also see section 9 on the ‘Right to Information’)

4.4.5 Inadequate physical infrastructure: Lack of infrastructure both at the district and block level also leads to poor performance. A visit to Jharkhand and Bihar by Dr Saxena, showed insufficient godown capacity to be a constraining factor leading to poor lifting of grain⁹⁷. According to the state FCI officials, Bihar has godowns only in 9 of a total of 37 districts. The same issue has also repeatedly been brought up by the states in the Northeast, who have cited prohibitive transportation costs due to lack of storage facilities in the districts⁹⁸. For these states the nearest FCI godown is in Assam. There is a need to use available funds to ensure atleast one FCI godown in every district. The FCI was asked to undertake the construction of warehouses, for which significant budgetary support already exists, but the reply and action taken is still awaited. Meanwhile it was also suggested that these states consider inviting private parties to maintain godowns at the district and block level so that avoidable disruptions in the supply of grain may be avoided.

Inadequacy of infrastructure extends to the number of fair price shops as well. Many studies have documented distance from the PDS shop to be an important factor in influencing lifting of grain by households. Coupled with the fact that ration shops rarely open everyday, making repeated trips is not a viable proposition for most beneficiaries. If one were to take the

⁹⁷ According to the MoFCA, the major reason for the poor offtake under TPDS **in Bihar and Jharkhand** is the “weak financial position of the State Agencies, especially the Bihar State and Food Civil Supplies Corporation (BSFCSC). Jharkhand is even more poorly placed as it does not have its own and is still dependent on BSFCSC (which is itself weak)”. Letter No: D.O.no.5-22/2004-M.1, dated 2 April 2004)

⁹⁸This also happens in the case of grain to be distributed under SGRY. A case in point is that of the Government of Arunachal Pradesh, which has to bear transport costs of around Rs 3.53 crore per annum for transporting grain to the district headquarters alone.

percentage of villages covered by a Fair Price Shop and the number of cards (APL, BPL and AAY) serviced per ration shop as a measure of accessibility, a clear trend emerges. States like Kerala, Tamil Nadu and Andhra Pradesh with relatively high levels of offtake, have on average more than one ration shop for every village. The number of cards serviced per dealer is also much lower than the national average. This could help explain why the lifting of grain under the PDS needs drastic improvement in the states of Uttar Pradesh, West Bengal, Jharkhand, Rajasthan, Chattisgarh and Uttranchal. Appendix Table 22 shows that against a national average of 459, the number of cards serviced per ration shop was 783 in West Bengal, 599 in Rajasthan and 509 in Uttar Pradesh. Accessibility to ration shops can be improved if state governments make an effort to increase the number of outlets available⁹⁹. Special attention also needs to be given to areas with a law and order problem. In many of the insurgent areas, there is little or no provision of ration shops, with card holders being penalized twice over. Increase in coverage could be commensurate with a shift in the control of shops as well. Assigning control of ration shops to cooperatives, SHG's or even local Mahila Mandals, has been seen to be less prone to corruption.

4.4.6 Inadequate Supervision and Monitoring: The Report on Long Term Grain Policy concluded that PDS lifting is very clearly related to the state of functioning of the network of fair price shops and reflects political commitment which is extremely high in Kerala but extremely low in Bihar. The Supreme Court had clearly ordered the schemes to be implemented as per guidelines, all ration shops to open throughout the month, families to be permitted to buy the ration in installments and the licences of ration shop dealers to be cancelled if they (i) do not open on time, (ii) overcharge, (iii) retain ration cards, (iv) make false entries in BPL cards, or (v) engage in black marketing. While a number of states have issued the required circulars, inadequate monitoring by state authorities has meant that the courts orders are routinely violated. "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 place¹⁰⁰." The case studies from Delhi, Rajasthan and elsewhere presented before show that though the ration cards have blank pages, in the internal records of the shopkeeper, the entire entitlement has been lifted. When the beneficiary approaches the shop for his entitlement,

⁹⁹However measures to improve density of coverage must be taken along with measures to enhance viability of running ration shops so that dealers have less incentive to black market and over charge. As noted above this can be done in a number of ways including the provision of commissions under Antyodya, decreasing the issue price of APL grain to facilitate greater offtake and greater efforts to disseminate information and increase transparency in the system. This is because many attribute the introduction of differential pricing to have reduced the offtake of grain specially that allotted under APL. This has reduced the viability of Fair Price shops increasing the scope for distortion and leakage.

¹⁰⁰ "Violation of Interim Orders (May 3rd, 2003) of the Supreme Court in Dhamtari, Raipur, Bilaspur and Kawardha districts of Chhattisgarh". March 8th, 2004 Report by Mr Biraj Pattnaik, Advisor to the Commissioner in Chattisgarh

he either finds the shop shut, or is told that the grain has not yet come or is offered inferior quality grain at quantities less than his entitlement, or even worse asked to pay more than the prescribed rates. Moreover such breach appears to be in collusion with the authorities including the FCI officials and Inspectors. Despite bringing these cases to the notice of the officials by the public and the Commissioners, little is done to stop such illegal practices or to bring the guilty to task. (See [Box 4](#) for details of complaints received)

The reasons for the lack of monitoring range from the shortage of staff to what in most cases can only be attributed to a lack of administrative will. In Circle 8 of Delhi, no action has been taken by the State Government despite repeated complaints made to the Food Department including the Food Commissioner, Assistant Commissioner and Circle officers, by cardholders regarding fair price shops not opening on time, overcharging, retaining ration cards, making false entries in BPL cards, and dealers engaging in black marketing (see section 4.3 above). In Surguja (Chattisgarh), for instance, the Advisor was 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. Of the 10 sanctioned positions of food inspectors in the district, just three positions have been filled.

Another indication of inadequate monitoring is evident from the rampant flagrancy of the Essential Commodities Act (ECA). This includes the provisions of Clause 8, 9, 10 and 11¹⁰¹ under the PDS Control Order 2001, passed under section 3 of ECA and brought into force by the Centre to ensure regular supplies and availability and distribution of essential commodities under the public distribution system. It has clear provision for relevant officials to conduct periodical reviews and checks.

4.4.7 Lack of Specified Redressal Mechanism: Recent accounts of public hearings attended by the Commissioners and complaints registered indicate that the officials hesitate in taking penal action against the shopkeepers, who violate various provisions of the PDS Control Order, despite repeated complaints from the public. The records further show that the directions of this Court have been ignored despite the fact that these violations were brought to the notice of the authorities. The Commissioners therefore feel that it shall be the duty of the Chief Secretary to put in place a mechanism to ensure that suitable action is instituted against the officials who hesitate in taking action against guilty officials as per law. In particular all state governments

¹⁰¹ Clause 8 lays down the procedure for monitoring of the shops. Clause 9 provides that contravention of any of the provisions of Clauses 3, 4, 6 & 7 of this Order shall be met with penalty under Section 7 of the Act. Clause 10 empowers the authorities to inspect, summon records, take extracts of copies of records, enter, inspect & search shops and seize and remove such books of accounts or stocks in certain circumstances. Clause 11 requires appointment of an appellate authority.

need to be directed to set up a committee to frame detailed procedures and time frames for dealing with various types of grievances and complaints received from the public. It is our recommendation that state governments designate some body like the Public Grievance Commission, which functions independent of the State Government, to listen to grievances and provide redressal in a time bound manner, if the public is unable to get redressal from normal channels. This body should be vested with necessary powers and finances to carry out its functions and to ensure implementation of its orders. The body should also be able to direct appropriate action, including criminal action, against guilty officials and the shopkeepers. It is further recommended that the Chief Secretaries and Police Commissioner report compliance to this Court and the Commissioners thereof, within a month of this order.

Section 5 Social Security for the Aged Destitute - Annapurna and Pensions

5.1 Inadequate Allocations under NOAPS

In 1998, the 'numerical ceiling' and corresponding 'qualifying financial entitlement' under national old age pensions, was worked out based on poverty estimates of 1993-94. The estimations show that a potential 69 lakh beneficiaries need to be covered¹⁰², requiring an annual allocation of Rs 620 crores for the national old age pensions scheme alone. However, not only is the coverage limited but it is decreasing every year. The number of pensioners receiving assistance under the NOAPS fell from 54 lakh pensioners in 2001-02, to 38 lakhs in the year 2002-03, with Maharashtra, Bihar, West Bengal and Uttaranchal accounting for a large part of this decline¹⁰³.

As can be seen from [Table 14](#) resources set aside presently by the centre are no where near the requirements and are sufficient to meet just about half the requirements. The total allocation for all the three schemes¹⁰⁴ for 2003-04 was only Rs 680 crores, as against a requirement of 1209 crores.

¹⁰²"However the National Policy on Older Persons released in 1999 estimated the number of older persons below the poverty line as 28 million or 30% of the entire older population." (Source: Non Contributory Pensions in India: A Case Study of Uttar Pradesh, HelpAge India, June 2003). The coverage of Pensions and Annapurna may well therefore have to be enhanced further than the numerical ceilings calculated by the Planning Commission.

¹⁰³See [Table 16](#) for details

¹⁰⁴ The National Social Assistance Programme was altered in structure in 2002-2003 with the removal of National Maternity Benefit Scheme and inclusion of Annapurna. The three schemes therefore for which allocations are jointly made currently include National Old Age Pension Scheme, National Family Benefit Scheme and Annapurna.

Table 14: Requirement and Allocation under NSAP					
	Total Allocation (Rs crores)	Total Requirement per year (Rs crores)	Requirement as per Centre's Estimation (Rs crores)		
Year			NOAPS	NFBS	Annapurna
2003-04	680	1209	620	572	17
2002-03	680				
2001-02	732				
<i>Note:: Qualifying Financial Entitlement has been computed by the MoRD according to the numerical ceilings estimated by them. Combined allocations for the three schemes was started in 2002-03</i>					
<i>Source: Guidelines for NSAP and Annapurna, Ministry of Rural Development</i>					

Given the effectiveness of the scheme¹⁰⁵, a consensus was reached between the Commissioner and the Planning Commission¹⁰⁶ that efforts would be made to increase allocations under the NOAPS. However this has still not been done despite assurances that it would come into effect from the current year itself. As can be seen in [Table 15](#), inadequate allocations by the centre and the states has limited the coverage of this scheme. In states of **Bihar, Gujarat, Karnataka, Maharashtra and Uttar Pradesh, the shortfall in coverage according to the governments own calculations is more than two lakh pensioners.** There is a need for the GoI to double the allocation in accordance with the centre's own formula from the current year itself. States should also be given the assurance of full releases along with suggestions to improve absorptive capacity.

Table 15: Limited Coverage under the National and State Old Age Pension Scheme (2003-04)			
Select States	No of pensioners reported\$	Numerical Ceiling of Pensioners**	Shortfall in number of pensioners covered
Arunachal Pradesh	715	9200	8485
Assam	423	133200	132777
Bihar	419287	1107700	645946
Goa	3763	4500	737
Gujarat	1673	221600	219927

¹⁰⁵ Given the relatively good performance of the scheme judged by regularity of disbursement of funds released by the centre, low transaction costs and correct selection, the Commissioners had advised the Planning Commission to increase allocations.

¹⁰⁶A meeting was held in Delhi between the Commissioner, Dr Saxena and members of the Planning Commission on 26 February 2004, to discuss the recommendations made by the Commissioners in their Reports to the Supreme Court.

Haryana\$	50372	86300	35928
Himachal Pradesh	22700	38100	15400
Jammu & Kashmir	31404	51100	19696
Karnataka	44829	340200	295371
Kerala	152475	224900	72425
Madhya Pradesh	389679	599000	67979
Maharashtra	29447	669800	640353
Nagaland	3555	13000	9445
Punjab\$	45265	62300	17035
Rajasthan\$	101460	237500	136040
Tamilnadu	314362	430300	115938
Uttar Pradesh\$	944758	1255200	306702
West Bengal	183333	478400	295067
Total (India)	4,151,635	6,881,000	2,729,365
<i>Note: ** The numerical ceilings and shortfalls are for undivided Bihar, MP and UP, \$ Beneficiaries reported is as per 2001-02, the rest are the number covered in 02-03</i>			
<i>Source: Department of Rural Development, MoRD</i>			

Further, the estimated requirements for pensions have been computed by the centre, using the norm of Rs 75/- per beneficiary per month. While many states have contributed to this central assistance, the national average paid to beneficiaries, still stands at a paltry Rs120 per month¹⁰⁷. However the total amount paid (central plus state contribution) in most states is much lower. As can be seen in Appendix Table 23, states like Andhra Pradesh, Manipur and Assam do not contribute a single rupee to the central fund. In Orissa, West Bengal, Jharkhand, Bihar and Karnataka, pensioners still receive a total of only Rs 100 per month, despite a contribution from the state fund. There is a need to increase the central allocation to atleast Rs 200 per pensioner per month, along with an increase in states share to atleast Rs 50, taking the total to a respectable Rs 250 per pensioner per month at the very least.

To conclude the centre needs to increase allocations taking into account **both** the number computed to be eligible and an increase in the amount transferred per beneficiary per month, to reflect current needs. Further an increase in allocations by the centre should not lead to corresponding decline in the number identified or in the amount allocated by the states from their own funds.

¹⁰⁷ For state wise details of the amount paid per beneficiary see [Annexure 17](#)

5.2 Inadequate Utilization of Funds by states:

Not only do some states add less to the central pool but are also unable to ensure cent percent utilization of central funds. As expenditure goes down, so do allocations, which becomes a vicious circle. This could in large part explain the massive decline in pensioners reported in states West Bengal, Maharashtra, Uttaranchal, Bihar, Meghalaya and Karnataka as seen in [Table 16](#) below.

