

(2019) 11 GAU CK 0009
In the Gauhati High Court

Case No : Public Interest Litigation No. 7 Of 2018

Sauradeep Dey

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 04-11-2019

Acts Referred:

National Food Security Act, 2013 — Section 4, 4(b), 5

Citation : (2019) 11 GAU CK 0009

Hon'ble Judges : Achintya Malla Bujor Barua, J; Nelson Sailo, J

Bench : Division Bench

Advocate : D Ghosh

Final Decision : Disposed Off

Judgement

AM Bujor Barua, J

1. Heard Ms. D. Ghosh, learned counsel for the petitioner, Mr. T.C Chutia, learned Additional Senior Government Advocate appearing for the

respondent No.2 in the Social Welfare Department, Mr. S.C Keyal, learned ASGI appearing for the respondent in the Ministry of Women and Child

Development, Government of India and Ms. S. Sarma, learned standing counsel appearing for the authorities in the Health and Family Welfare

Department, Government of Assam.

2. The petitioner who is a practicing advocate and also takes interest in the implementation of the social welfare schemes has preferred this public

interest litigation with the following prayers:-

(i) To direct the respondents to bring uniformity across the state in the implementation of the Sections 4 and 5 of the National Food Security Act, 2013,

and ensure that the provision of supplementary nutrition to the beneficiaries is

sufficient in quantity and quality;

(ii) To conduct a physical assessment of the Anganwadis across the state and then take steps to ensure that all anganwadis are equipped to fulfil the

objective of providing conditions necessary for pre-school children's psychological and social development through early stimulation and education.

Stress should be laid on the availability of safe drinking water, clean toilets separate for boys and girls, electricity connectivity and provision of fans

and adequate lighting wherever required;

(iii) To direct the respondents that Section 4(b) is implemented in its true letter and spirit across the state and that all eligible beneficiaries are provided

the maternity benefits under the scheme with effect from 1st January, 2017; and

(iv) To pass any other such order/direction/writ as this Hon'ble court may deem fit and proper in the interests of justice.

3. Ms. D. Ghosh, learned counsel appearing for the petitioner has urged upon three deficiencies in implementing the social welfare schemes by the

Social Welfare Department of the Government of Assam which i.e. the Anganwadi centers where the small children are taken care of do not have

the required infrastructural facilities mainly in the form of the premises where the centers are located to the effect that such premises have leaking

roofs and broken walls and therefore, not conducive for the children. Further, all the centers do not have proper electricity connection and also clean

drinking water facilities for the children. It had also been stated in para-20 of the petition that the registered lactating mothers are entitled to a take

home ration for 300 days in a year in respect of those mothers who have children between the age of 06(six) months and 03(three) years. It is stated

that instead of the take home ration being provided for 300 days, the authorities are in fact providing it only for about 68 days. The third contention of

the petitioner is that under the Pradhan Mantri Matritva Vandana Yojana (in short PMMVY), which is a scheme framed by the Central Government

under Section 4 of the National Food Security Act, the pregnant women and lactating mothers for the first living child of the family are entitled to an

amount of Rs.6000/-, out of which Rs.5000/- is to be paid under the PMMVY and Rs.1000/- from another scheme namely Janani Suraksha Yojana. It

is contended that although under the schemes, the aforesaid amounts are to be paid, but the required amount is either not paid to all the registered

beneficiaries or in certain cases even if it is paid, it is paid at a delayed time, which does not fulfill the purpose for which the amount was provided. It

is stated that the amount is given to the pregnant women and lactating mothers so as to nourish themselves for a healthy child delivery and if the

amount is not paid at the appropriate time or not paid at all, the very purpose of the scheme for which the amount is paid remains frustrated.

4. Mr. TC Chutia, learned Additional Senior Government Advocate appearing for the Social Welfare Department of the Government of Assam by

referring to the affidavit dated 11.10.2018 of the Commissioner and Secretary to the Government of Assam, Social Welfare Department contends that

a substantial amount of money had been released by the authorities for repairing of the Anganwadi centers so that the deficiencies pointed out by the

petitioner are taken care of. The affidavit states that it pertains mainly to the state of affairs in the Tinsukia district inasmuch as, the original petition

had been filed raising grievance which pertains to the Tinsukia district.

5. Be that as it may, the contention of the respondents in the Social Welfare Department is that appropriate measures have been/are being taken to

ensure that the Anganwadi centers are being operated in a proper premises having required infrastructures. To such contention, Ms. D. Ghosh,

learned counsel for the petitioner by relying upon their affidavit dated 22.10.2019 points out that in spite of the efforts that may have been taken by the

authorities, there are many number of Anganwadi centers all over the State including the Tinsukia district, where the centers are being operated in a

premise having leaking roofs and broken walls and are not very friendly for the children for whose purpose the centers are being operated. It is also

contended that in spite of the efforts, there are many number of Anganwadi centers all over the State, which does not even have electricity

connection.

