

ITEM NO.1

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Regarding reports submitted by Justice D.P. Wadhwa, Retd. Judge,
Supreme Court of India) (REG. PUBLIC DISTRIBUTION SYSTEM)

I.A. Nos.90, 93, 98, 102 to 108, 110, 111 & 112 in

W.P.(C) No.196/2001

(For permission on behalf of Respondent No.17 i.e. State of
Maharashtra, modification and directions, intervention on behalf
of West Bengal M.R. Dealers Association and All Bengal Price Shop
Dealers Welfare Association, impleadment, exemption from filing
O.T., directions, extension of time on behalf of State of
Rajasthan, modification of Court's order dt.22.04.2009,
impleadment on behalf of Karnataka State Taluka Co-operative
Marketing Society Association to be impleaded as respondents and
permission to file additional affidavit)

WITH

CONTEMPT PETITION (CIVIL) NO. 99/2009

(With Application for exemption from filing O.T.)

W.P.(C) No. 277/2010

Date:14/09/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI

HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s)

Mr. Colin Gonsalves, Sr. Adv.

Mr. Divya Jyoti, Adv.

Ms. Jyoti Mendiratta, Adv.

2

For Respondent(s)

Mr. Mohan Parasaran, ASG

Mr. D.L. Chidananda, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. A. Dev Kumar, Adv.

Ms. Sunita Sharma, Adv.

Ms. Sushma Suri, Adv.

Ms. Anil Katiyar, Adv.

Ms. Supriya Jain, Adv.

Mr. D.S. Mahra, Adv.

Mr. Sudarshan Singh Rawat, Adv.

For DDA

Mr. Vishnu B. Saharya, Adv.
For M/s. Saharya & Co., Advs.

Mr. Jana Kalyan Das, Adv.

Mr. Ranjan Mukherjee, Adv.
Mr. S.C. Ghosh, Adv.

Ms. Hemantika Wahi, Adv.
Ms. Suveni Banerjee, Adv.

Mr. D.K. Goswami, Adv.
Mr. Shirish Kr. Mishra, Adv.

Mr. Pragyan P. Sharma, Adv.
Mr. Siddhartha Lodha, Adv.
for Mr. P.V. Yogeswaran, Adv.

Mr. H.P. Raval, ASG
Ms. Indra Sawhney, Adv.

Dr. Manish Singhvi, AAG, Raj.
Mr. Devanshu Kumar Devesh, Adv.
Mr. Irshad Ahmad, Adv.
Mr. Milind Kumar, Adv.

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

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

Ms. Rachana Srivastava, Adv.
Mr. Ranchi Daga, Adv.
Mr. Krutin Joshi, Adv.

3

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

Ms. Kamini Jaiswal, Adv.

Mr. Shish Pal Laler, Adv.

Mr. Khwairakpam Nobin Singh, Adv.
Mr. Sapam Biswajit Meitei, Adv.

Mr. Ranjan Mukherjee, Adv.

Mr. Jatinder Kumar Bhatia, Adv.

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

Mr. G.V. Rao, Adv.
Mr. Ravi Prakash Mehrotra, Adv.

Mr. Gopal Singh, Adv.

Mr. Manish Kumar,Adv.
Mr. Chandan Kumar,Adv.

Mr. Bikas Kar Gutpa,Adv.
Mr. Abhijit Sengupta,Adv.

Mr. Rituraj Biswas,Adv.

Mr. Manish Pitale,Adv.
Mr. Wasi Haider,Adv.
For Mr. C.S. Ashri,Adv.

Mr. Soumitra G. Chaudhuri,Adv.
Mr. Tara Chandra Sharma,Adv.

Mr. Anil Shrivastav,Adv.
Mr. Ritu Raj Biswas,Adv.

Mr. Edward Belho,Adv.
Mr. P. Athuimei R. Naga,Adv.
Mr. K. Enatoli Sema,Adv.
Mr. Nimshim Vashum,Adv.

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

4

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

Mr. Atul Jha,Adv.
Mr. D.K. Sinha,Adv.

Mr. G.V. Chandrashekhhar,Adv.
Mr. N.K. Verma,Adv.
Ms. Anjana Chandrashekar,Adv.

Mr. Gopal Prasad,Adv.
Mr. Sarbojit Dutta,Adv.

Mr. D. Mahesh Babu,Adv.
Mr. Ramesh Allanki,Adv.
Mr. Savita Dhande,Adv.
Mr. V. Pattabhi,Adv.

Mr. Sunil Fernandes,Adv.
Mr. Suhaas Joshi,Adv.
Ms. Astha Sharma,Adv.

Mr. Ramesh Babu M.R.,Adv.

Ms. Anuradha Rustagi,Adv.
Ms. D. Bharathi Reddy,Adv.

Mr. Sanjay R. Hegde,Adv.
Mr. Ramesh Kr. Mishra,Adv.

Ms. Sumita Hazarika,Adv.

Mr. K.K. Mahalik,Adv.
Mr. Ajay Pal,Adv.

Mr. Manjit Singh,Adv.