Table 16: Decline in beneficiaries reported under NOAPS for India and Select States		
Select States	Beneficiaries Reported (in lakhs)	
	2002-03	2001-02
All India	38	54
West Bengal	1.8	3.3
Bihar	4.1	6.3
Maharashtra	0.29	3.9
Karnataka	0.44	1.8
Uttaranchal	0.04	0.45
Meghalaya	0.26	0.3
<i>Source: Guidelines and Returns filed for NSAP and Annapurna, Ministry of Rural Development</i>		

Pensions are also paid irregularly, only as and when funds reach the districts. This also means that pensions are not distributed every month, as directed by the Supreme Court. Pensions for the FY 2003-2004 had not been disbursed in **Bihar** till after August 2003 because of a delay in the issue of financial sanctions. The Empowered Committee sanctioned pensions on 14th May, but Cabinet approval could be obtained only on 15th July, after a delay of two months. The Government Order for issue of pensions was vetted by Finance Department on the 4th August and order was issued on the 8th August with the state share being released finally on the 12th August. State Government of Bihar has submitted that they could not release 10.56 crores to the districts in 2002-03 as the allotment from GoI was received only on the 29th March. This argument is however not valid as the State could have disbursed funds (as it was already approved by the Planning Commission early in the year) out of its Plan and later claimed reimbursement from GoI.

The situation in **Jharkhand** over the last financial year was even more distressing. As of March 2004, the Jharkhand government had still not issued financial sanctions for the FY 2003-2004. **Thus pensioners in Jharkhand have been denied their entitlement for a whole year!** It was

only after a visit by Dr Saxena to the state in March this year, did the Labour Secretary realize the scheme had been changed and had now become a part of the state plan. Callousness and indifference on the part of state government officials has deprived lakhs of poor old people from social security benefits, which is inexcusable.

5.3 Status on Withdrawal of Annapurna

In 2002 the central guidelines were amended in 2002, giving states the flexibility to choose between Annapurna and pensions. As result Annapurna was withdrawn in some states including Madhya Pradesh, Assam, Gujarat, Tamil Nadu, Delhi and Karnataka¹⁰⁸. Earlier reports of the Commissioners had highlighted the fact that some states were discontinuing schemes covered by the Court's orders, without providing for any alternative. Particular mention was made about the case of **Madhya Pradesh**, whom after issuing orders replacing Annapurna with pensions, had failed to do so for over a year. While the state had withdrawn Annapurna from 31st January 2003 with the assurance that all ex-beneficiaries would be given pensions instead, this process had not been initiated till March 2004, more than a year later. Moreover the process of identification was started only in Dhar District, after a visit by the Commissioners representatives and several letters were written. Even within Dhar, replacement is being done only for 'bonafide' beneficiaries, leaving many without any support. The Commissioners have received complaints of eligible individuals being denied pensions due to selective identification. In the abovementioned district, out of 2928 Annapurna beneficiaries, only 1499 have been '*identified*' for grant of pension. While the case of Madhya Pradesh has been highlighted, the situation is much the same elsewhere. In a recent survey conducted in Bongaigaon, Goalpara, Dhubri and Kokrajhar districts of Assam, **no effort has been made to replace Annapurna, which was withdrawn in November 2001.**

Meanwhile the scheme is yet to be reinstated as per the Courts orders of April 2004 which directed, "that no scheme covered by the orders made by this Court including the National Old Age Pension Scheme, National Family Benefit Scheme, in particular Annapurna, and National Maternity Benefit Scheme shall be discontinued or restricted in any way without the prior

¹⁰⁸ See Appendix Table 24 for status in other states. A letter sent recently to the Commissioners from the Government of Gujarat clearly says that Annapurna will be implemented. However no mention of the time frame when this will be done has been mentioned. Letter No: SUT-102001-WP-196-(13)-C, dated 26th July 2004 from the Food Civil Supplies and CA Department

approval of this Court. In other words, it means that till further orders, the schemes would continue to operate and benefit all those who are covered by the schemes¹⁰⁹.

Strictly speaking the Annapurna scheme was envisaged for those “eligible for pensions, but not receiving it.” Since the pension scheme both national and state is one that appears to be working with relative efficiency, the idea of converting Annapurna to pensions might be worth examining¹¹⁰. **However if states wish to discontinue Annapurna it must be done on the assurance that all individuals previously covered would now be so under pensions and this too only after the approval of the Court.** This should be reflected in a substantial increase in the number of pension holders, which is not the case as of now. The number, as already pointed out, of those actually receiving pensions has declined in the last three years.

5.4 Offtake under Annapurna:

As can be seen in [Table 17](#), offtake of grain as a percentage of allotment was 97%. However against this impressive national figure, lifting in Maharashtra, West Bengal, Bihar and Arunachal Pradesh was an average 42% and negligible in Delhi and Meghalaya. The reason attributed is a delay in allocations by the centre. **According to the GoWB, the scheme remained inoperative between April-June 2003, as no allocation was made by the GoI for that period.** Allocation was received thereafter for the months of July and August only¹¹¹. The other reasons for poor offtake reflect in most part problems of incomplete identification of beneficiaries (West Bengal), coordination and unnecessary procedural requirements described in the section on TPDS above¹¹².

¹⁰⁹Order dated 27 April 2004. The Commissioners have received reports of withdrawal of NMBS as well. Among other states the Advisor to the Commissioners in Orissa has brought to the notice of the state government that close to 800 beneficiaries entitled for such benefits from Badamba block, Cuttack district have been denied assistance due to non availability of funds. While the centre maintains that the scheme has been altered, Court approval for this has not yet been sought. Recent announcements regarding transfer of Midday Meals to the states have also been received. See Section 14 (NMBS) and 2 (MDM) for further details

¹¹⁰In fact a recent study of both schemes in Uttar Pradesh evaluated the performance in terms of awareness, accessibility and efficiency of the delivery mechanism. The study found overwhelming awareness about the old age pension scheme and preference for pensions as against Annapurna. There was also widespread knowledge of eligibility criteria among respondents. (Source: “Non Contributory Pensions in India: A Case Study of Uttar Pradesh”, HelpAge India, June 2003). Even the delivery mechanism was regular and reliable with pensions being delivered every six months as a lumpsum straight to the recipient’s bank or post office account. (Source: “A Case Study Of The Social Safety Net In Rural Uttar Pradesh”, Shonali Sen, November 2003 mimeo, CES)

¹¹¹ “Action taken Report on the implementation of the Orders passed by the Hon’ble Supreme Court in PUCL vs. Union Of India & others case (WP 196/2001),” Government of West Bengal, 2003

¹¹² Annapurna was started in 2001. However there are still some states that remain to identify households in accordance with the numerical ceiling given by the centre. For details on states that are yet to complete the process see Appendix Table 24

Table 17: Allocation and Offtake under Annapurna (2003-2004)			
State/ UT's	Allocation ('000 tonnes)	Offtake ('000 tonnes)	% Offtake
Arunachal Pradesh	1	0	28
Bihar	20	10	69
Delhi	0	0	0
J&K	1	0	0
Maharashtra	4	1	20
Meghalaya	1	0	0
West Bengal	10	4	50
Total (India)	123	90	97
<i>Source: Monthly Foodgrain Bulletin, March 2004, MoFCA</i>			

5.5 Inadequate Coverage of the Aged:

As a consequence of low allocations under the NOAPS and withdrawal of Annapurna, the number identified for coverage under both welfare schemes is extremely limited. As on August 2003, the states of Uttaranchal, Gujarat, Punjab, Assam, Manipur, Jharkhand and Nagaland had not been released any money under NSAP and Annapurna for the year 2003-04. This meant that identified persons received no assistance under these programmes for the first five months of the financial year. The status atleast in the case of Jharkhand remained unchanged for most of 2003-2004, denying many the benefits of pensions for a whole year¹¹³.

As far as actual coverage of the aged destitute is concerned, the number is much below that initially targeted by the ministry. For an estimated eligible population of 82 lakh beneficiaries under NOAPS and Annapurna, the total number identified under either one of the two is about 73 lakhs. This too because some states like Madhya Pradesh and Tamil Nadu have identified a significant number for which allocations are made from the state budget without any central support. As can be seen in [Table 18](#), the aged in Gujarat, Maharashtra, Assam, Uttar Pradesh, West Bengal, Jharkhand and Bihar are poorly covered under these schemes.

¹¹³Brief Review of Food Security Schemes in Jharkhand (11th to 14th March, 2004), Dr N C Saxena, Food Commissioner, Supreme Court

Table 18: State wise Coverage of the Aged under Annapurna and Pensions					
State	Numerical Ceiling under NOAPS and Annapurna	Beneficiaries Reported Annapurna (03-04)	Beneficiaries Reported Pensions both NOAPS and State pension schemes (03-04)	Total number Covered under both	% Coverage
Assam	159840	0	423	423	0
Bihar*	1329240	166601	492000	658601	50
Goa	5400	0	3763	3763	70
Gujarat	265920	65051	1673	66724	25
Haryana	103560	0	50372	50372	49
Himachal Pradesh	45720	5484	22700	28184	62
J&K	61320	0	31404	31404	51
Karnataka	408240	0	340000	340000	83
Kerala	269880	44500	152475	196975	73
Maharashtra	803760	20000	29447	49447	6
Nagaland	15600	0	3555	3555	23
Punjab	74760	0	45265	45265	61
Uttar Pradesh*	1506240	0	944758	944758	63
West Bengal	574080	65000	316698	381698	66
Total (India Average)	8,267,824	655,730	6,673,646	7,329,376	89
<i>Note: * Numerical ceilings are for undivided states</i>					
<i>Source: Annapurna and NOAPS Guidelines and returns filed by states with the Ministry Of Rural Development, GoI, correspondence with states</i>					

OTHER ISSUES

Section 6: Exports

The issue of burgeoning exports at the cost of the requirements of domestic welfare schemes, was highlighted in previous reports. It seems however that despite agreement in principle the MoFCA continues to subsidize and divert grain for exports. At a meeting with the Commissioners¹¹⁴, it was placed on record that exports had been banned for the period July to October 2003. This came along with the assurance that this status would be maintained till such time as food stocks were at a level adequate to meet both the buffer requirements and the internal

¹¹⁴ Meeting held on 29th September 2003 at Krishi Bhavan, New Delhi, with all relevant ministries

requirements of the different food related welfare schemes. However even within the time frame (July-October), subsidized exports continued unabated.

This comes in the wake of recent media reports¹¹⁵ according to which India no longer faces the 'problem of plenty'. Actual stocks of rice on 30th August 2003 at 8.1 million tonnes, was at levels less than the statutory buffer requirement of 10 million tonnes, with exports emerging as a major source in disposing 'surplus' stocks. A similar situation continued in the following months as well. Food stocks saw a drastic fall from a high of 64.8 million tonnes in June 2004 to 20.6 million tonnes in August 2004, resulting in a situation where buffer stocks are hardly sufficient to meet the domestic requirements of ration shops and welfare schemes.

What is particularly distressful is the fact that subsidised exports are being made at the cost of expansion in domestic welfares schemes¹¹⁶ and at prices lower than the issue price for APL domestic consumption. As [Table 19](#) illustrates the issue price for APL families is much higher than the export price over the last four years. *"In effect therefore a chunk of the food subsidy that accounts for as much as 30,000 crore today is consumed by foreign buyers of Indian grain¹¹⁷."*

Table 19: Price of Rice Sold by the FCI			
<i>(in Rs per quintal)</i>			
	Export Price	Issue Price for BPL Families	Issue Price for APL Families
2000-01	420.23	565	830
2001-02	495.06	565	830
2002-03	551.15	565	730
2003-04	581.78	565	850

Source: The Economic Times, December 31, 2003

Several letters¹¹⁸ written to the centre on this issue have received the same reply. The only reason subsidised exports have continued is because the centre has chosen not to address issues of

¹¹⁵"India's foodstocks fall 39%," April 14 2004, Rediff.com and "Government dips into buffer as wheat stocks fall below 100 lakh tonnes," April 15 2004, The Hindu Business Line. Also see "Food security concerns in India as buffer stocks plummet." By Sabyasachi Mitra

¹¹⁶ Many state governments have written to the centre to increase allocations under different schemes with little effect. Seen another way exports of more than 9 million tonnes of wheat and rice between April 2003 and January 2004 would have been sufficient to meet the requirements of an additional 2.6 crore Antyodya households.

¹¹⁷ The Economic Times, December 31, 2003

¹¹⁸ One addressed to the Food Secretary, MoFCA dated July 31, 2003, Letter no: Exports/109/GoI) and the other addressed to the Joint Secretary, MoFCA dated 16 September 2003, Letter no: Exports/121/FCA

inadequate allocations, demand for additional allocations and decline in offtake under welfare schemes¹¹⁹. Just the requirements (as per the number of identified beneficiaries) on account of the TPDS, Antyodya and Midday Meal Scheme is more than 24 million tonnes for the period July-October. Add to this an equal amount of buffer requirement to be maintained over the period, and the current stock of foodgrains (close to 32 million tonnes¹²⁰) would prove to be extremely inadequate. The situation is particularly alarming if the requirements on account of SGRY, Annapurna, ICDS and other welfare schemes are also taken into consideration. In fact greater allocations will be required this year, keeping in mind the need to expand Antyodya, restart the Annapurna programme and expand the food for work programme announced in Budget 2004.

The centre has indicated that a large part of the allocation is not utilized, for which requirements are adjusted accordingly. However underutilization is not due to a lack of demand but to various infrastructure and institutional bottlenecks that need to be addressed. "The low quality as well as high issue price of PDS grain and poor service at PDS shops, has forced many people to switch to the market which offers better quality grain, allows purchase on credit and ensures flexibility to purchase in small quantities"¹²¹. The solution therefore is not to channel the unutilized grain for export but to ensure that foodgrains allotted is utilized by those it is intended for. This would also be in line with the recommendation made by the Committee on Long Term Grain Policy which called for a review of the export drive as soon as stocks came down to 17 and 22 million tonnes for rice and wheat respectively. The stock as on 1st May 2004 stood at 12 and 19 million tonnes respectively. Clearly the time for review is here.

Section 7: Employment Programmes

7.1 Maharashtra Employment Guarantee Scheme (MEGS):¹²² The MEGS initiated in the early 1970's, has been applauded in the past for its novelty and scale. However recent studies and public interest ¹²³ have brought issues like underutilization of EGS funds, 'raiding' of funds for

¹¹⁹ see sections on Midday Meals, Antyodya and BPL before. (Section 3,4 and 5)

¹²⁰ as on 1st May 2004, MFB May 2004

¹²¹ Food Security in India, The Hindu, January 10 2002

¹²²This section draws primarily on an article "Does EGS Require Restructuring for Poverty Alleviation and Gender Equality?" by M. Krishnaraj, D. Pandey and A. Kanchi, [EPW, Volume XXXIX No 16 and 17, April 17-23 and April 24-30, 2004.

