

(2001) 01 KL CK 0024
In the High Court Of Kerala
Case No : O.P. No. 31781 of 2000

India Community Development Actions	APPELLANT
Vs	
State of Kerala and Others	RESPONDENT

Date of Decision : 04-01-2001

Acts Referred:

Constitution of India, 1950 — Article 21, 47

Citation : (2001) 01 KL CK 0024

Hon'ble Judges : K.K. Usha, C.J.;Kurian Joseph, J

Bench : Division Bench

Advocate : S. Parameswaran, for the Appellant; V. Santharam, Additional Central Government Standing Counsel for 3rd Respondent and K. Sasikumar, for 1st and 2nd Respondents, for the Respondent

Judgement

Kurian Joseph, J.—This Original Petition is filed in public interest by a Society registered under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 and having Registration No. ER 508/93. According to the Petitioner, it is engaged in social activities, it aims at wholistic growth and development of the society and works for the upliftment of the poor and downtrodden sections of the society. Moved by Exts. P-1 to P-4 reports which appeared in the newspapers regarding alleged "starvation death", Petitioner filed the Original Petition. It is submitted by the Petitioner that the reports indicate a grim picture of poverty and death in several parts of the State and in particular the lower strata of the society. It is the case of the Petitioner that "no concrete action is initiated or carried out by the Respondents-Government to investigate and identify the persons who have died out of starvation and the place where starvation has hit the common man and find out and eliminate the reasons therefor". The inaction of the Respondents and the resultant calamities are a serious in road into the fundamental rights of the citizens of this country. Being a welfare State, the Respondents ought to have taken care of the welfare of the citizens and it is for the State to ensure that its citizens do get food, shelter, health and hygiene. It is also the paramount duty of

the State to ensure decent standard of life to all the citizens of the country which is a mandate under Articles 21 and 47 of the Constitution of India. Hence the Petitioner prayed for the following reliefs:

A. A writ of mandamus or such other writ, direction or order directing the Respondents to constitute a Starvation Relief Committee in the Districts in which starvation deaths have been reported with the Collector as the Chairman and other public men and social service organisations as its members;

B. a writ of mandamus or such other writ, direction or order directing the committees referred to above to conduct immediate investigations into deaths due to starvation and ascertain the reasons therefor and suggest ways and means for compensating the victims and families or their relations and for preventing the occurrence of starvation deaths;

C. a writ of mandamus or such other writ, direction or order directing the State Government to make available funds for giving immediate and quick relief to the starvation affected people in the State and to take preventive and remedial measures;

D. a writ of declaration or such other writ, direction or order declaring that the victims of starvation and the relations of the starvation victims are entitled to get adequate financial benefits from the Government and all possible facilities to render their life meaningful.

2. The Petitioner has a further case that voluntary organisations like the Peoples Council for Social Justice, the Indian Association of Lawyers, the Kerala High Court Advocates' Association, the Samatha Law Society etc. should be directed to take up such causes and get themselves involved in appropriate remedial action.

3. When the Original Petition came up for admission on 13th November 2000, we directed the learned Government Pleader to file a statement in the matter. Accordingly a statement dated 27th November 2000 signed by Sri C.K. Viswanathan, Additional Secretary to Government, Revenue Department and as settled by the Government Pleader was filed. Government maintains the stand that it has already taken steps by issuing appropriate instructions to the District Collectors to take up various relief measures and also to grant assistance from the Calamity Relief Fund to those who might be affected due to floods, sea-erosion and other natural calamities. According to Government, "There are standing instructions to all District Collectors to supply free ration for one week at their discretion to all eligible families who are victims of mishap and get it ratified thereafter. On the basis of the reports received from District Collectors, Government also consider the issuance of free ration to those who are badly affected by natural calamities, especially the people living below poverty line and Scheduled Castes and Scheduled Tribes".

4. It is also fruitful to refer to a few other submissions contained in the

statement, dated 27th November 2000. Paragraph 3 of the statement reads as follows:

This year the monsoon started in the State from 1st June 2000 onwards. There was heavy rain in almost all parts of the State at the beginning of the monsoon. At that time reports of unemployment in the areas of Fishermen colony, Tribal areas, Estate region appeared in the newspapers. There were also media reports on few instances of starvation deaths. Government gave immediate instructions to the District Collectors to enquire into the instances, to do the needful and furnish report to Government. As per report received from official sources there has not been any starvation death in the State.

