

People's Union of Civil Liberties

v.

Union of India & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE DALVEER BHANDARI HON'BLE MR. JUSTICE K.S.
RADHAKRISHNAN

People's Union of Civil Liberties v. Union of India & Others

Interlocutory Application No. 94 With Interlocutory Application No. 196 In Wp (C) No. 196
Of 2001 | 10-02-2010

1. In pursuance of the direction of this Court for providing shelter to shelterless people in Delhi, Mr. Mohan Parasaran, learned Additional Solicitor General appearing for NCT of Delhi has submitted a status report. In the status report it is mentioned that pursuant to the directions of this Court passed on 20-1-2010 People's Union for Civil Liberties v. Union of India, 2010 (5) SCJ 185 = (2010) 5 SCC 423, an urgent meeting was called by the Chief Secretary, Government of NCT of Delhi to examine the problem of providing adequate shelter in the light of the prevailing cold weather conditions in the capital. The significant decisions taken in the meeting convened by the Chief Secretary, NCT of Delhi are as follows:

(1) It was decided to double the existing number of accommodations in the night-shelters through the Municipal Corporation of Delhi from the existing 5000 persons to a capacity of 10,000 persons.

(2) In the case of Revenue Department of Delhi Government, the increase was by 500 persons.

2. It is also mentioned in the status report that subsequent to the directions passed by this Court, the Revenue Department of Delhi Government pitched in 7 more night-shelters taking the total number of night-shelters to 24. Prior to that, 17 night-shelters in temporary tents were operational at 17 places in Delhi since December 2009. Those night-shelters are at: Fountain, Mori Gate, Pul Mithai, Jamuna Bazar, Kudaisea Ghat, Shahdara, Nizamuddin, Jhandewalan, Idgah, Meena Bazar, Jama Masjid, Delhi Gate, Anand Parvat near Rachna Cinema (Ratanpuri Chowk), Rajinder Nagar, Himmat Garh Chowk (Asaf Ali Road), Kalkaji Flyover, Okhla Flyover, Sarita Vihar.

3. Seven new additional night-shelters pursuant to the direction of this Court were located at: Raghuvir Nagar, Sarai Kale Khan, Azadpur Fruit Mandi, Kamla Market, Mata Sundari Road, Nigambodh Ghat and Shahdara.

4. In the status report, it is also mentioned that identification of sites as well as the determination of capacity in each shelter was done in active consultation with the NGO's namely, Ashrey Adhikar Abhiyan and Indo Global Social Service Society (IGSSS). They were closely associated in the entire process of site selection, capacity determination and day-to-day management of the night-shelters. Necessary facilities were provided in these night shelters to the homeless. Basic amenities such as blankets, drinking water and mobile toilets were provided.

5. Delhi Jal Board has taken the responsibility of providing potable water. Slum and JJ Department, MCD has taken the responsibility of providing mobile toilets and police has provided the security to the inmates of these temporary night-shelters. The Directorate of Health Service has taken the responsibility of providing facilities for regular health check-up of the inmates of temporary night-shelters. BSES/NDPL has taken the responsibility of providing electricity connections in the temporary night-shelters. The Government is also giving instructions to all the Revenue Deputy Commissioners concerned to associate themselves for coordinating the entire exercise with various Departments/agencies so as to effectively monitor the functioning of these tents. The Revenue Headquarters bears the expenditure for blankets, electricity connections, etc.

6. In pursuance of the directions of this Court, adequate publicity was made in the electronic media and print media so that the homeless people can get information about the shelter homes.

7. In addition to the Delhi Government, Municipal Corporation of Delhi is providing night-shelters in permanent buildings and the same is managed through its Slum and JJ Department in coordination with the NGOs. Before the directions of this Court, the number of night-shelters in permanent buildings was 27. After the directions of this Court, the capacity has increased by 37 w.e.f. 21-1-2010, taking the total number of night-shelters to 64. This has resulted in an increase in the capacity from 4165 persons to 8575 persons.

8. It is also mentioned in the report that the facilities that are being provided in the site of night-shelters include electricity, water arrangements, toilet facilities, sanitation arrangement, bedding arrangement in the form of blankets, mattresses and jute mats have been provided and in respect of new night-shelters, procurement has been made by receipt of 2000 blankets, 2000 mattresses and 1000 jute mats.

9. The status report also indicates that for long-term perspective, the Master Plan of Delhi, 2021 provides for one night-shelter for a population of one lakh. The Delhi Development Authority has undertaken to identify and allot sites free of cost or on concessional rates to the Government of NCT of Delhi in view of this being a humanitarian work.