¹²³ A PIL was filed by H.M Desarda in the Aurangabad bench of the Mumbai High Court, on the issue of underutilization of the EGS Fund.

other uses, failure of the state government to contribute its share, bureaucratic delay's etc to the forefront.

7.1.1 Non- utilization of EGS Fund: As on March 31, 2003, the opening balance of the EGS Fund stood at Rs 5367 crores¹²⁴. This shows the extent to which accumulated funds could have been used to generate rural employment in the state. This must also be seen in light of recent media reports of starvation deaths of tribal children and migration of families in search of jobs and the high rates of poverty and unemployment in the state.

The reason for the decline in expenditure and employment generated in recent times can be traced to shortcomings in the implementation of the programme. Long gaps in the commencement of work, delay in payment of wages, both compounded by administrative bottlenecks, non-availability of continuous employment, indulgence of the bureaucracy in rent seeking behaviour and errors of exclusion in covering segments like migrants, has led to widespread disillusionment among rural labour. While the need of the hour would be to address these constraints so that utilization is enhanced, the state machinery has chosen to respond in another way: by not contributing to the fund.

7.1.2 No Matching contribution by the State Government: The Act clearly spells out the requirement on the part of the state to contribute an amount equal to that collected through designated taxes. In reality the fund is much smaller than it ought to be since the state government has failed to contribute its share since 2000, effectively reducing the size of the EGS fund by half. (See [Table 20](#)) The issue of a reduction in the available funds is compounded by the problem of diversion of EGS Funds for purposes other than the creation of employment. It is claimed that given the state of public finances in Maharashtra, the fund is being used for expenditure other than to create employment, the purpose for which it was set up. Describing the EGS fund as a "cash cow," an official according to a recent press report¹²⁵ went on to claim that "the diversion of funds has traditionally been a norm, sometimes for giving special grants to sugarcane growers when they have a surplus crop which could not be crushed by the cooperative sugar factories."

Table 20: Receipts and Expenditure under MEGS			
Year	Receipts	Expenditure	% Utilization

¹²⁴ The Hindu, February 2004

¹²⁵ "Step motherly treatment says Government," by Mahesh Vijapurkar, The Hindu, February 8 2004

	Taxes (Rs Million)	State Government's Contribution (Rs Million)	(Rs Million)	(as a proportion of potential receipts)*
2002-03	Not available	Nil	8890	52 [^]
2001-02	Not available	Nil	9146	68 [^]
2000-01	9207	Nil	5780	31
1999-00	7888	7888	4939	31
<i>Note: [^]Calculated using the budget provision made for the years, which stood at 6691 and 8500 for the years 2001-02 and 2002-03 respectively. The figures of utilization thus calculated would be an overestimate since the receipts collected through taxes typically exceeds the budget provision made. *This has been calculated by including the matching share of the state government in receipts collected. This is because the aim is to estimate the degree to which potential employment opportunities have gone waste.</i>				
<i>Source: EGS, November 2003, Planning Department note sent to the Commissioners</i>				

7.1.3 Factors Influencing Fund Utilization: The expenditure as a proportion of the receipts have shown a steady decline from 44% in 1997-98, 42% in 1998-99 to 31% in 1999-00, 00-01. This could be on account of several reasons:

Untimely provision of Employment - It is well documented that demand for employment is at its highest in the distress months of April-June. The need to provide income during the monsoons is eroded by a delay in obtaining work orders and thereby commencement of work. When EGS work does start in earnest (normally after the rainy season in December-January), it is after many of the poorest have already migrated.

Lack of Project Planning - There appears to be no linkage of the EGS projects actually undertaken with the needs, priorities or policy objectives of the programme. Allocations to a district appear to be loosely based on the previous year's allocation and not on the requirements in each district. Even within a district, coordination with panchayat samiti plans can help identify better location and timing of the projects, so that funds can be transferred to areas witnessing large-scale migration to urban centres.

Delay in Payment of Wages - According to the Act, wage payments must be paid within 15 days of the completion of project. In reality there is always a delay on an average of about one month. This is also responsible for the loss of interest of the rural masses in EGS in addition to defeating the purpose of helping the rural poor tide over seasonal emergencies.

Lack of Information - One of the crucial factors influencing the degree to which EGS funds are used, is the ability of the community to communicate their requirements to the authorities. This in turn depends on the level of awareness among beneficiaries of the objectives and potential

benefits of the scheme. Participants also lack awareness of their entitlements including monetary benefits like transport charges, hire charges for tools, compensation in case of death, methods used to calculate quantum of work done and wages due to them. This to a large degree limits the demand for work, which might have been more forthcoming if more efforts to disseminate knowledge had been made.

Efforts need to be taken by the Government of Maharashtra to ensure that funds are used to generate rural employment in the state including the formulation of a long term strategy taking into consideration the findings listed above

7.2 Employment Guarantee Act in Other States

The recommendation to move towards a nation wide employment guarantee act has been reiterated a number of times in previous reports submitted to the Court. While both Tamil Nadu and Andhra Pradesh have adopted pilot schemes in a few districts, states that are currently considering this legislation in full include Chattisgarh, Karnataka and Uttaranchal¹²⁶. Though the draft Acts have been modeled on the Maharashtra experience, inter state variations in the amount of unemployment allowance to be given, the unit for provision of employment (whether an individual or a family), the criteria for selection (BPL or otherwise) and other such modalities have led to stark differences at the preliminary stage of conception itself.

The Government of Uttaranchal, for instance has cited shortage of funds to be the reason for not providing an unemployment allowance. Such an Act if passed would erode any accountability in the scenario where the state does not provide employment. In the case of the draft Act formulated by the state of Chattisgarh, a proposal to guarantee employment to at least one adult of each 'BPL family,' has been put forward. Apart from the very credible criticism, that BPL selection in most states is faulty and at the worst highly inaccurate at selecting deserving families, such rationing of employment violates the right to work of every individual, for which the Act has been proposed in the first place. It is a suggestion that states contemplating such legislation should do so in consultation with the Commissioners and citizens organizations ensuring a fair amount of transparency in the process.

Box 5: Non-Implementation of Supreme Court Order under SGRY - Complaints from the Field

¹²⁶ Though there was an announcement by the GoMP of plans to start an EGS in selected tribal districts, the scheme is yet to start

Issue raised	State from where complaint was received	District(s)	Block(s)	Reference Number of Commissioners letter with action needed in response to complaint received
Fudging of muster rolls and other documents	Assam	Morigaon	Moriabari	No: Microcomplaints/126 /ASS dt. 16.9.03, No: Reminder. Microcomplaints/126/ASS dt. 28.1.04
	Madhya Pradesh	Barwani, Sheopur, Dhar & Rajgarh	Sendwa Dahi Pati	No: Irregularities (Barwani) No. 101/MP dt. 12.6.03, No: Dahi.visit/142/MP dt. 24.11.03, No: Microcomplaint /129/MP dt. 16.9.03 & No: Microcomplaint /129 (A)/MP dt. 15.12.03 & JEC.Barwani/203/MP dt 01.08.04
	Orissa	Sundergarh	Bisra	No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03
	Uttar Pradesh	Barabanki	Nindura	Letter dt. 16.11.03
Misuse of funds	Madhya Pradesh	Barwani, Sheopur, Dhar & Rajgarh	Sendwa, Dahi	No: Irregularities (Barwani) No. 101/MP dt. 12.6.03, No: Dahi.visit/142/MP dt. 24.11.03, No: Microcomplaint /129/MP dt. 16.9.03 & No: Microcomplaint /129 (A)/MP dt. 15.12.03 & JEC.Barwani/203/MP dt 01.08.04
	Assam	Morigaon	Moriabari	No: Microcomplaints/126 /ASS dt. 16.9.03, No: Reminder. Microcomplaints /126/ASS dt. 28.1.04
	Orissa	Cuttuck, Sundergarh	Baramba, Bisra	No: SGRY/144/Ori dt. 24.11.03 No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03
	Uttar Pradesh	Barabanki	Nindura	Letter dt. 16.11.03
Non payment of wages	Madhya Pradesh	Badwani	Pati	No. JEC.Barwani/203/MP dt 01.08.04
		Shivpuri	Pichhor, Pohri	Report sent by Advisor dated 7.8.04 No. Shivpuri.SGRY/196/MP dt. 13.07.04
		Tikamgarh	Prithvipur	Report sent by Advisor dated 14.08.04

Non Payment of minimum wages	Madhya Pradesh	Barwani, Dhar & Rajgarh, Shivpuri	Sendwa, Dahi	No. Shivpuri.SGRY/196/MP dt. 13.07.04 No: Irregularities(Barwani) No. 101/MP dt. 12.6.03, No: Dahi.visit/142/MP dt. 24.11.03, No: Microcomplaint /129/MP dt. 16.9.03 & No: Microcomplaint /129 (A)/MP dt. 15.12.03
	West Bengal	Jalpaiguri	Ramjhora Jogesh Chandra, Mujnai, Rahimabad Tea Estates	No: Teareport /150/WB dt. 11.01.04
	Uttar Pradesh	Barabanki	Nindura	Letter dt. 16.11.03
Discrimination in payment of minimum wages	Orissa	Sundergarh	Bisra	No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03
	Madhya Pradesh	Badwani, Dhar	Pati, Dahi	Letter dt. 25.5.04
Use of Contractors	Assam	Morigaon	Moriabari	No: Microcomplaints/126 /ASS dt. 16.9.03, No: Reminder. Microcomplaints /126/ASS dt. 28.1.04
	Orissa	Sundergarh	Bisra	No: SGRY/144/Ori dt. 24.11.03 No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03
	Madhya Pradesh	Dhar, Barwani	Dahi, Pati	No: Irregularities(Barwani) No. 101/MP dt. 12.6.03, No: Dahi.visit/142/MP dt. 24.11.03, No: Microcomplaint /129/MP dt. 16.9.03 & No: Microcomplaint /129 (A)/MP dt. 15.12.03 & JEC.Barwani/203/MP dt 01.08.04
Use of Machines	Madhya Pradesh	Barwani, Sheopur	Sendwa	No: Irregularities(Barwani) No. 101/MP dt. 12.6.03
	Uttar Pradesh	Barabanki	Nindura	Letter dt. 16.11.03
	Orissa	Sundergarh	Bisra	No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03

Wage arrears/ Delay in wage Payments	Orissa	Sundergarh	Bisra	No: Corruption SGRY1/Ori dt. 5.6.03, No: Rem.Corruption SGRY/Ori dt. 5.8.03 & No: Bishra.Report/ 134/ Ori dt. 6.10.03
	West Bengal	Jalpaiguri	Ramjhora	No: Teareport /150/WB dt. 11.01.04
	Madhya Pradesh	Badwani	Pati	Letter dt. 25.5.04, JEC.Barwani/203/MP dt 01.08.04
Non distribution of grain	Madhya Pradesh	Badwani	Pati	JEC.Barwani/203/MP dt 01.08.04
Inadequate employment generated	Madhya Pradesh	Badwani	Pati	JEC.Barwani/203/MP dt 01.08.04
Lack of transparency	Assam	Morigaon	Moriabari	No: Microcomplaints/126 /ASS dt. 16.9.03, No: Reminder. Microcomplaints /126/ASS dt. 28.1.04
	Madhya Pradesh	Badwani, Rajgarh	Pati	JEC.Barwani/203/MP dt 01.08.04
High prices of photocopy of muster rolls	Madhya Pradesh	Badwani Sheopur	Pati, Sendwa	No: SGRY Transparency/ 108 / MP dt. 28.7.03

7.3 Sampoorn Grameen Rozgar Yojana (SGRY)

Most of the social security schemes talked about earlier require some degree of purchasing power among the poor. Anti poverty programmes aimed at generating employment like SGRY and Food for work can contribute to this in a significant manner, if implemented properly. Implementation is however riddled with many problems as seen below.

7.3.1 Non-Utilization of Funds and Foodgrains: Some states are still surrendering resources that can be used to generate employment. As far as funds are concerned the centre released Rs. 4121 crores to the states to undertake employment works. For the country as a whole, 74% and 78% of the total funds allotted under stream I and II respectively, were utilized¹²⁷. The states that performed much below average under both streams include Jharkhand, West Bengal, Uttar Pradesh, Bihar, Chattisgarh and most of the north eastern states. In Bihar for instance 17 of the 37 districts could not get the second installment in 2002-03, because they could not spend 60% of the opening balance and the first installment¹²⁸.

¹²⁷ Source: Performance review is based on 'The Progress Report' for the year 2003-2004 received from the Ministry of Rural Development, dated 15th June 2004.

¹²⁸ Implementation of Poverty Alleviation & Food-based Schemes in Bihar, N.C. Saxena, August 2003

The total foodgrains distributed in the last FY for the country as a whole stood at about 40 lakh tonnes (as against 50 lakh tonnes authorized) or about 80% of the amount authorized. In the case of foodgrains while lifting remains poor for much of the north-east, the performance of Manipur¹²⁹, Meghalaya and Nagaland was below average under both streams. For the other states performance differed across streams. **The states of Bihar, Chattisgarh, MP, UP and West Bengal lagged behind the national average under SGRY I. For SGRY II, the list of poor performers included West Bengal (65%), Assam (64%), Uttar Pradesh, Jharkhand and Uttaranchal (74%).**

One of the reasons for the poor utilization of resources, is the delay in the release of second installment by the GoI. In Bihar for instance, the 12 districts of Patna, Buxar, Aurangabad, Vaishali, W. Champaran, Sheohar, Dharbanga, Samastipur, Saharsa, Araria, Banka, and Sekhpura could not get second installment during the year 2002-03 losing out on about 30 crore rupees¹³⁰. This could be because of a delay in the submission of utilization certificates by the districts to central governments. With actual releases sometimes extending to the end of March, funds cannot reach the district bank accounts before April or May. This is seen to happen even after the required papers are submitted on time because of a delay (ranging from one to three months) at the GoI level, which penalizes even the best districts for no fault of theirs. To address this problem the centre should consider shifting the date of opening balance from 1st April to 1st July, so that the districts are able to utilize the second installment received in late March in the first three months of the year. Alternatively one could increase the requirement of opening balance to 50% of the total allocation, so that the delay in releasing the second installment does not affect the district quota.

