

ITEM NO.1
(Part-heard)

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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)

(Regarding Public Distribution System)

(Regarding Planning Commission of India)

WITH

I.A. Nos.90, 93, 98, 102 to 108, 110 & 111 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 and exemption from filing O.T., direction and extension of time on behalf of State of Rajasthan and for modification of Court's order dated 22.4.2009, impleadment on behalf of Karnataka State Taluka Co-operative Marketing Society Association to be impleaded as Respondents)

WITH

CONTEMPT PETITION (CIVIL) No.99/2009 in W.P.(C) No.196/2001

(With appln. from exemption from filing O.T.)

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

(With office report)

[FOR FURTHER DIRECTIONS]

Date:14/05/2011 These Petitions/applns. 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.

For Ms. Jyoti Mendiratta, Adv.

Dr. Aman Hingorani, Adv.

For M/s. Hingorani & Associates, Adv.

For Respondent(s) Mr. Gopal Subramaniam, Sol. Genl. of India

Mr. Mohan Parasaran, ASG

Mr. Vivek Tankha, ASG

Mr. S.W.A. Qadri, Adv.

Mr. D.L. Chidananda, Adv.

Mrs. Sunita Sharma, Adv.

Ms. Asha G. Nair, Adv.

Ms. Supriya Jain, Adv.

Ms. Sushma Suri, Adv.

Mr. Vikas Malhotra, Adv.

For Ms. Anil Katiyar, Adv.
For Mr. D.S. Mehra, Adv.

Mr. Jana Kalyan Das, Adv. (NP)

Mr. Ranjan Mukherjee, Adv. (NP)

Mr. Ashwini Kumar, Adv.
Ms. Suveni Banerjee, Adv.
for Ms. Hemantika Wahni, Adv.

Mr. P.V. Yogeswaran, Adv. (NP)

Ms. Indra Sawhney, Adv.

Dr. Manish Singhvi, Adv.
For Mr. Milind Kumar, Adv.

Mrs. Aruna Mathur, Adv.
Mr. Yusuf Khan, Adv.
For M/s. Arputham, Aruna & Co., Adv.

Mr. Rahul Verma, Adv.
For Ms. Rachana Srivastava, Adv.

Mr. T.V. George, Adv. (NP)

Ms. Kamini Jaiswal, Adv. (NP)

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

Mr. V.G. Pragasa, Adv. (NP)

Mr. Jatinder Kumar Bhatia, Adv.

Mr. Shail K. Dwivedi, AAG
Mr. R.K. Gupta, Adv.
Mr. Rajiv Dubey, Adv.
For Mr. Kamalendra Mishra, Adv.

Mr. Gopal Singh, Adv. (NP)

Ms. Anima Kujur, Adv.
For Mr. Abhijit Sengupta, Adv.

Mr. C.S. Ashri, Adv. (NP)

Mr. Tara Chandra Sharma, Adv.

Mr. Anil Shrivastava, Adv. (NP)

Mr. P. Prasanth, Adv.
For Mr. T. Harish Kumar, Adv.

Mr. Ujjal Banerji, Adv.
For Mr. P. Parmeswaran, Adv.
For Mr. Prashant Kumar, Adv. (NP)

Mr. Gopal Prasad, Adv. (NP)

Ms. Anjana Chandrashekar, Adv. (NP)

Mr. D. Mahesh Babu, Adv.

Mr. Gopal Subramaniam, Sol. Genl. of India
Mr. Sunil Fernandes, Adv.
Mr. Suhaas Joshi, Adv.

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Mr. Ajay Pal, Adv. (NP)

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Mr. Atul Jha, Adv.
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Mr. G. Prakash, Adv. (NP)

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Mr. Anil Kumar Jha, Adv. (NP)

Mr. Vikas Mehta, Adv. (NP)

Mr. Naresh K. Sharma, Adv. (NP)

Mr. Anis Suhrawardy, Adv. (NP)

Mr. S.M. Jadhav, Adv. (NP)

Mr. Suresh Chandra Tripathy, Adv. (NP)

Mr. Navin R. Nath, Adv. (NP)

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

UPON hearing counsel the Court made the following
O R D E R

As a special case, this sitting has been fixed by us looking to the urgency and gravity of the matter.