10. Mr. Vishnu B. Saharya, learned counsel for the Delhi Development Authority has filed an affidavit today which is sworn to by Mr. Ashok Kumar, Commissioner, Planning, Delhi Development Authority, stating that they have extended their support in this project. The provision of night-shelters is envisaged to cater to the shelterless, which are proposed to be provided near the railway terminals, bus terminals, Wholesale/retail markets, freight complexes, etc. as per requirements and should be identified keeping in view the major work centres. It is also mentioned therein that special provisions should be made for the homeless women and children including disabled and orphans and old people. In addition, multi-purpose use of the existing facility buildings may be allowed for night-shelter purpose. Provision should also be made for converting existing buildings, wherever available, with suitable modifications into night-shelters.

11. On the basis of 2001 census of houseless population, at least 25 sites were to be earmarked in Delhi for night-shelters. In order to make provision of this facility financially sustainable for the local body, innovative concepts such as integrated complex with commercial space on the ground floor and night-shelter on the first floor should be explored. The guidelines and incentive package should be designed by the local agency concerned in collaboration with the Government of NCT of Delhi with a view to develop self-sustaining night-shelters. The houseless population of the year 2001 was 24,966 persons out of a total population of 138 lakhs. As per development norms of MPD-2021, at least 550 to 600 shelterless can be accommodated on a 1000 sq m plot size on long-term basis. Therefore, on every 5 lakh of total population one plot for night-shelter will be required.

12. In the said affidavit it is also mentioned that the Delhi Development Authority being a statutory planning body for long-term perspective is duty-bound to plan and cater to the public needs for providing night-shelter and identifying available places for providing night shelter for the benefit of affected people.

13. Notices were issued to all the States for providing similar facilities of one night shelter for a population of one lakh in the metropolitan towns. The State of M.P. has filed its affidavit whereas the State of Tamil Nadu and Manipur undertake to file their affidavits during the course of the day. All other States may file their affidavits within two weeks from today, by serving an advance copy thereof upon the Union of India and the petitioner herein.

14. We appreciate the positive response both from NCT of Delhi and the Delhi Development Authority in solving this human problem.

15. Learned Additional Solicitor General submits that the Government undertakes to provide proper guidelines to monitor these night-shelters and these guidelines would be prepared within a period of four weeks from today. While preparing the said guidelines, the NGOs may also be consulted.

16. Mrs. Jayashree Raghuraman, Secretary-cum-Commissioner of the Food, Supplies and Consumer Affairs Department, Government of National Capital Territory of Delhi has filed an affidavit in response to the demand of AAY to the deserving people has not been issued. In this affidavit it is stated that Food and Supplies Department issued an order on 9-11-2009 to the Director of SAMYA with a copy to all Assistant Commissioner and FSOs for compliance. By this order, 14,850 persons out of total number of 15,000 presently identified homeless who are eligible to get the cards, were entitled to 10 litres to kerosene oil and 15 kg of specified food articles at below poverty line (for short "BPL") rates i.e. 10 kg wheat and 5 kg rice or vice-a-versa as per their food habits.

17. The cards are issued temporarily for a period of three months and meant only for the purchase of ration and shall not be used as a document of identification. These cards would be issued to 14,850 eligible persons subject to biometric identification. It is further mentioned in the affidavit that the period of validity of homeless cards identified by NGO, SAMYA has now been extended to six months in place of three months' validity to avoid expenses and inconvenience. The homeless card would be extended automatically after six months by a simple procedure of obtaining the biometric identification again of the homeless person at the circle office. No further survey would be required.

18. The provisions of the Control Order, 1981 provide for continuous issue/renewal of the card. The Cabinet decision was taken in March 2008, and accordingly the Government of NCT of Delhi launched a new programme facilitating the delivery of welfare entitlements by a single window system under the name of "Samajik Suvidha Sangam" (for short "SSS") or Mission Convergence. The Mission Convergence or SSS is working through Samajik Suvidha Kendras by which the facilities provided by nine Departments of the Government will be delivered through a single window scheme. Fresh applications for BPL and AAY cards will be received, processed and delivered from these kendras.