Non-utilization of both funds and foodgrains has wider implications. Rules laid down by the Department of Rural Development clearly establish that carryover funds cannot exceed 15% of the funds and foodgrains available for the year, after which cuts on the opening balance will be imposed. This only leads to lower availability of resources in the following years. Further poor lifting of foodgrain results in poor utilization of the cash component, by disturbing the required cash-foodgrain ratio of wages. This further adversely affects the employment generating capacity of the scheme.

¹²⁹Of the reporting states, Manipur and Assam have not released any funds as state share against the central releases during the year, under both streams.

¹³⁰ Implementation of Poverty Alleviation & Food-based Schemes in Bihar, N.C. Saxena, August 2003

Non Utilization of resources in a situation where many parts of the country are reeling under drought must be dealt with severely. In Rajasthan, a group of concerned citizens recently submitted suggestions to help alleviate the situation, which includes the urgent need for Food for Work programmes to provide employment and prevent distress migration from drought afflicted areas. It might be worth implementing these relief measures in other states as well¹³¹.

7.3.2 Irregularities in Implementation: Over the last financial year the Commissioners have received several reports concerning arrears in wage payments, non payment of minimum wages, fudging of muster rolls, use of contractors and machines, delay in wage payments and inability of gram sabhas and others to obtain copies of muster rolls. A number of letters¹³² were written to the state governments about relevant orders passed and on other issues, suggesting the following:

- A complete ban on the use of machines and contractors
- Payment of minimum wages within a week of work done
- Reduction in the price charged for muster rolls and other documents to a maximum of Rs. 1 per page
- Specification of procedure required to access documents and conduct social audits in states where the right to information has not been brought into force
- Dissemination of information about works, estimations, expenditure, entitlements through weekly gazettes and print and oral media¹³³.

However despite state government assurances that the necessary instructions have been given, little has changed on the ground as can be seen in [Box 5](#). The supply of foodgrains to the districts has also been grossly inadequate. Dr Saxena visited Uttar Pradesh in July 2003, where DM, Lucknow told him that wheat had not been supplied to his district for the last three months. In the villages that he visited, such as Badela Narayanpur in block Banikoder, grain component had not been paid to the workers. One labourer, Munshilal, complained that he had not got his wages in kind for 15 days. Greater monitoring is required at the local levels to ensure compliance with Supreme Court Orders.

¹³¹ For a copy of the submission see Annexure 10. A number of recommendations pertain to other food based schemes spoken about in this report as well.

¹³² To Chief Secretaries of all States and Uts dated February 17, 03 regarding Transparency in SGRY works, dated April 30, 03 regarding use of machines in SGRY works and May 8th, 2003 regarding SGRY status in states.

¹³³ On the advice of the Commissioners, NIC developed software for monitoring anti poverty programmes including the SGRY. However it has only been used by a handful of states including Orissa, Andhra Pradesh and Uttaranchal and for information pertaining to only SGRY.

7.3.3 Non payment of minimum wages: Despite court orders and Commissioners recommendations, complaints of non-payment of minimum wages continue to be received. A recent visit by the Commissioners team in Dahi block (Dhar district, **Madhya Pradesh**), revealed the institutionalization of the practice of paying less than minimum wage under panchayat works including SGRY¹³⁴. The problem was widespread, plaguing more than sixty villages making up Dahi block. As a result Rs. 35 per day is paid on an average as against the minimum wage of Rs. 52.87 per day. Despite reminders and several letters the situation continues unabated. While it was easily established in payments made using time rates, to establish corruption in cases where payments are made by task/ piece rate, is more difficult. This is an issue that needs to be looked into, because in none of the works undertaken (in Dahi and Barwani) were labour ever able to earn the minimum wage. A joint enquiry consisting of government officials and the Advisor in Barwani district, enquired into complaints of under payment in the guise of task work. In most works it was found that payment to men ranged from Rs. 25 to 30 and even less to women, ranging from Rs 10 to 15 per day¹³⁵. Non payment of minimum wages especially under the pretext of task rates poses a serious problem as the daily wage rate drops as low as Rs 15 to 25 leading to distress migration for survival.

Sometimes workers may be paid less than their entitlement because of corruption and not 'official' sanction as seen in the case of Madhya Pradesh above. As per norms laid down by the state authorities, Rs 58 per day is the minimum wage that must be paid at all public work sites in **Uttar Pradesh**. However a visit taken to Nindura block (Barabanki district) showed how no worker received more than Rs 40 per day in total (in some villages like Basara and Nindura the amounts were as low as Rs 30 per day), due to complete siphoning of the grain component¹³⁶. Information from the block warehouses revealed that the requisite grain had been lifted for distribution. However no grain was given to the workers with all payments being made in cash. Thus not only was labour denied their entitlement of grain but as a consequence received much less than the prescribed minimum wage.

A joint commission of enquiry was carried out in Sundergarh district in **Orissa**. Many instances of non-payment and discrimination by gender in payment of wages were reported in villages of

¹³⁴ "Status Of Implementation Of Supreme Court Orders In Dahi Block, A Report Based On A Field Visit To Dhar District, Madhya Pradesh", Shonali Sen, December 2003, mimeo CES

¹³⁵ Non payment of minimum wages is one among many complaints of employment of contractors and machines, refusal to provide work to women on grounds that their headload is too small, siphoning of grain component of wages and fudging of muster rolls. "Enquiry Report of the Joint Enquiry Committee on the complaints of irregularities in the works under drought relief and SGRY in Barwani District," July 2004

¹³⁶ "A Case Study Of The Social Safety Net In Rural Uttar Pradesh", Shonali Sen, November 2003 mimeo, CES

Bisra block. A maximum of Rs 40 per day was paid to men and Rs 35 to women labourers, as against the minimum wage of Rs 50 per day. Further though the scheme fixed the bottom line for payment of 25% of the wages in cash, most of the beneficiaries were only given food grains. In the words of the Advisor, "I was convinced that the workers were not paid the prescribed wages of Rs. 50/- per day either in cash or in cash plus kind¹³⁷." (Also see [Box 5](#))

7.3.4 Use of machines: Despite court orders and Commissioners recommendations, complaints have been received from **Madhya Pradesh (Barwani, Dhar), Uttar Pradesh (Barabanki), Andhra Pradesh (Krishna)**¹³⁸ and **Orissa (Sundergarh and Kalahandi)**, of the rampant use of labour displacing machines in employment works. A survey of works carried out in Pindsawa (Uttar Pradesh) showed that the permitted ratio of 80:20, labour to material costs was flouted. Moreover if the amount spent on payments for such machines had been used to employ labour instead, it could have provided 975¹³⁹ more man-days of employment in the year. A joint enquiry in Barwani district (Madhya Pradesh) mentioned above, observed the extensive use of "tractors, dozers and excavators. As a result the work was completed in less than half the estimated period, because of which work was available intermittently, either 3-4 days a week or in alternate weeks." The use of labour-displacing machines on public projects is increasingly common, even in cases where these machines do not serve any clear purpose other than lining the pockets of enterprising contractors and intermediaries. This is when the work done by such machines like digging and carrying to sites can be done by human labour. The use of tractors also leads to fudging of accounts since payments for these are illegal. A visit to Budhidhar panchayat in Kalahandi district of Orissa revealed that for Rs 25,000 received under SGRY, the employment generated was meager. Only 15-16 workers and two tractors were engaged for transporting morrum from the hillside to the road for four days, and another five people were employed for four days for laying that morrum on the road. People were engaged on contract basis (palli sabha Ward Member was the contractor), and wages were decided on the basis of amount of work done by them. The Collector was informed by the Ward Member that a total payment of 7,000 was made to the two tractor owners plus the meager wage payments. Thus in all a little more than 10,000 was spent, but bills of Rs 25,000 were submitted. Similarly in the SC/ST component of JGSY, people complained that they had received only Rs 7,000 for building houses though they

¹³⁷"Report On SGRY Corruption In Bisra Block Of Sundergarh District, Enquiry made on 30th July, 2003", Bikash Das, Advisor to the Commissioners in Orissa

¹³⁸ See Fourth Report of the Commissioners, August 2003, for details

¹³⁹ Total expenditure to contractors employing these machines was Rs 56,550. The employment creating potential of such expenditure has been calculated using the minimum wage of Rs. 58 per day. See Annexure 5 for more details. To view the extent of corruption in SGRY works, see Annexure 6 and 7.

should have received Rs 22,000. In another case the lady Sarpanch (she was present in the meeting) awarded a road contract of Rs 36,000 to an outside contractor which was totally against the rules. It seems therefore that though most state governments have passed the required orders, poor monitoring has meant that the situation continues unchanged. (Also see [Box 5](#))

Section 8: BPL Ceiling and Methodology

This matter has come up a number of times before the court. Simply seen there are two issues before the Court; (1) reduction in the BPL quota and (2) unreliability of the method used to conduct the BPL survey.

8.1 Reduction in the BPL quota: The allocations made to the state governments is based on Planning Commission estimates which conclude a reduction in the proportion of the population below the poverty line from 36% in 1993-4 to 26% in 1999-2000. However, the 1999-2000 poverty estimates are highly controversial and there is near agreement that they are biased downwards. While the GOI has not enforced a corresponding reduction (from 36% to 26%) in the BPL quota, it has left to the state governments the choice between the two “ceilings” of (a) the 1999-2000 poverty ratios, and (b) the so-called “adjusted shares”, which essentially preserves the *absolute* number of BPL households (i.e. adjusted share = old number of BPL households/total number of households today). In addition the GOI is also allowing a margin of 10% for “targeting errors”.

The central government, for its part, proposes to allocate grain to states based on the adjusted shares. The problem with leaving the decision to the state governments is that some might choose the lower of the two purely because of the expenditures involved. This is because BPL status is a prior requirement for a wide range of welfare programmes like the NOAPS, NFBS, NMBS, many of which are financed wholly or partly by state governments. Effectively therefore larger number of BPL households, means greater expenditure on these programmes. However even in the event that state governments use the adjusted shares, the new BPL list would involve a decline in the share of BPL households in the population. To illustrate, looking at rural India as a whole, the figures reported would imply that BPL households would account for about 33% of the rural population today, compared with 37% in 1993-94.

What is needed therefore is that (a) The BPL quota should be based on the 1993-4 poverty ratios (i.e. 36% at the all-India level), plus the 10% allowance for targeting errors, so $36\% + 3.6\% = 39.6\%$

at the all-India level. (b) State governments should not be allowed to draw the BPL line below these ratios.

8.2 Unreliability of the BPL survey: The methodology used in conducting the BPL survey has received criticism from all quarters for using indicators that are non-transparent and non-verifiable. The “scoring method” used involving 13 indicators, has been shown to be exposed to distortions and cheating. Several complaints regarding incorrect selection of households have been received from all over the country, including West Bengal, Madhya Pradesh, Chattisgarh, Rajasthan and Orissa. There appear to be massive “exclusion errors” (wrongly excluding a poor household from the BPL list) and “inclusion errors” (wrongly including a non-poor household) which undermine the unreliability of the BPL survey.

What is needed therefore is a (a) New BPL survey based on transparent and verifiable criteria. The expert group constituted earlier for the purpose may be asked to suggest the changes needed in the methodology to ensure the same and (b) Meanwhile, old BPL cards (of 1993-94) should remain valid. Further, if anyone has already been identified as BPL based on the new survey (1999-00), they should be allowed to retain this BPL card as well.

Box 6: Corruption and The Right to Information - The Case of PDS in Delhi

A *jan sunwai* (public hearing) on the Public Distribution System was organized in Circle 8 on July 25, 2004 where residents of slum settlements of Malviya Nagar presented their ration-related problems. The cardholders testified regarding the following problems:

- i. Ration is distributed by FPSs only in the last week of the month;
- ii. A very large number of ration card holders are not provided their full quota of grain and kerosene oil;
- iii. False and incomplete entries are made in ration cards and no receipts are given to the beneficiaries;
- iv. Extremely poor quality grain is supplied to ration card holders by many FPSs;
- v. Kerosene Oil Depots open only on 2 or 3 days in a month;
- vi. List of BPL cardholders in circle 8 is inaccessible to the beneficiaries;
- vii. If cardholders demand their rights under the PDS, they are threatened.

Records of two ration shops in the area (number 7783 and 8968) obtained using the Delhi RTI Act were scrutinized at the hearing. Several BPL ration card holders of the two shops testified that the two shops have been denying them ration for five years on the pretext that the FPSs have not been receiving any grain under the PDS. The records for the period January 2003 to March 2004, however, revealed that both the ration shops have regularly claimed wheat, rice and sugar every month at highly subsidized prices from the Government but have not sold the commodities to the intended beneficiaries. The card number entries made in the BPL daily sale registers of the shops do not match with the card entries made in the BPL card registers of the shops, clearly proving that ration meant for BPL beneficiaries has been pilfered.

Source: *Satark Nagrik Sangathan in collaboration with the National Campaign for People's Right to Information (NCPRI) and Centre for Equity Studies.*

Section 9: Right to Information

The crucial role of easy access and dissemination of information was recognized by the Court when it gave orders to address related problems¹⁴⁰. Indeed, in Rajasthan, where a right to information law is in place and the right to information movement has fostered a culture of public vigilance, the practice of fudging muster rolls on relief works has largely disappeared. There is a need to learn from this experience and to put in place accountability mechanisms that will help to eradicate corruption elsewhere. According to a media report,¹⁴¹ the Freedom of Information Bill was given presidential assent and notified way back in January 2003. The delay remains with the framing of the rules. Given that the right to food cannot be realized without the right to information, it may be appropriate for the Court to call for timely introduction of right to information laws by the state governments.

9.1 Prohibitive pricing of documents: The Commissioners have written several letters¹⁴² requesting state governments to reduce the cost of providing photocopies of public documents. Particular mention has also been made in past reports about the case of Madhya Pradesh, where the price charged is as high as Rs 15 per page for muster rolls. However despite several reminders¹⁴³ and more than six months later, a reply is still awaited from the state authorities. Demand for information related to the PDS, from the Government of Delhi can also be a costly affair. Records are provided at Rs 5 per page in addition to Rs 25 as application fee and Rs 15 as inspection fee. Needless to say this is beyond the paying capacity of a BPL beneficiary, and therefore renders the idea of social audits, allowed for by this court meaningless.