Mr. Kamal Mohan Gupta,Adv.

Ms. A. Subhashini,Adv.

Mr. Gopal Singh,Adv.

Mr. Rituraj Biswas,Adv.

Mr. Kuldip Singh,Adv.

Mr. R.K. Pandey,Adv.

Mr. H.S. Sandhu,Adv.

Mr. K.K. Pandey,Adv.

Mr. Mohit Mudgil,Adv.

5

Mr. Ravindra Keshavrao Adsure,Adv.

Ms. Bina Madhavan,Adv.

Mr. Prashant Kumar,Adv.

Mr. Vishwajit Singh,Adv.

Mr. Sanjay V. Kharde,Adv.

Ms. Asha G. Nair,Adv.

Mr. K.V. Mohan,Adv.

Mr. Rajesh Srivastava,Adv.

Mrs. Promila,Adv.

Mr. S. Thananjayan,Adv.

Mr. Anuvrat Sharma,Adv.

Mr. K.N. Madhusoodhanan,Adv.

Mr. R. Sathish,Adv.

Mr. Naushad Ahmad Khan,Adv.

Mr. Rajesh Kumar Verma,Adv.

for Mr. R.C. Kaushik,Adv.

Mr. Pradeep Misra,Adv.

Mr. Venkateswara Rao Anumolu,Adv.

Mr. Bikas Upadhyay,Adv.

Mr. B.S. Bantia,Adv.

Dr. Aman Hingorani,Adv.

Ms. Priya Hingorani,Adv.

Mr. G. Prakash,Adv.

Ms. Beena Prakash,Adv.

Mr. V. Senthil,Adv.

Mr. Navneet Kumar,Adv.

Mr. Anil Kumar Jha,Adv.

Mr. Vikas Mehta,Adv.

Mr. Pramod Swaroop,Sr.Adv.

Mr. Raj Kumar Gupta,Adv.

Mr. Rajiv Dubey,Adv.

Mr. Kamalendra Mishra,Adv.

Mr. Naresh K. Sharma, Adv.

Mr. Anis Suhrawardy, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. Suresh Chandra Tripathy, Adv.

Mr. Navin R. Nath, Adv.

UPON hearing counsel the Court made the following

O R D E R

The High Powered committee headed by Justice D.P. Wadhwa, Retired Judge of this Court, has submitted a Preliminary Report on Computerization of Public Distribution System. In the recommendations of the Report it is mentioned that Computerization of PDS consists of primarily three components i.e. creating a updating beneficiary database, stocks management from FCI till FPS and sale of commodities at Fair Price Shops. In order to make PDS effective it is important that the delivery and management system is transparent. The citizen participation for social audit can play a crucial role in ensuring effectiveness of the system. In order to implement this system across the country, the following actions are suggested by the Committee:

1. End to end computerization of PDS may be considered in two parts and following prioritisation of the Implementation Strategy may be followed:

Component I:- Diversions, leakages, delays in allocation and transportation, inappropriate distribution of foodgrains to fair price shops go unchecked because of lack of visibility of this information in the public domain.

Computerization of complete supply chain management up to the shop level and availability of this information on a Transparency Portal in public domain is to be accorded the highest priority. The portal should have different dashboards catering to the information needs of all the stakeholders.

Component II:- Electronic authentication of delivery and payments at the fair price shop level. In order to ensure that each card holder is getting his due entitlement computerization has to reach literally every doorstep and this could take long. Moreover several States have already started implementing smart cards, food coupons etc. which have not been entirely successful. Reengineering these legacy systems and replacing it with online Aadhaar authentication at the time of foodgrain delivery will take time. This is therefore proposed as component II.

2. Department of Food & Public Distribution is directed to immediately issue guidelines to all the States for end to end computerization of TPDS.

3. Government of India shall ensure that State Governments prepare a time bound action plan for completing the process of computerization. These action plan will be implemented keeping the timelines in mind and will be regularly submitted before the Hon'ble Supreme Court.