19. The Deputy Commissioner of the nine districts have been appointed as statutory authorities and have been declared as Additional Commissioners (Food and Supplies) under the Delhi Specified Food Articles (Regulations and Distributions) Order, 1981. Further, financial powers are being given to the Deputy Commissioners of the nine districts to function independently and issue ration cards to all vulnerable and most vulnerable categories. The Mission Convergence database of 3.5 lakh vulnerable households and 2.5 lakh most vulnerable households will be used for issue of fresh BPL/AAY cards as per eligibility norms. In this regard, Mission Convergence/SSS has made work flow chart under which the Samajik Suvidha Kendras will process the application. NGOs will carry out verification.

20. Statutory and administrative powers have been delegated to the Deputy Commissioners of the nine districts, who will carry out checks as deemed necessary and issue ration cards. They

will supervise the functioning of the district kendras and then issue necessary orders for providing ration cards in their respective districts.

21. The Samajik Suvidha Sangam had taken a decision to identify all households of Delhi under two categories; one, vulnerable households, and second, most vulnerable households. The SSS has categorized the vulnerable households to include construction labour, rag-pickers, porters and hamaals, casual daily labour, wage labour, street vendor/hawkers, cycle rickshaw drivers, casual domestic workers, workers in small household enterprises and workers in house holds industries. The most vulnerable households include old people. Disabled people, single women, women-headed households, single unprotected children, child-headed households, people with debilitating illness.

22. The SSS has already conducted two surveys in resettlement and rural pockets for identifying vulnerable households and the most vulnerable households. It has covered 5.39 lakh families of which 2.05 lakh households are already covered under the PDs system and age having ration cards. 3.34 lakh households of the surveyed families appear to be without ration cards. The survey of entire Delhi is still on.

23. It is stated that on the instruction of the Government of India the issue of ration to the poor is based on income categories whereas the vulnerability criteria of the Government of NCT of Delhi is based on proxy indicators of poverty. The two have still to be reconciled. Meanwhile, the Mission Convergence has initiated a new survey of the homeless with the view to get biometric (sic impressions) captured to get a firm list of homeless people.

24. In the affidavit it is also mentioned that the NGO, SAMYA had conducted survey and identified 15,000 homeless beneficiaries of which 14,850 have been approved for giving of "homeless cards". These cards are being prepared zonewise and a list is displayed at the Office of the Assistant Commissioners/circle office for distribution of the special homeless cards to the beneficiaries after obtaining their biometric impressions. The NGO, SAMYA has also been informed to facilitate delivery of these cards to the beneficiaries and enable them to lift the specified food articles (SFA) and kerosene oil allocated from the linked fair price shop (FPS)/kerosene oil depot (KOD).

25. Mr. Gonsalves, learned counsel for the petitioner submitted that the State Government has tried to deal with the problems of the poor homeless in right earnest, but the Government ought to have issued AAY cards in which the quantity of good entitlement is larger and is given at a lower rate.

26. Mr. Parasaran, learned Additional Solicitor General appearing for the NCT of Delhi will take instructions.

27. The Commissioner, Shri N.C. Saxena and Special Commissioner of the Supreme Court, Shri Harsh Mander has submitted a report. The learned Additional Solicitor General may take instructions and file reply, if any, within two weeks from today.

28. Mr. Gonsalves, learned counsel for the petitioner has also brought to our notice that the Government of Delhi has initiated a programme of community kitchens (Aapki Rasoi) which serves a nutritious balanced meal for the homeless people at about 13 distribution centres across the city. According to Mr. Gonsalves, it is a laudable initiative but it caters to the need of only five per cent of the homeless.

29. Mr. Parasaran, learned Additional Solicitor General submits that he would take instructions and file an additional affidavit to this effect.

30. Mr. Gonsalves, learned counsel for the petitioner also pointed out the problem of street children. According to him, street children suffer from many denials and vulnerabilities. These include, deprivation of responsible adult protection; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions. They have inadequate nutrition from begging and according to him the number of such children in Delhi alone is over 50,000. He submitted that the Delhi Government has an excellent scheme for providing them shelters and rehabilitation centres but that cover a very small percentage of these children. There is an urgent need for providing residential homes for street children, especially those without any adult protection so that their food, health and education can be taken care of.

31. Mr. Gonsalves has submitted that the Delhi Government has already begun implementing a pilot project, four residential schools in Delhi and this project has been successfully implemented for the last three years. According to him, the requirement is about 300 such residential schools in Delhi. The similar problem exists all over and according to him, there should be one high quality residential school on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population.

32. Mr. Parasaran will take instructions and file an affidavit within two weeks from today. Since other States have yet to file affidavits, we also direct them to file affidavits within two weeks regarding the problems of street children in their respective States.

33. Place the matter on 16-3-2010.