¹⁴⁰Order dated April 2004: Access to all public documents including muster rolls shall be allowed to such persons who seek them and the cost of supplying documents shall not be more than the cost of providing copies of the documents; Order dated May 2002: Gram Sabhas are empowered to monitor the implementation of the various schemes and to have access to all relevant information; Order dated November 2001: Order's to be translated in regional languages and English and prominently displayed. List of all beneficiaries and information about various schemes to be displayed to ensure transparency and publicized in Doordarshan and AIR. Further gram sabhas are entitled to conduct social audits of all Food/Employment schemes and report instances of misuse of funds on which appropriate action must be taken by concerned authorities.

¹⁴¹ To get your right to know, you will have to wait longer," India Express, 29th April 2004

¹⁴²Letter No: PDSttransparency/120/<statecode>, dated 16th September 2003, to all states

¹⁴³ Letter No: SGRYtransparency/108/MP, dated 23rd July 2003 and Letter No: SGRYtransparency/110/MP, dated 5th August 2003, to GoMP

While the order of April 2004 did direct states to provide copies of public documents at the cost of providing copies, it appears that the order is being misconstrued, with some beneficiaries in Delhi being told that the cost includes salary of the official. A clarification from the Court is therefore sought to:

- Direct states to ensure that a maximum of Rs 1 per page be charged on account of actual photostating costs.
- Clarify that all documents in respect of all food based security schemes covered by the orders of this court and including PDS and SGRY, shall be designated 'public documents', and must be provided to beneficiaries, citizens organization or any other person, as the case may be, promptly on the payment of xeroxing charges as mentioned above.
- This Court had in an order dated May 2003, empowered gram sabhas to monitor the implementation of various schemes, have access to relevant information and approved the practice of Gram Sabhas conducting social audits in rural areas. This report has highlighted the case of similar initiatives being used organizations in urban areas like Delhi. The Court is requested therefore to direct states that the orders relating to the Right to Information, Transparency and conduct of social audits be allowed in urban areas as well.

9.2 Dissemination of Information: It is of great concern that information regarding beneficiary entitlements and Court's orders often fail to reach the concerned individuals including district and block government authorities. For instance, visit to the remote block of Dahi in Madhya Pradesh showed that block authorities had little knowledge of the Court orders. This is a serious matter, since the local officials are involved in the implementation of schemes to which the orders relate to. State governments need to take active to ensure that future orders are communicated without delay to District Collectors and other concerned local level authorities.

Moreover a basic cause for corruption and poor performance of welfare schemes is the lack of knowledge among those for whom the benefits are intended. Visits to the field show that beneficiaries are not aware of their entitlements, including the quantities due to them and the price they should pay. This abets siphoning of grain to the black market and overcharging, problems that are endemic in the PDS system. Suggestions have been made to all state governments to increase transparency and the dissemination of information. However the response has not been satisfactory¹⁴⁴.

¹⁴⁴ To view the responses received from state governments, see Annexure 8

Several states are actively using information technology to improve access to information. Tamil Nadu has placed all major Government Orders of public interest on its website. Andhra Pradesh's portal contains extensive information about government departments, schemes and policies; and allows citizens to contact government officials directly providing initially for limited on-line transaction processing as well. Similar action is required from other states as well. State governments must undertake specific measures to increase the dissemination of information about norms and performance in addition to prescribed returns filed with the center through state websites, Doordarshan and AIR which can be accessed by all. Further the centre should provide funds needed to develop the required computer friendly software (as done in the case of SGRY) in the case of the other schemes as well¹⁴⁵.

9.3 Availability of PDS records: Recent efforts at conducting social audits of fair price shops in Delhi and thereby access to records have failed due to the 'professed unavailability' of PDS records due to unforeseen circumstances. Subsequently it was found that a copy of records had not been deposited by the ration shop dealers, to the higher authorities. This is in clear violation of the PDS Control Order 2001, which requires them to furnish copies of specified documents at the office of the Gram Panchayat or Nagar Palika or Vigilance Committee or any other body authorized by the State Governments. The Court is therefore requested to direct the governments to ensure that all relevant records are submitted by the shopkeepers *every month* to the designated body or to the office of local SDM, where there is no such designated body. The public will then have a right to inspect and take copies of these records from the office of such body.

Section 10: Reports of Hunger and Starvation

The Commissioners are distressed to report that the situation of hunger and destitution from where this litigation started continues unabated. This is despite a court order dated 29th October 2002, which holds the Chief Secretaries/Administrators of the States/ Union Territories responsible for deaths due to starvation or malnutrition. **Over the last twelve months complaints have been received of hunger related deaths, from Madhya Pradesh, West Bengal, Chattisgarh, Karnataka, Jharkhand, Orissa, Andhra Pradesh and Uttar Pradesh.** More often than not, these can be traced to a failure on the part of the state machinery to ensure that welfare

¹⁴⁵ Though the required software for filing SGRY returns has been developed and given to the states, only a handful of states including Orissa, Uttranchal and Andhra Pradesh have made some effort to use the same to enable easy access to information for all.

schemes including the ones covered by the orders of this court, are implemented as per guidelines and as per the Courts orders. Further the response (if any at all) from the state government is a standard denial. While the immediate cause of death might be a disease like Malaria, TB or Jaundice the underlying cause is prolonged periods of hunger and accompanying malnutrition leading to loss of immunity. What is needed therefore is to ensure the proper functioning of social security measures in the areas over a consistently long period of time.

While a few like West Bengal and Andhra Pradesh have undertaken some relief measures, others like Bihar and Uttar Pradesh have chosen to ignore all correspondence sent by the Commissioners. A detailed list of the complaints received and response of the administration to letters sent by the Commissioners is given in [Box 7](#).

Box 7: Reports of Deaths due to Hunger and Starvation				
State	Name of District and Block	Gram Panchayat	Response of the Administration	Date and Reference of Commissioner's letter/ Report sent
Jharkhand	Lasligunj and Manatu, Palamau district	A total of seven deaths reported in Sitadih, Pathrahee, Chandaigir and Koree Patra and Lotwa of Lasligunj. And twenty-five deaths reported in Kusumatanr and Majhuali of Manatu blocks.	No Response	Letter no. Complaint Palamau/ Jhar dt. 20.10.03. Report by Advisor to the Commissioners April, 2003.
Madhya Pradesh	Pohri and Chharch, Shivpuri district		No Response	Letter dt 26.8.03
	Baidhan, Sidhi district		No Response	Letter no. Sidhi death/186/ MP dt. 20.4.04
	Parasiya, Chindwara district		No Response	Letter no. Chindwara. deaths/184 /MP dt. 13.4. 2004
	Khalwa, Khandwa district	A total of three children deaths reported in Saidabad village	No Response	Letter no. Khandwa. deaths/182 /MP dt. 12.4.2004
Bihar	Vaishali district	Chehra Kalan Gram Panchayat	No Response	Letter dt 08.12.03
	Ghelarh, Madhepura district	A total of five deaths reported from Shrinagar panchayat	No Response	Written by Advisor to the Commissioners letter dt 3.12.03

Chhatisgarh	Kuankonda, Dantewada district	Eight infants have been reported to have died in Burgam village	A committee has been set up to look into the matter. Reply still awaited	Letter no. Burgum deaths/161/ Chatt dt. 10.3.04
Uttar Pradesh	Robertsgunj, Sonbhadra district, Varanasi district and Chandauli district	18 children reported to have died in Rope village of Robertsgunj	Administration has denied all allegations that deaths occurred due to hunger. Have not intimated to the Commissioners any relief measures undertake.	Letter no. Reported/114/ UP dt. 01.09.03
Orissa	Kalahandi district		No response	Media Reports & Letter no. Newsreport/ 113/Ori dt. 01.09.03
Karnataka	Bellary district	A death reported in Belgaum village	Have promised to conduct a detailed review into the allegations. Reply still awaited	Letter no. Bellary/112/ Kar dt. 01.09.03
Andhra Pradesh	Mattampalli in Nalgonda district	Lalthanda, Mukundapuram	According to the state the death occurred due to ill- health and not starvation	Letter dt. 19.2.04, Media reports
	Gajwel Mandal of Medak district	Hamidpur		Media reports
	Machareddy mandal in Nizamabad district	Potharam		Field survey's show situation to be extremely grim
West Bengal	Tea estates of Jalpaiguri district	Over two hundred deaths across five tea estates	Measures taken include distribution of Antyodya cards and starting employment works under SGRY. However a latest report of the Advisor sums up the response of the administration as "Inadequate"	Letter no. Teareport/150/ WB dt. 11.01.04

	Binpur blocks in Paschim Midnapore	5 deaths in the last three months of tribal families	No response	Letter no. Amlashole. deaths/197 /WB dt. 21.7.04
Assam	Tea estates of Gillapukri, Hukanpukri, Tanganagaon and Ringlison.	Several hundreds of children and adults have died in the past few years due to hunger and disease in the plantations	No Response	Letter no. Starvation.deaths/ 198/ ASS dt. 15.7.04
Kerala	Tea estates of Lonetree and Pasumullay	Situation is grim with high incidents of malnutrition, unemployment and death due to disease.	No Response	Letter no. Starvation deaths/ 199/Ker dt. 15.7.04
Maharashtra	Reports of starvation deaths among tribal children from media reports. It is estimated that close to 9000 children may have died in the month of June alone. (Midday, July 11 2004)		No Response	Letter no. Malnutrition death/208/Mah dated 09.08.04

Section 11: Urban Destitution

The issue of urban destitution and hunger was first highlighted in the Fourth Report submitted in August 2003. Since then the Commissioners have written to state governments to undertake measures to include the urban destitute in particular the urban homeless and jhuggi dwellers, within the public distribution system and other social security programmes. Some of the replies were encouraging with some states¹⁴⁶ taking/suggesting initiatives to identify ways in which such individuals may be identified and assisted. (for a complete listing of replies received see Table 25)

As far as the 'urban homeless' are concerned it is unfortunate that most states deny ration cards to homeless persons as a matter of policy. From the responses received there appear to be three fundamental reasons for denying access of PDS to homeless people; (1) The homeless living permanently in a city are unable to submit documentary evidence to prove that he is a 'bonafide resident'; (2) The migrant homeless population, are required to follow a long process of producing "surrender/ deletion certificates" from place of origin and; (3) the permissible limit for inclusion under (say) BPL and Antyodya has been exhausted in most states¹⁴⁷.

¹⁴⁶States that (intermittently) issue ration cards to the urban homeless: Maharashtra, Punjab, Pondicherry, Jammu and Kashmir, Chattisgarh, Tamil Nadu (the name of the street on which they live is considered adequate address) States that do not issue cards due to lack of proof of address: West Bengal, Haryana, Goa, Karnataka, Kerala, Delhi, Assam. A summary of responses is given in Appendix Table 25

¹⁴⁷ A report by Parivartan estimates about 6 lakh jhuggi dweller families who require coverage under the PDS, whereas the quota of BPL cards given to Delhi is closer to 4 Lakh cards.

Meanwhile at a meeting¹⁴⁸ convened to discuss the recommendations made by the Commissioners, it was agreed upon that no homeless should be denied a card by virtue of not having a proof of address. The matter of identifying this group was an administrative task, which needs to be undertaken and not used as an excuse to exclude them. However the response of the central departments has been far from encouraging. The Department of Food and Public Distribution reiterates that only “*Bona Fide Indian citizens (including homeless)*” are eligible for PDS as per rules. This tacitly excludes a large number among homeless people, who are barred access to PDS, merely because they are too poor and powerless to access documentary proof of residence and citizenship. Further their response is silent on changing existing guidelines to facilitate access of PDS to migrant population who are mobile throughout the year in search of work, including seasonal migrants. These may be both rural and urban. The mobility of this population does not allow any of the government schemes for food, social security or poverty alleviation reach them effectively.

Exclusion of this vulnerable category extends to other schemes as well. Since most of the children in homeless families are rarely enrolled in schools, the question of providing them with a midday meal does not arise. In a survey done by an NGO in Chennai it was found that 80 percent of children in homeless families (between the ages of 5 to 12) were not enrolled in schools. Matters are worse for homeless children who lack adult protection of any kind. To cover these children the possibility of providing grain to NGOs who can in turn provide a cooked midday or night meal scheme should be looked into. Further, survey’s have shown very low coverage of slums and street children under the ICDS. In short many of the most vulnerable and destitute urban residents are housed in government or NGO homes, like the mentally ill, beggars, children in need of protection, single and abandoned women, disabled people, people living with HIV AIDS and leprosy and the aged. They should continue to be eligible for protection extended by all food and social security schemes.

Section 12: Inadequate Response to Commissioners Queries

A court order dated 29th October 2002, had directed The Chief Secretaries/ Administrators of the States/Union Territories “to respond promptly to the correspondences addressed to them by the Commissioners and provide full information as required.” In order to facilitate easy flow of information the Court further directed that the states would appoint (a) Government officials as ‘Assistants to the Commissioners’ and (b) ‘Nodal officers’ stationed in the states themselves, both of whom would be responsible in ensuring effective implementation of the government schemes

¹⁴⁸ Meeting held at Krishi Bhavan, on 29th September 2003

as well as providing full access to relevant records and information, required by the Commissioners. However despite several letters and reminders, some states have repeatedly not responded to the queries raised in correspondence sent by the Commissioners. States that are particularly slow in responding are Bihar and Uttar Pradesh, Jharkhand, Gujarat and to a lesser extent Madhya Pradesh and Orissa. (See Annexure 9, for a list of unanswered queries in these states) As far as appointment of Nodal Officers is concerned Jharkhand, Maharashtra and Uttar Pradesh, are yet to do so.

The situation is the same for many of the Advisors to the Commissioners (appointed with the full authority of the Court). The state governments routinely deny giving information about scheme performance and monthly returns filed despite in addition requests from the Commissioners to do so.

Section 13: Situation in the Tea Estates of West Bengal, Assam and Kerala

A special report was submitted to the Court in January this year, outlining the situation of hunger in the closed tea estates of North West Bengal. It highlighted the inability of the state authorities to provide food security for the destitute, initially covered under welfare schemes provided by their employers. The report also brought out instances of deaths among children and aged due to hunger and starvation in the tea plantations. Since then the state government has communicated a number of measures undertaken by them to alleviate the situation of food insecurity in the region.