6. As regards the contention of take home ration for the lactating mothers having children between the age of six months and three years, Mr. TC

Chutia, learned Additional Senior Government Advocate by referring to the affidavit dated 11.10.2018 contends that in the initial stages, there were

some obstacles to the extent that the tendering process for ensuring the supply of the take home ration was still going on and therefore, the proper

system was not in place. Further, the flood that affected the State also adversely affects in making the take home ration available for the registered beneficiaries.

7. As the affidavit was of October, 2018 and in the meantime one year has passed, we believe that the tendering process at least is over by now and that the proper supplier is in place. As regards the disruption of the take home ration due to the flood, the same being a continuing phenomena, the authorities shall ensure that in spite of the floods, the best care is taken that the take home ration is made available even during the period when there is flood and for the purpose, the system put in place for flood relief can be put into operation by the authorities.

8. As regards the third contention of paying the amount of Rs.6000/-, out of which Rs.5000/- from PMMVY and Rs.1000/- from the Janani Suraksha Yojana, it is stated that in respect of the payment of Rs.5000/- under the PMMVY, the amount is paid by the Social Welfare Department by depositing the required amount in the account of the registered beneficiary, whereas the amount of Rs.1000/- under the Janani Suraksha Yojana is paid by the National Health Mission at the time when the pregnant woman is finally discharged from the Health Centers where the registered beneficiary was attended to by providing her with a cheque at that time.

9. As regards the first grievance that the Anganwadi centers do not have appropriate well maintained infrastructures, it is provided that the District Social Welfare Officer of the Social Welfare Department of the Government of Assam for every districts shall be notified to be the Nodal Officer for the purpose of implementing the social beneficial schemes, which are the subject matters of this petition. For the purpose, the Commissioner and Secretary to the Government of Assam in the Social Welfare Department shall issue a notification, notifying the respect District Social Welfare Officer of every districts to be the Nodal Officer for the purpose and it be done within a period of 15(fifteen) days from today. Once the Nodal Officer is notified and is in place, if the petitioner or any other person notices that any of the Anganwadi centers in the State of Assam does not have appropriately maintained infrastructures to be used for the purpose of Anganwadi centers, the same be brought to the notice of the Nodal Officer in the form of a written application specifying the name of the centre and the

deficiency noticed. Once the application is filed, the Nodal Officer being the District Social Welfare Officer of the concerned district, shall take appropriate measures to remove the deficiency within a period of three months thereof. In the event, the requirement is not done by the Nodal Officer, the same be brought to the notice of any of the appropriate authority for doing the needful.

10. In respect of providing the take home ration for the lactating mothers having children between six months and three years for the first child as well as for the pregnant woman and mothers having child up to six months, who are also otherwise entitled for the benefit of take home ration under the Integrated Child Development Scheme, it is provided that in the event any given registered mother is not being given the said benefit of take home ration, the registered mother or any authorized person on her behalf shall make an application to the Nodal Officer specifying the details of the scheme and upon such application being made, the Nodal Officer shall take immediate steps and not later than one month to provide the aggrieved beneficiary with the benefits of the take home ration.

11. As regards the third grievance that the amount of Rs.6000/- out of which Rs.5000/-being under the PMMVY to be deposited in the account of the pregnant woman and lactating mother by the Social Welfare Department, it is provided that the said amount be deposited in the manner as provided in the scheme i.e. an amount of Rs.1000/- to be deposited immediately on being registered, the second installment of RS.2000/- be deposited after six months of the registration and the third installment be given immediately after the child is delivered. In the event for a given pregnant woman and lactating mother the required amount is not being deposited in the manner as indicated above, the registered mother concerned or any person duly authorized by her may make an application to the Nodal Officer being the District Social Welfare Officer, who shall do the needful to ensure that the payments are made within a period of 15(fifteen) days from the date of such application.

12. It is provided that as the Nodal Officer being the District Social Welfare Officer of the respective districts has a huge responsibility to ensure that the aforementioned schemes are implemented in the proper manner, it is directed that the Nodal Officer cum District Social Welfare Officer shall give

a consideration to any such application made with utmost sincerity and act with exigency without any fail. In the event, the District Social Welfare

Officer after enquiry is of the view that a given applicant is otherwise not entitled to the benefits of the scheme, he shall pass appropriate orders on

the same by giving his reasons.

In terms of the above, the public interest litigation stands disposed of.