Again, paragraph 5 reads as follows:

Instructions were also issued by the Food and Civil Supplies Department as per letter No. 4090/2000 dated 20th May 2000 to all District Collectors to have a close liaison with the Food Corporation of India authorities to ensure that there is no scarcity of foodgrains in the State to meet the requirement of targeted public distribution system and particularly the requirement of identified tribal areas. The State is having a well organised Public Distribution System and is distributing foodgrains mainly rice and wheat through its widespread delivery system of 14,272 authorised ration depots. All below poverty line families in the State are given 20 legs, of rice per month at the subsidized rate of 6.20 per kg. Besides, they are also given 10 kgs. of rice per month with a State subsidy of Re. 1 per kg. As per estimate, about 42 per cent of the population in the State are below poverty line and are beneficiaries of these Schemes. Besides people who are in distress due to prolonged illness, accidents etc., are given ex gratia payments and assistants etc. depending upon their need From the foregoing it can be seen that Government have taken reasonably adequate measures to mitigate the sufferings of the common people at times of distress.

At paragraph 10 of the statement it is stated thus:

Whenever people were put to difficulties due to loss of employment, calamity or other unforeseen reasons, Government always extend relief measures. People who are suffering from prolonged illness, accidents or due to the accidental death of earning member of the family are given assistance from Chief Minister's Distress Relief Fund to meet the contingency. The family where starvation death is alleged to have occurred has not approached Government for any assistance from Chief Minister's D.R.F.

5. It is the case of the Government that upon their thorough investigation into the alleged incidents reported by the Press as evidenced by Exts. P-1 to P-4, they found that they were not deaths due to starvation. It is also stated that there are many voluntary organisations in the State to help people for crisis management. Some of them are THRAANI at Thiruvananthapuram functioning under the State Aids Control Society, NANMA at Thrissur and MYTHRI at Ernakulam.

6. Thus, it can be seen that the Government have taken all necessary steps in the matter. It is heartening to note that all the District Collectors had already been alerted and they have been issued standing instructions to see to such situations. But it appears that voluntary organisations like the Petitioner, apart from bringing to the notice of this Court such issues, have not gone into the root causes of such incidents. As the very epithet "voluntary" connotes, in such situations nobody, let alone the Court, need alert them to utilise their services for the weak, marginalised and the oppressed. It is shocking to note that in a literate State like Kerala where there are umpteen number of social organisations and voluntary agencies functioning, nobody ever knew of incidents like those reported in Exts. P-1 to P-4 paper reports. As a matter of fact, the voluntary organisations have a role to play in such situations. The Governmental machinery need only be moved. But the illiterate, the oppressed, the weak, the poor and the marginalised may not have the wherewithals to move the District Collector, the Chief Minister, etc. for any relief from the Calamity Relief Fund or the Chief Minister's Distress Relief Fund. It is there the voluntary agencies have a vital role to play. It is their duty to involve in such situations. Rather than any Government sponsored development agency, voluntary organisations should be in a position to know the state of life of such people who do not have the language to speak out and who do not have the potential to reach the authorities. It is their cause that the organisations should take up. It is not enough that the attention of courts is invited in a public interest litigation into such things. Obviously, courts have their own limitations. But there is no such limitation to the goodwill of the people and the voluntary organisations of such people of goodwill. "The action: is to be preventive rather than curative. If only the people in distress have confidence in voluntary organisations, they would approach them to hold their "vakalath" and to take up their cause. It is for the voluntary organisations to instil that confidence in such people so that the poor and needy citizens of this country could really look for their cherished ideals of decent life and equality before law.

7. The media has a great role to play in this regard. Most of the charitable organisations and non-governmental organisations are registered as such under the Societies Registration Act in Malabar area and under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act in other districts. The particulars regarding the objects of those societies are available with the District Registrars. Every year the societies are to furnish their annual reports and accounts to the Registrar. The beneficiaries seldom come to know of such societies or their activities. If only the people know of such societies, the societies could be made genuinely functional also. It is there the media has to help the people by properly publicising the details regarding the charitable societies functioning in each locality. The Grama Panchayats, Municipalities and Corporations can also keep a list of such societies and they can avail the voluntary services of such societies for the implementation of various projects for the common man and the under privileged.

8. We record the submissions contained in the statement filed on behalf of the Government in the matter. We do not think any other relief need be considered in this Original Petition. However, we do hope that the voluntary organisations like the Petitioner would think aloud on the lines indicated by us in this judgment.

9. Subject to the above observations, the Original Petition is disposed of.

Forward a copy of this judgment to the Inspector General of Registration, Thiruvananthapuram.