Recently the Advisor to the Commissioners in West Bengal undertook a visit to assess the status the action taken by the local authorities. Her report, sent to the state government in April 2004, concludes that, *"While the State Government and the district administration have made some concrete declarations to deal with the problem of hunger amongst tea plantation workers, certain serious problems in implementation still remain."* A recent assessment of the redressal measures taken by the state government have been described as follows; *"In the tea gardens, work for 15 days per month has not been created under the SGRY, people are receiving only 20 kgs instead of 35 kgs of food grains under AAY, and distribution of the unemployment allowance has been full of corruption¹⁴⁹."*

¹⁴⁹Report On Starvation Deaths in Amlashole Village", July, 2004 by Right to Food and Work West Bengal Network. Also see Box 7 for more details and reference of letters sent

The government of West Bengal is therefore recommended to implement all suggestions made by the Advisor in this regard. A special report submitted in February 2004, outlining specific recommendations to alleviate the situation must also be taken into consideration and implemented immediately.

In Assam¹⁵⁰, nine tea plantations have closed down since 2002. The Commissioners received a report based on visits made to tea estates of Dibrugarh and Tinsukhia. Several hundreds of children and adults have died in the past few years due to hunger and disease in the plantations of Gillapukri, Hukanpukri, Tanganagaon and Ringliton. In Gillapukri in December 2002, there was an outbreak of Gastroenteritis epidemic. Eleven deaths of children have occurred in September-October 2003 alone. Though the Government initiated immediate measures like sending mobile health vans this was a temporary situation with few long-term measures undertaken. Medical facilities are also not available nearby with closure of estate hospitals. In Hukanpukri from May – December 2003, 16 persons from the age of 2 to 58 have died for want of medical treatment and lack of food according to the union. The report was sent to the state government in May 2004, for verification and prompt action but no reply has been received yet.

In Kerala preliminary information received from Kollam, Trivandrum, Wayanand and Peermade District has painted a grim picture. Visits made to the tea estates of Lonetree and Pasumullay has revealed that medical facilities are not present and unemployment means that families have little income to eat with. In Peermade district 17 plantations have closed or have been abandoned. As per the available figures, 11,000 permanent workers have lost work and equal number or more of casual and contract workers have lost jobs bringing the total of unemployed in Peermade to 25,000 workers. Once again a request for an action taken report has not received any reply from the state government¹⁵¹.

Given the serious nature of the situation it is the Commissioners recommendation that the state governments be asked to furnish action taken reports outlining in particular the coverage of social security schemes in these vulnerable areas.

Section 14: National Maternity Benefit Scheme (NMBS)

¹⁵⁰ Also see Box 7 for more details and reference of letters sent

¹⁵¹ Also see Box 7 for more details and reference of letters sent

The Supreme Court in its order dated 28 November 2001 directed the State Governments/ Union Territories to implement the National Maternity Benefit Scheme (NMBS) by paying all pregnant women Rs.500, 8-12 weeks prior to delivery for each of the first two births. Thereafter on 27 April 2004, in light of Commissioners recommendations and reports of withdrawal of the scheme, the Court directed that no scheme covered by the orders should be discontinued or restricted in any way without the prior approval of this Court. In other words, it reiterated that till further orders, the schemes would continue to operate and benefit all those who should be covered. The court also hoped that procedural problems would be tackled so that a high proportion of eligible persons continue to be covered by the scheme. However implementation of the NMBS in terms of funds allocated and released by the Centre and distributed in states shows dismal performance since the November 2001 order was passed, in clear violation of all court directives.

14.1 Inadequate Allocation by the Centre

At the time the scheme was introduced, numerical ceilings based on census and poverty estimates had estimated the physical target to be more than 53 lakh pregnant women. However provisional figures for the year 2002-03 reveal that the number of beneficiaries receiving benefits is nowhere close to this figure, and was only about 10 lakhs. Release of funds by the centre also shows dismal performance. Against an estimated requirement of Rs. 290 crores, the allocation made in the budget was only 75 crores with only Rs. 52 crores being released in that year. (For a complete listing of financial entitlement, releases to states, see Appendix Table 26). Further according to reports from the center, of the 601 districts first installment was released to only 554 districts, with those receiving a second installment declining further to only 280 districts.

As can be seen in Appendix Table 26, shortfall as a proportion of financial entitlement is seen to be high in the states of **Andhra Pradesh** (85%), **Mizoram** (89%), **Tamil Nadu** (39%), **Karnataka** (25%) and **Manipur** (29%). In **Bihar** details of target and achievement for the last few years show that only one-eighth of the number eligible are being covered; i.e. as against 8 lakh potential beneficiaries only about a lakh are being covered¹⁵². The problem of inadequate allocations has been brought to the notice of the centre on many occasions, however no remedial action seems to have been taken. In **West Bengal** against the estimated requirement of 3 lakh beneficiaries every year, the initial target given to the state was 10074 per year. Even this meager allotment was

¹⁵²(See Table 6 on Progress of NMBS in Bihar and Annexure 2), Report on food security schemes in Bihar, Dr Saxena, August 2003

further reduced to 7391 in 2001¹⁵³. In **Maharashtra** the number receiving benefits fell from 26000 in 2002-2003 to 10000 in the following year¹⁵⁴. In Keonjhar District of **Orissa**¹⁵⁵ meager allocations has meant a four year backlog in processing applications. According to the district figures roughly 25,000 births take place in a year. If half on them are BPL families, the scheme should be benefiting 12,500 women, against only 1818 women to whom assistance was given during 2001-02. Out of 22 districts in **Jharkhand**, in the 9 districts of Bokaro, Chatra, Giridih, Godda, Hazaribag, Koderma, Pakur, Saraikela, and Simdega, the release of funds up to Jan. 2002 during the FY 2001-2002 was nil! It is important to remember that this was the case of allocations and releases being nothing. What is particularly distressing is the fact that money reaching to most districts of the country is not utilized. **The reported expenditure was nil in the districts of Deoghar, Dumka, East Singhbhum, Gumla, Pakur, Latehar, Saraikela and Simdega in Jharkhand**¹⁵⁶.

14.2 Reason for Poor Performance and Under-utilization of Funds

The centre's argument for poor allocations is that release of funds is demand driven which is expenditure driven, which in turn is often very poor. According to a briefing note on the functioning of the NMBS sent by the Department of Family Welfare to the Commissioners it is the "inability of the states/UT's to fulfill conditions specified... The scheme provides that release of funds has to be linked to utilization of funds establishes through the utilization certificates/ audited accounts provided by the districts. Most of the districts have not been able either to utilize the full amount of grants released to them and/or provide the necessary utilization certificates etc. required for release of further grants". Expenditure of resources is adversely affected by a number of factors¹⁵⁷, some of which have been outlined below, and which need to be resolved soon.

1. **The need to fulfill the eligibility criteria of having a BPL card.** This has attending problems of its own, due to a lack of a proper BPL list at the block/ Village level, delay in

¹⁵³ Summary record of the discussions held with GoWB, by Mr Sankaran, in September 2003

¹⁵⁴ Summary record of the discussions held on the 3 December 2003 by S.R.Sankaran with the Government of Maharashtra at Mantralaya, Mumbai

¹⁵⁵ The information about performance in Orissa is sourced from a report "Report on NMBS, 2004" sent by Mr Bikash Das, Advisor to the Commissioners in Orissa.

¹⁵⁶Source: Dept. of Labour, Govt. of Jharkhand, cited in 'Report On The Status Of Implementation Of Social Security Schemes In Jharkhand And Bihar', (Survey conducted and Information gathered by the Food Rights Campaign- Bihar and Jharkhand)

¹⁵⁷The Commissioners have also received complaints of irregularities from the Advisor to the Commissioners in Madhya Pradesh (Shivpuri, Tikamgarh and Sheopur Districts), Chattisgarh and from Barabanki district in Uttar Pradesh

- distribution of cards, incorrect selection, lengthy procedural requirements all of which lead to poor utilization.
2. **Lack of coordination** between government department at the centre and state levels. While the Ministry of Health and Family Welfare looks after the formalities at the centre, the DoWCD falling within the Ministry of Human Resource Development has been retained as the nodal agency by the states.
 3. Performance of the scheme is hampered by **inadequate publicity, lack of information and knowledge about entitlements, eligibility etc, lack of familiarity**. There is need to create awareness about the scheme among the target segment so that claims are made regularly and well in time. This would also be in line with the court order (dated 28.Nvember 2001) directing states to publish extensively through All India Radios, Doordarshan etc, which has not been followed for any of the schemes.
 4. **Delay in disbursement of funds**. Field enquiries reveal that money hardly reaches the woman during the last months of her pregnancy as is envisaged under the scheme. Most of the NMBS beneficiaries receive the benefit after delivery. In Orissa, a survey in Keonjhar district showed that in 95% cases, benefits did not reach the beneficiaries within 8-12 weeks of delivery. This defeats the very purpose for which the scheme was set up.
 5. **Complex application requirements and procedure**. acts as a deterrent for those interested in applying. In Orissa even though the guideline say that application forms must be available free of cost, this is often not followed in practice. Even after getting the form, the applicant needs to go through a number of offices from the Anganwadi, panchayat to the PHC and documents like proof of age and BPL status, before it is finally sanctioned.
 6. **Poor monitoring**. While framing the guidelines the Orissa Government desired all collectors to constitute a committee namely District Level Committee for the purpose of monitoring and compiling information about the implementation of the scheme. However till date no committee has been constituted. Similarly state level committees also appear to be non-functional. Lack of monitoring also applies to the centre. By their own admission only 168 districts provided complete and correct documents in 2002-2003. Only two states of UP and Gujarat sent in the physical and financial reports for the year 2002-2003. The other states are yet to file previous and current returns¹⁵⁸. The centre circulated a request for returns only on the intervention of the Commissioners.

¹⁵⁸ Source: Progress report for the quarter ending December 2003, DoWCD, MoHRD

7. **Corruption** from the time application forms are obtained till the money is handed over. In the survey (Orissa) mentioned above in 50% cases, the beneficiaries had to pay a bribe to the block officials to get the money. Further there is no provision under the scheme for redressal of grievances with no mechanism to lodge complaints.

14.3 Withdrawal Of NMBS

Despite recommendations from the Commissioners and the April 2004 order, the centre is contemplating changing the scheme to another called "Janani Suraksha Yojana" (JSY). This was conveyed to the Commissioners in a letter¹⁵⁹ describing the modalities of the alternative scheme. The Commissioners in turn have asked all the states¹⁶⁰ to clarify the status of operation of the scheme, the number of beneficiaries who have applied and the number supported since 2001. It is requested that all states submit this information along with that on financial allocations, releases and utilization latest by 30th September 2004, so that a suitable course of action might be recommended.

However till that time it is the Commissioners view¹⁶¹ that NMBS not be replaced with JSY since such a replacement will be in clear violation of the Courts orders. The proposed JSY concentrates around maternal health issues (with the dominant strategy of preventing maternal and infant mortality through the promotion of institution deliveries) and protecting female foetus /child. These are very laudable objectives in themselves and should be promoted. But the main worry is that these will dilute the objectives of the NMBS of providing a social assistance programme for women from poor households and of providing maternal and child care and a better diet to expectant mothers during their pregnancy. Moreover proposed cash entitlement ranging between Rs. 50 to Rs. 275 for beneficiaries under the JSY, is much lower than the Rs 500 given under the NMBS. Further there will be also a significant number of beneficiaries who will get *only* the fees payable for midwives. All these issues in effect point towards a significant restriction of the existing scheme that should not be allowed without further debate. **The reason for inability of the scheme to meet its objectives and the resulting issue of low utilization of**

¹⁵⁹ D.O No. F No. Z 14012/39/2001-MCH/NMBS-(PT), dated 23 rd July 2004

¹⁶⁰ Via Letter No: NMBS.info/213.all/<state code>, dated 20th August 2004

¹⁶¹ Communicated to the centre via Letter addressed to the Secretary Department of Family Welfare, Ministry of Health and Family Welfare dated September 2004 and in reply to D.O No. F No. Z 14012/39/2001-MCH/NMBS-(PT), dated 23 rd July 2004.

funds calls for addressing the bottlenecks in service delivery, not a withdrawal of the entire scheme.