4. States/UTs should take up End to End computerization of TPDS as a top priority and should appoint a dedicated nodal officer to monitor the projects related to TPDS computerization.
5. States/UTs maybe encouraged to include the PDS related KYR+ field in the date collection exercise being undertaken by various Registrars across the country as part of the UID (Aadhaar) enrolment.
6. Digitization of beneficiary data and a centralized database with clear process of data updation to be put in place by States in a time bound manner.
7. Dissemination of information about availability of foodgrains through SMS to the pre-identified individuals in the local community to enable social audit. The system could also provide stock position at a specific location on demand. The information related to stock availability using latest technological inter face should be made available in a public domain.
8. Single unified information system should be developed to meet the above mentioned requirements that would help to achieve certain basic level of transparency in PDS. For this states should arrange training programs for field functionaries and FP dealers.
9. Chhattisgarh model of computerization for PDS System, (A note on the computerization of PDS in the State of Chhattisgarh is annexed hereto as Annexure II) which primarily cater to the computerization upto the shop level was also deliberated upon and discussed in the HPC. It was decided that the Chhattisgarh model may be adopted for component 1 and component 2 maybe done on the similar lines of the Gujarat model of computerization. The Chhattisgarh model may be implemented in all the States within a maximum period of three months. However, some State Governments like Government of Gujarat which is following Component 2, or other States which may be at the advanced stage of following some other model, such States may continue to follow the same so long as it is fulfilling the end objectives of completing the computerization. (A note on the computerization of PDS in the State of Gujarat is annexed hereto as Annexure III).
10. As the process of end to end computerization is expected to be a sizable exercise, to complete it in a mission mode, a separate and dedicated institutional mechanism is to be incorporated to look after the progress of computerization of PDS. This institution must have active participation of all stake holders including the State Governments. As PDS is implemented by the State by the State Governments and supported by Government of India, role of State Government in this body will be helpful in getting required support from the State Governments.
11. Information related to stock availability, movement and date quantity of stocks supplied to FPS should be made available in public domain by using latest technological interface like SMSs/website or other means.
12. As far as possible, state governments should be directed to link the process of computerization of Component-2 with AADHAR Registration. This will help in streamlining the process of biometric collection as well as authentication. States/UTs may be encouraged to include the PDS related KYR+ field in the data collection exercise being undertaken by various Registrars across the country as part of the UID (Aadhar) enrolment.

13. An effective grievance redressal mechanism should be strictly enforced based on SMS/email and other suitable technology. Government of India should ensure that this mechanism is put in place in all the states. State/UTs should create effective grievance redressal mechanism where use of mobile based SMS/email can be used for timely resolution of the citizen/beneficiary grievance. A four digit toll free number may be established in all the States for grievances registration and redressal thereof.

14. Government of India will ensure that the computerization operation is provided necessary infrastructure and financial support. This needs to be completed in a time bound manner and the institution mechanism so created shall be completely responsible for meeting the timelines. Government of India with the help of state government will ensure that the institution has sufficient infrastructure and finances to complete the computerization in a time bound manner.

15. While this complete process is expected to take some time, in the meantime, following action may immediately be taken.

a. State Governments will ensure door step delivery of food grain for the ration shops in a time bound manner and shall ensure that information related to movement and availability of food grain is available in public domain.

b. A PDS Public Information portal may be made which will have information related to complete public distribution system. In addition to other information, it should also have the information of date and quantity of food grain supplied to the fair price shop every month for all the shops.

c. The digitized database of ration cards will be put up in the public domain including on the websites.

d. State should make necessary amendments to make the fair price shop financially viable.

e. A four digit toll free number may be established in all the States for grievances registration and redressal thereof.

f. All the State governments will ensure that required allocation reaches the fair price shop before 1st day of the month and this information should be available on the transparency portal.

g. A drive can be started to eliminate the fake and ghost ration cards. A comparison with data available with other departments like election, census etc. gives the quick estimates about the bogus cards. It was seen that at some places, units in the ration cards exceed even the populations of the area. These practices should be checked immediately. This can also be linked up with the Socio Economic Census in Rural Areas which is expected to be completed shortly within this year itself.

h. Government of India shall ensure that all the state governments prepares a time bound action plan for complete computerization of PDS system within three months' time. Strict deadlines may be fixed in the action plan and these will be submitted before Hon'ble Supreme Court within three months period.

i. All above steps may be completed within three months time.

We have discussed the recommendations of the High Powered Committee on Computerization with the learned counsel for the petitioner and the learned

Additional Solicitor General of India. The Government of India has agreed in principle to implement these recommendations as expeditiously as possible. We request Mr. Parasaran, learned Additional Solicitor General to ensure that the process of computerization is completed as expeditiously as possible. He may help in coordinating with the High Powered Committee and other concerned authorities and individuals.

We direct the Chief Secretaries of various States to indicate, within two weeks, as to how much additional foodgrains is required for the poorest districts in their States and allocation of foodgrains would be made within two weeks thereafter. We further direct the Chief Secretaries to ensure that whatever foodgrains are allocated, the same be lifted by them within two weeks thereafter. The allocation of foodgrains to be made out of five million tonnes additionally allocated.

We request the High Powered Committee to hear all the parties and decide whether the foodgrains is required to be distributed at AAY rates or BPL rates and the decision of the High Powered Committee would be binding on all concerned and would be implemented forthwith.

We request the High Powered Committee to decide this issue as expeditiously as possible and we direct the parties to appear before the High Powered Committee on 20th September, 2011. In case the Chief Secretaries of various States do not respond within two weeks, as directed above, it would be presumed that, that particular State does not require additional foodgrains at AAY or BPL rates.

Learned counsel appearing on behalf of the Planning Commission submits that the affidavit to be filed in pursuance of the directions of this Court, has gone to the office of the Prime Minister for vetting and the same would be filed within a week. Reply to that affidavit, if any, be filed within one week thereafter.

All those States who have not filed their affidavits may file the same within two weeks from today.

List this matter for further directions on 11th October, 2011.

(A.S. BISHT)
COURT MASTER

(SHASHI BALA VIJ)
ASSISTANT REGISTRAR