Part II: Summary Of Findings

Non-Implementation of Supreme Court Orders

1. The centre has cited lack of funds for its inability to sanction Anganwadis so that all settlements may be covered under ICDS, as directed in the order of November 2001. The required number to be sanctioned is close to 14 lakh against the 6 lakh currently providing service (Section 1.1, Pgs 2-4)
2. The order calling for complete coverage of all children till they attained the age of six years, all pregnant and nursing mothers and all adolescent girls under ICDS is not being complied with. As far as provision of nutrition is concerned, only 3.4 crore children are enrolled which is not close to either the number that are eligible (over 15 crores), or those that are malnourished (approx 8.5 crore) or even the number belonging to families below the poverty line (approx 6 crores). (Section 1.2, Pgs 4-6)
3. Order that ICDS be fully implemented as per guidelines is being routinely violated, especially in the states of UP, Bihar and Jharkhand. (Section 1.3, Pgs 8-10)
 - In Bihar actual feeding takes place for an average of two to four months in a year
 - In Jharkhand no feeding took place between May and December 2003.
 - In UP, no supplementary food (Panjiree) was distributed between the months of November'03-February'04 in 387 state projects and November'03-May'04 in 233 former CARE & WFP run projects.
4. Order that only cooked midday meals must be provided in all eligible schools has not been implemented in full by states of Assam, Bihar, Uttar Pradesh, West Bengal, Jharkhand, Himachal Pradesh, Maharashtra and Goa. (Section 2.1, Pgs 22-24)
5. The Court had directed all persons belonging to priority groups to be covered under the Antyodaya programme. Complaints received from Chattisgarh, Madhya Pradesh, Maharashtra and West Bengal regarding non-coverage of primitive tribal groups under the scheme. (Section 3.4, Pgs 39-41)
6. The Supreme Court directing all ration shops to open throughout the month, families to be permitted to buy the ration in installments and the licences of ration shop dealers to be cancelled if they (i) do not open on time, (ii) overcharge, (iii) retain ration cards, (iv) make false entries in BPL cards, or (v) engage in black marketing has been routinely violated in most states including Rajasthan, Chattisgarh, Madhya Pradesh, West Bengal, Bihar, Assam, Jharkhand, Maharashtra and Orissa. (Section 4.3, Pgs 48-52)
7. Annapurna has been withdrawn in many states without provision of any alternative. This is in violation of the order dated April 2004, directing that no scheme must be withdrawn or altered without the permission of the Court. (Section 5.3, Pgs 62-63)

Non-Utilization of Resources

1. Non-utilization of funds under SNP (ICDS) has been a continuing trend with little proof of states taking any measures to improve the situation. (Section 1.3.1, Page 7)
 - Manipur did not allocate a single rupee under the state plan
 - Jharkhand reported expenditure of only 1.92 crores when the state government had released 7.51 crores for supplementary nutrition in 2002-03. In the year 2003-2004, the state government released 11.56 crores, but expenditure was reported to be only 3.17 crores. This effectively meant that 80 per cent of the allocation was surrendered, because financial sanctions could not be given on time
 - Uttaranchal has used only 46% of the amount allocated in 2003-2004
 - Bihar has used only 40% of the amount allocated in 2003-2004

2. Funds allocated under PMGY (nutrition) used by states to provide supplementary nutrition is not utilized. (Section 1.3.2, Pgs 7-8)
 - GoI had allocated Rs 37.3 crores for ICDS feeding to Jharkhand, not a single paisa had been released till January 2004, because financial sanctions could not be issued in time
 - In the case of Maharashtra, while the state was unable to utilize 78% of the funds allocated, it asked for contributions from parents to help meet a "lean budget."
 - The districts in Bihar, were able to spend only 6.32 out of 41.32 crores, i.e. 16% of the allotted funds under PMGY in 2002-03, because of administrative delay's in issuing sanctions. This continued in the next year as well with financial sanctions for the year 2003-2004 being issued only in August 2003, which caused disruption in the provision of nutrition for more than five months of the year.
 - In the case of Uttaranchal, utilization of PMGY funds in the year 2003-2004 for nutrition was less than 1% of the funds allocated and just a little over 3% over the last three financial years. In 2002-2003, 8.27 crores was surrendered, money that was allotted for supplementary nutrition.
3. While national offtake as a percentage of allocation stands at 79%, lifting in Arunachal Pradesh, Bihar, Gujarat, Jharkhand, Karnataka, Punjab, Tamil Nadu, and Delhi remain much below the national average. In these states, the offtake as a proportion of allotment stands at a paltry 60%. Low offtake of dry rations means no cooked meals have been provided in these states for many months of the year. Moreover offtake in the states of Madhya Pradesh, Maharashtra, Nagaland, Sikkim, Uttar Pradesh and Rajasthan, have shown a sharp drop between the last two years. For eg, offtake fell from 91% (2002-03) to 81% (2003-04) in Rajasthan, 100% to 78% in Nagaland and 92% to 83% in Uttar Pradesh over the corresponding years. (Section 2.3, Pgs 26-27)
4. As far as offtake under Antyodaya is concerned, Gujarat, Uttaranchal, Punjab and West Bengal performed much below average. For the national average of 85%, offtake as a percentage of allotment was as low as 41% in Gujarat and 49%, 56% and 71% in the other states respectively. (Section 3.3, Page 39)
5. Offtake under the BPL is particularly low. Against their entitlement of 35 Kgs, current offtake levels suggest that households can potentially lift only 18 Kgs every month from ration shops. Bihar, Jharkhand, Uttar Pradesh, Chattisgarh, Uttaranchal, West Bengal and Orissa surrendered more than half of their entitlement. (Section 4.2, Pgs 45-46)
6. Expenditures under pensions is low in the states of Bihar and Jharkhand. (Section 5.2, Pgs 61-62)
 - State Government of Bihar has submitted that they could not release 10.56 crores to the districts in 2002-03. Expenditure on pensions has come down from Rs 69 crores in 1999-00 to 34 crores in 2002-03.
 - No pensions distributed in Jharkhand in FY 2003-2004, since the government was unable to issue financial sanctions in time.
7. Offtake of Annapurna grain as a percentage of allotment was 97%. However against this impressive national figure, lifting in Maharashtra, West Bengal, Bihar and Arunachal Pradesh was an average 42% and negligible in Delhi and Meghalaya. (Section 5.4, Pgs 63-64)
8. For the country as a whole, 74% and 78% of the total funds allotted under stream I and II respectively, under SGRY were utilized. The states that performed much below average under both streams include Jharkhand, West Bengal, Uttar Pradesh, Bihar, Chattisgarh and most of the north-eastern states. (Section 7.3.1, Pgs 73-75)

Inadequate Allocations by the Centre

1. Allocations for the MDM scheme by the centre has fallen from a high of 2767 (000 tonnes) in 1999-00 to 2480 (000 tonnes) in 2000-01. This is commensurate with an increase in enrollment of 64 lakh children between the two years. For the country as a whole enrollment figures in 2003-2004, suggest that allocation of grain for the MDM scheme should be close to 3200(000 tonnes) against the present allocations of 2700 (000 tonnes). Thus against the entitlement of 3 kgs per student per month, present allotment can allow states to lift a maximum of 2 Kgs per student per month. (Section 2.2, Pgs 25-26)
2. Given nearly cent percent offtake of Antyodya grain in most states, there is no case for the centres refusal to allot grain as per requirements. Current allocation is enough for only 1 crore beneficiaries as against the 1.5 crores that should be covered under the programme. Effectively therefore against the entitlement of 35 Kgs per month, present allotment levels in these states would permit beneficiaries to lift a maximum of 24 Kgs. Moreover shortfall as a proportion of required allotment has increased over the last two years from 2% to 13%. (Section 3.2, Pgs 37-38)
3. The allotment made by the Centre to the states is not as per their requirement given the number of households identified under BPL. States like Andhra Pradesh and Karnataka with offtake levels of more than 95%, have shortfalls of 25% and 20% of the required allocations as per the number of cards distributed. (Section 4.1, Pgs 44-45)
4. Estimations show that a potential 69 lakh beneficiaries need to be covered under national pensions, requiring an annual allocation of Rs 620 crores. While the number of beneficiaries receiving pensions is not at the estimated level it also seems to be on the decline. For the country as a whole the number declined from 54 lakh to 38 lakh between 2001-2002 and 2002-03 respectively. Present allocations are sufficient to meet barely half the requirements. The total allocation for all the three schemes for 2003-04 is only Rs 676 crores, which includes about 50 crores for Annapurna, as against a requirement of 1482 crores excluding Annapurna. (Section 5.1, Pgs 58-60)
5. At the time the NMBS was introduced, numerical ceilings had estimated the physical target to be more than 53 lakh pregnant women. However provisional figures for the year 2002-03 reveal that the number of beneficiaries receiving benefits is nowhere close to this figure, and was only about 10 lakhs. Release of funds by the centre also shows dismal performance. Against an estimated requirement of Rs. 290 crores, the allocation made in the budget was only 75 crores with only Rs. 52 crores being released in that year. Shortfall as a proportion of financial entitlement is seen to be very high in the states of Andhra Pradesh (85%), Mizoram (89%), Tamil Nadu (39%), Karnataka (25%) and Manipur (29%). (Section 14.1, Pgs 89-90)

Inadequate Allocations by States

1. The prescribed financial norm indicated by the centre is Rs 1 per beneficiary per day under the ICDS. In Bihar the state government is spending just 15 paise per day per child on the cost of grain and its conversion to a cooked meal. In West Bengal the budget given is 80 paise and in Uttaranchal 67 paise per child per day. Other states where provisions are much below central norms include Orissa, Jharkhand and Uttar Pradesh. (Section 1.5, Pgs 12-14)
2. Even compared to estimates by the Planning Commission, current provision for SNP under the state plan is inadequate. For West Bengal, against an estimated requirement of more than 140 crores, allocation for SNP was just 56 crores in 2002-2003. Similar is the case of Maharashtra with corresponding figures of 174 and 45 crores respectively. (Section 1.5, Pgs 12-14)

3. Most states do not meet the minimum requirement of Rs 1 per day per child, the norm given by the centre to the states for implementation of the cooked midday meal scheme. These include Rajasthan, Maharashtra, Meghalaya and Himachal Pradesh. Noteworthy also is the case of Assam and Mizoram, where the state governments have not released a single rupee for the programme. (Section 2.4, Pgs 28-33)
4. The MEGS Act clearly spells out the requirement on the part of the state of Maharashtra to contribute an amount equal to that collected through designated taxes. In reality the fund is much smaller than it ought to be since the state government has failed to contribute its share since 2000, effectively reducing the size of the EGS fund by half. The issue of a reduction in the available funds is compounded by the problem of diversion of EGS Funds for purposes other than the creation of employment. (Section 7.1.2, Pgs 68-69)

Miscellaneous Issues

1. Subsidised exports at the cost of Domestic Welfare Schemes

Food stocks saw a drastic fall of 39% between March 2003 and 2004, resulting in a situation where buffer stocks were used to meet the domestic requirements of ration shops and welfare schemes. What is particularly distressful is the fact that exports are being made at the cost of domestic expansion in welfare schemes and at prices lower than the issue price for domestic consumption. (Section 6, Pgs 65-67)

2. Non utilization of EGS Funds

As on March 31, 2003, the opening balance of the EGS Fund stood at RS 5367 crores, reflecting a wasted opportunity to create rural employment. Further The Act clearly spells out the requirement on the part of the state to contribute an amount equal to that collected through designated taxes. In reality the fund is much smaller than it ought to be since the state government has failed to contribute its share since 2000, effectively reducing the size of the EGS fund by half. (Section 7.1.1, Pgs 67-68)

3. Non Payment of Minimum Wages in Employment programmes

Despite court orders and Commissioners recommendations, complaints of non-payment of minimum wages were received from Dhar district in Madhya Pradesh, Barabanki in Uttar Pradesh and Sundergarh district in Orissa. Wages paid are on average in the range of Rs 30-40, much lower than the stipulated minimum wages in these states. (Section 7.3.3, Pgs 76-77)

4. Use of Machines in Employment Works

Despite Court orders and Commissioners recommendations, the use of machines continues unabated. Field visits found their use to be rampant in schemes like the SGRY that are supposed to create work for the rural unemployed. This was found in the districts of Barabanki (Uttar Pradesh), Barwani and Dahi (Madhya Pradesh), Krishna (Andhra Pradesh) and Sundergarh (Orissa). (Section 7.3.4, Pgs 77-78)

5. Reports of Hunger and Starvation

Over the last twelve months the Commissioners have received complaints of deaths due to hunger and starvation from Madhya Pradesh, West Bengal, Chattisgarh, Karnataka, Jharkhand, Orissa, Andhra Pradesh and Uttar Pradesh. More often than not, these can be traced to a failure on the part of the state machinery to ensure that welfare schemes including the ones covered by the orders of this court, are implemented as per guidelines and as per the Courts orders. Reports

have also been received from the closed tea plantations of West Bengal, Assam and Kerala, where inability of the state machinery to ensure full implementation of schemes has led to several deaths. (Section 10, Pgs 82-85)

6. Withdrawal Of NMBS

Despite recommendations from the Commissioners and the April 2004 order, the centre is contemplating changing the NMBS to another scheme called the "Janani Suraksha Yojana" (JSY). The main worry is that this will dilute the objectives of the NMBS of providing a social assistance programme for women from poor households and of providing maternal and child care and a better diet to expectant mothers during their pregnancy. Moreover proposed cash entitlement ranging between Rs. 50 to Rs. 275 for beneficiaries under the JSY, is much lower than the Rs 500 given under the NMBS. The reason for inability of the scheme to meet its objectives and the resulting issue of low utilization of funds calls for addressing the bottlenecks in service delivery, not a withdrawal of the entire scheme. (Section 14.3, Pgs 92-93)

Part III: Concluding Recommendations

In the light of the preceding report, we advise the Hon'ble Court to:

Direct the states to earmark fully to meet the cost of the nine food based and welfare schemes, and then only divert the rest for salaries and other expenditure. This is in light of recent reports of diversion of funds and discussions with non-complying states whom often try to take shelter behind the excuse that they have no funds. This is factually not correct, as they have received a total of Rs 1,66,749 crore as central transfers from the GoI according to recent budget estimates.

Integrated Child Development Services

1. Direct the centre and states to specify the timeframe within which the order of 28 November 2001 (calling for an Anganwadi centre to be available in *every* settlement and for coverage of *every* child under the age of six, every adolescent girl and every pregnant and nursing mother) will be implemented.
2. Direct the centre and states to issue revised guidelines and orders in light of the Court order of 29 April 2004 and of (1) above, ensuring that
 - the order is interpreted according to the Supreme Court order and *not* interpreted within the context of the central government guidelines issued before, as the need to operationalize only the present number of sanctioned ICDS projects
 - complete coverage is not restricted within 'sanctioned' projects only but should apply everywhere
 - complete coverage of beneficiaries is not restricted to provision of supplementary nutrition alone but extends to all services currently provided under the ICDS, including immunization, health check-ups, pre-school education and all other health related services.
 - the order is not interpreted to cover only "disadvantaged families," in accordance with a predetermined number given by the centre.
 - BPL is not used as an eligibility criteria for enrollment or provision of all ICDS services
 - All Scheduled Castes/Scheduled Tribes dominated habitations to be covered first. Coverage to be extended thereafter to cover all remaining settlements in a specified and time bound manner.

3. Issue clarificatory orders that the term “settlement” as used in the Order dated 28 November 2001 pertains to a distinct cluster of households within a village. The term ‘settlement’ must be taken to be equivalent to ‘habitation,’ as the term is used by the Department of Drinking Water Supply in the Ministry of Rural Development. This department conducted a survey of all the rural habitations in 2003 (as on 27/8/2003 the number was no lower than 14.22 lakh), which may be used to identify the number that remain to be covered in accordance with the Courts Order.
4. Direct the states to:
 - Revise the norms of allocation for supplementary nutrition from the existing norm of Rs 1 to Rs 2 per beneficiary per day, at the very least and to make allocations using the revised norm with immediate effect
 - Ensure that funds allocated (both under state budget as well as PMGY) using the revised norm are utilized fully
 - Examine the feasibility of using the entire fund allocated for PMGY (nutrition) for supplementary feeding under the ICDS
 - Ensure that PMGY funds are used as an *additional* source of nutrition as envisaged in the guidelines and do not replace state funding for the ICDS under the revised norms stated above.
 - Issue orders that Take Home Rations (THR) given under PMGY be changed to nutrition provided *at* the centre, with the diet being conducive for children (aged 6 months to 3 years) of that age.
5. Direct states (and in particular those of Bihar, Uttar Pradesh, West Bengal, Jharkhand and Assam) to submit affidavits certifying that all sanctioned Anganwadi centres are fully operational as on August 1, 2004. This is to ensure compliance with the Court order of 29 April 2004, directing that sanctioned centres be made fully operational by 30th June, 2004.
6. Direct states to ensure that all slums are within convenient reach of an Anganwadi and all urban homeless women and children are covered and provided all the services as well.
7. Direct all states to provide compensation to families enrolled under the ICDS for the months when supply of supplementary nutrition was disrupted. Compensation @ Rs 2 per day per beneficiary (mother and children) enrolled at the centre must be given for the entire period for which supply was disrupted.

8. Direct the states of Uttar Pradesh, Bihar and Jharkhand to submit certificates of compliance stating village wise the number of beneficiaries given compensation (with personal details), the number of days and the rate at which compensation was given. This must be verified and the information certified to by the Collector and submitted to the state administration latest by October 1, 2004. The state report must then be given to the Commissioners latest by October 31, 2004.

Midday Meal Scheme

1. Direct states to revise the financial allocation to meet the conversion costs to Rs 2 per child per day at the very least.
2. Direct states to extend the scheme upto upper primary initially and thereafter till standard ten as per the announcement made by the Hon'ble Prime Minister on 15 August 2003.
3. Direct states to use the entire fund allocated for PMGY (education) to meet costs of improving the quality of the cooked meal given to students, including provision of utensils, micro nutrients, health supplements etc
4. Direct states to formulate appropriate reservation policies for the appointment of cooks, helpers and organizers. Further in pursuance with the Supreme Court Order, all cooks and helpers appointed henceforth should be from the village/ locality itself and shall be Dalits, Scheduled Caste and Scheduled tribes only, with preference given to women, particularly widows and destitutes.
5. Direct the states to issue orders that complaints relating to discrimination against Dalit's or in their appointment as cooks and helpers will be dealt with severely. Measures must also be taken to reinstate all those who have been dismissed because of their caste.
6. Direct states of Bihar, Uttar Pradesh, West Bengal, Jharkhand and Assam to submit affidavits certifying that the provision of cooked meals has been started in all eligible schools. This is to ensure compliance with the Court order of 20 April 2004, directing the scheme to be in place by September 15 2004.

Antyodaya Ann Yojana

1. Direct the states to submit affidavits certifying that the process of identification, issue and distribution of additional Antyodaya cards announced in Budget 2003 has been completed, in compliance of the 8th May 2003 order.

2. Direct the states to report the modalities and procedure to be used in the distribution of additional Antyodya cards, announced in Budget 2004. States must also set a time frame within which they propose to complete the process.
3. Direct the Government of India to increase the number of Antyodaya cards that can be distributed by the states, if the existing number is inadequate to cover all the priority groups. This is to ensure complete coverage so that Antyodya cards might be distributed as a 'matter of right' to all priority groups.
4. Direct the states of Madhya Pradesh, Maharashtra, West Bengal and Orissa to submit affidavits certifying that all Primitive Tribal Groups have been covered under the scheme, in light of the findings presented in this report.
5. Direct the states to issue revised guidelines and orders reflecting the following
 - 'BPL' status must not be used as a precondition for inclusion if eligibility is otherwise proved
 - All priority groups to be identified and details kept on record so that eligible families might be easily identified and given Antyodya cards

Employment Programmes

1. Direct the states to re-examine the basis of payment of wages by task rates in all employment works including SGRY.
2. Direct that only the legal minimum wage should be paid on employment works conducted in all circumstances, including conditions of scarcity or relief works. Further instructions should be issued that no discrimination be made between women and men in the payment of wages.
3. Direct the states to submit an affidavit certifying that labour-displacing machines are not being used in wage employment works.

Exports

1. Direct the Government of India to reconsider the policy of export of subsidised foodgrains and resort to exports only after fully and adequately meeting the food requirements of the people in the country, particularly the poor and vulnerable. The grain earmarked for exports should be used to enhance the coverage under Antyodya Ann Yojana and Annapurna schemes so that all members of the priority groups mentioned in the Court order may be covered.

Annapurna

1. Direct states in which Annapurna has been discontinued or curtailed in any way and where pensions have been provided for to (1) provide pensions to *all* those receiving benefits under Annapurna; (2) in the case of beneficiaries for whom no replacement has been provided, pensions to be introduced with retrospective effect from such time as Annapurna benefits were stopped.
2. Direct the states of Madhya Pradesh, Karnataka, Haryana, Punjab, Arunachal Pradesh, Assam, Gujarat, Kerala, Manipur, Nagaland, UP and Uttaranchal to submit an affidavit certifying the *complete* coverage of those previously receiving benefits of Annapurna under pensions. All these states must report compliance to the Court within 8 weeks.

National Social Assistance Programme

1. Direct the Government of India and the State Governments to double the coverage of pensions. For the National Old Age Pension Scheme the allocation per pensioner from the Government of India should be increased to Rs 200 per pensioner per month from the present level of Rs 75.
2. Direct the states to ensure that there is no reduction in the states share of pensions following the increase in allocations from the centre. There should also be no reduction in the number of beneficiaries identified to receive pensions in the state.
3. Direct the GoI to make full allocation for NSAP in its budget. At present against a requirement of more than Rs 1400 crores, only Rs 680 crores is being provided, resulting in huge backlog of non-payment in the states.
4. Direct the Food Secretary U.O.I. and the Chief Secretaries/Administrators of the States and Union Territories to immediately evolve and implement a strategy to wipe out the entire backlog and to ensure that the entire allocation is released and utilized in the next six months.
5. Direct the state of Jharkhand to provide retrospective compensation to all beneficiaries who were entitled to pensions but did not receive them for the year 2003-2004. The state must submit a certificate of compliance stating village wise the number of beneficiaries given compensation (with personal details), the number of days and the rate at which compensation was given. This must be verified and the information certified to by the Collector and submitted to the Commissioners latest by October 31, 2004.

Targeted Public Distribution System

1. Direct The Food Secretary U.O.I. to immediately convene a meeting of the Chief Secretaries/Administrators of the States/UT's to evolve and implement a strategy to ensure that the full entitlement of TPDS grain reaches the poor. This should include measures suggested in the report like increase in the number of godowns, fair price shops and better monitoring to ensure compliance with Supreme Court orders.
2. Seek the response of the Government of India to the recommendations of the High Level Committee on Long Term Grain Policy, as per the order of 8 May 2003.
3. Direct the states to undertake all necessary steps needed to correct the defective BPL Lists. These lists must be corrected in consultation with the gram sabha, NGO's, civil society at large in a transparent manner. The lists must be placed for scrutiny and revision at the earliest.
4. Direct state governments to carry out a survey of urban destitute persons including the urban homeless not covered under any the TPDS or other food related social security scheme. Direct the Government of India to undertake arrangements to protect them from hunger either by supplying the required grain for this purpose to state governments, or/and to NGOs willing to provide cooked meals to such groups.
5. Direct the centre to issue revised guidelines making all Indians eligible for a ration card, especially the homeless who might not have a proof of address, currently needed to get one. Following which all states may be directed to initiate measures to identify and provide ration cards to the homeless within the next six months.
6. In view of the fact that Clause 9 of PDS Control Order 2001 specifies that any contravention of Clauses 3, 4, 6 & 7 of the Order is punishable under section 7 of the Act and are cognizable under section 10A of the Act, kindly direct the police to register FIR's promptly in respect of such offences when complaints are made to the police by the members of the public. Likewise, as and when the members of the public bring to the notice of the authorities such offences, the authorities shall be duty bound to approach the police promptly for the registration of FIR or approach appropriate courts for prosecution.
7. Direct that if any state government or FCI violates any of the provisions of Clause 3, 4 or 6 of PDS Control Order or Para 1, 2 or 4 of the Annexe to the Order, then the one concerned should be directed to fix responsibility within a definite time frame of the offence having been committed and take appropriate action against the guilty official.

8. Direct that if any official hesitates in initiating action against guilty shopkeepers, as provided in law and as directed by the Supreme Court, such official(s) would render himself liable for action including action under section 217 of the Indian Penal Code.
9. Direct the Chief Secretary's and the Police Commissioner to submit a report once every three months, of the number of cases of violation of Essential Commodities Act, PDS Control Order or Supreme Court orders that came to their knowledge and the manner in which they were dealt with, within a month of this order.

Urban Destitution

1. Direct the centre to formulate a viable scheme to provide social security and food assistance to the urban homeless and jhuggi dwellers. Present PDS guidelines should relax the condition of producing "documentary proof of citizenship" needed to apply for a ration card.
2. Direct the states to conduct an extensive survey to identify the urban homeless population with the help of civil society organisations and issue them new PDS cards.
3. Direct the centre to provide 'mobile' ration cards to households and individuals who migrate to other places for work seasonally, or for longer periods of time. The mobile ration cardholder can then select a nearby ration shop at the place of migration, and notify the shop about his period of stay and ration requirements, a week after which rations should be provided to the cardholder.
4. Given their economic condition, the 'urban homeless' and 'jhuggi dwellers' should be included within the 'destitute' category and central guidelines should be amended accordingly. Direct the centre to increase the permissible limit of the number of families that can be included under Antyodaya for the states that have already exhausted the permissible limits, so that these groups may be identified and given cards at the earliest.
5. Direct the centre to provide grain free of cost to NGOs that are willing to provide one nutritious meal to homeless children every day. This can be done under the existing GoI scheme in which allotment of food grains is made to the State governments for allocation at BPL prices to Nari Niketans and welfare institutions, however with it being clear that such efforts will only be supplementary to the primary role which is that of the states. There should also be a special nutrition scheme of two hot meals for all street children who do not have adult protection. The scheme should also attempt to link these children to mainstream education, but this should not be a pre-condition for such assistance.

6. Direct the state governments to extend the benefits of PDS to inmates of homes run by NGO's for homeless women, homeless mentally ill people, homeless aged people, homeless disabled people etc.
7. Direct the centre to formulate a special scheme for progressively covering all slums, children and women of migrant labour and street children under the ICDS.

Transparency and Access to Information

1. Direct that all documents pertaining to food and employment schemes, including those mentioned in the interim order of 28 November 2001, should be treated as public documents, open to public scrutiny and accessible for consultation by any individual at any time.
2. Direct the States and the Government of India to submit an affidavit clarifying the procedure required to apply for these documents, and the available redressal mechanisms when records are not provided on time. This should explicitly include measures to be undertaken on account of refusal to accept complaints and letters of application in addition to required action that must be taken against any official found to be guilty of repeated inaction.
3. Direct states to ensure that in cases where an application is made for a copy of such documents, certified photocopies should be provided within one week of the application. The charge for the photocopies should be no greater than the cost of photocopying and in any case no higher than Rs. one per page.
4. Direct the GoI to bring into force the Right to Information Act. The Parliament has passed the Freedom of Information Bill 2002 in December 2002. Presidential assent was received in January 2003. The Government however is yet to notify this Act or frame the rules and procedure pertaining to the Act.
5. Direct the states to ensure prompt and wide dissemination of the directions of the court, including distribution within two weeks to the District Collectors and other officers responsible for implementing these orders. Information about performance of schemes and the progress reports filed with the centre must be available on state websites to be accessed by all.
6. Direct the states to provide the Commissioners and their Advisors in different states, with copies of performance reports submitted to the centre and pertaining to the nine schemes. Further state governments must ensure that all correspondence sent to the Commissioners must be copied to the Advisors in the respective states. This should also

hold for information requested at the district/block/village level, for which the states may be instructed to issue suitable directions.

Compensation As A Measure Of Redressal

1. Direct the states of Uttar Pradesh, Bihar and Jharkhand to provide compensation for disruption in provision of supplementary nutrition under ICDS; Jharkhand for Pensions; Orissa for withdrawal of NMBS; Delhi for siphoning and delay in supplying PDS grain; and Madhya Pradesh and Assam for disruption in Annapurna, at rates mentioned in this report.
2. Direct all states to provide compensation (in addition to their entitlements) at the following rates if proof of administrative negligence/ corruption is found to hold true, in cases where people have been denied their entitlements. This would aim to address the realities of delay in entitlements, wage arrears and in distribution of cards, encountered in many field visits made to different states. If needed the rates may be revised in consultation with the relevant government and administrative departments.

For all food related schemes that deal with payments in cash viz wage payments under SGRY, pensions, National Family Benefit Scheme, National Maternity Benefit scheme:

@10% of the amount of arrear for cash payments delayed for a period greater than a month

@25% of the amount of arrear for cash payments delayed for a period greater than a year

For payments made through transfers of grain viz wage payments made in grain under SGRY, mid day meal scheme, entitlements of BPL, Antyodya and Annapurna through the public distribution system:

Entitlement of grain * Price used for accounting purposes, for every month the cardholder did not receive grain under the scheme.¹⁶²

¹⁶²For e.g. non-receipt of Annapurna grain for three months would entitle the card holder for compensation of Rs 150 in compensation (10*5*3)

Reports of Starvation Deaths

1. Direct the states of West Bengal, Assam and Kerala to submit detailed reports of coverage of families previously employed in the tea estates, under the social security schemes covered by this Court. Reports of action taken by the state authorities to alleviate the situation of hunger and destitution in the tea estates since their closure must also be submitted.
2. Direct the states of Jharkhand, Madhya Pradesh, Bihar, Chattisgarh, Uttar Pradesh, Orissa, Karnataka, Andhra Pradesh and Maharashtra to report action taken in the instances of deaths due to hunger and starvation brought to their notice by the Commissioners. Reports of long-term measures to be undertaken by these states to suitably address the problem of hunger must also be submitted to the court within 8 weeks.

Appointment Of A Third Commissioner

1. Hon'ble Court may immediately appoint Shri Harsh Mander as the (third) Commissioner of the Court.