We have heard Mr. Gopal Subramaniam, learned Solicitor General of India, Mr. Mohan Parasaran, learned Additional Solicitor General, Mr. Gonsalves, learned senior counsel for the petitioner and other learned counsel for the respective parties.

According to the affidavit filed by the Union of India on 18.02.2011 the estimated population of the country as on March, 2010 is 117.67 crore and according to the office of the Registrar General, Census, the projected population of India as in 2011 is 119.3 crores (Planning Commission working Group on Population Stabilisation for the 11th Five Year Plan). We see no rationale in not distributing food grains according to the estimate of Union of India. The food allocation should be based on every year's population estimate as carried out by the Planning Commission or the Registrar General, in the absence of any official census figure.

According to the parameters of the Planning Commission, Rs.15/- per capita per day in rural areas and Rs.20/- in urban areas is the yardstick for evaluating who is Below Poverty Line. The Below Poverty Line population is anchored on a norm of 2400 calories per capita per day for rural areas and 2100 calories per capita per day for urban areas. According to the Tendulkar Committee, with the price level of 2011, it is impossible for an individual in an urban area to consume 2100 calories in Rs.20/- and an individual in a rural area to consume 2400 calories in Rs.15/-. The Planning Commission may revise norms of per capita amount looking to the price index of May, 2011 or any other subsequent dates.

A large section of the population which has marginally higher income than Rs.20/- in urban areas and Rs.15/- in rural areas also deserves food at subsidized rates. The Wadhwa Committee has referred to this group as "Marginally Above Poverty Line". We have no objection to Government of India providing universal food security. However, they must first ensure food security for more vulnerable sections of the society.

Admittedly in the 150 poorest districts of India, the problem of malnutrition is very intense and is related to the inadequacy or lack of food in those areas. The Union of India must provide adequate food grains for these 150 poorest districts, on a priority basis.

In order to ensure proper distribution of food grains the Union of India may consider distributing food on an individual basis rather than on a family basis. There seems to be no justification for the present approach which gives the same 35 Kgs. food grain allocation to a family of 10 persons as it does to a single person. The single man is likely to sell

his excess grain for a profit, while the parents in the family of ten are forced to purchase additional grain at non-BPL prices in order to feed their children. The Wadhwa Committee observed this situation as "rather incongruous". Tamil Nadu is successfully distributing food grains on individual basis. Perhaps the Union of India may consider the Tamil Nadu pattern for the entire country.

In the public distribution system subsidized food is primarily meant for very poor, weak and vulnerable sections of our society. Admittedly, there are some districts and/or small pockets in our country where majority of people of that district live in penury. They do not have financial capacity to buy adequate foodgrains for their survival. A number of cases of malnutrition and starvation are reported from time to time. Subsidized food is really meant for this section of our society.

Fortunately, the position of food grains stocks in our country is extremely good. Mr.Parasaran, learned Additional Solicitor General submits that as on 1st April, 2011 there are 44 million tonnes of stocks. Perhaps never before have food grains stocks been so high. The bumper crop of this season will further improve the situation of existing stocks. Even after keeping adequate food grains for emergency or unforeseen circumstances, we would have still huge stocks in our godowns.

Millions of tonnes of food grains are lying in open for years because of inadequate storage capacity. Admittedly, about fifty five thousand of tonnes of food grains rotted in Punjab and Haryana. A very large chunk of food grains were destroyed in recent Punjab fire because the food grains were lying in open.

In this background, the 5 million tonnes of food grains which the Union of India has already undertaken to additionally allocate must go to the most vulnerable sections of our society and the parties are in total agreement about this proposition.

Looking to the enormity and gravity of the problem as a one-time measure, it is absolutely imperative in the larger public interest to direct the respondent - the Union of India - to reserve another 5 million tonnes of food grains for distribution to the 150 poorest districts or the extremely poor and vulnerable sections of our society. This additional 5 million tonnes of food grains would be over and above 5 million tonnes which the Union of India has already undertaken to allocate.

Hon'ble Mr.JusticeD.P.Wadhwa(since ret'd.),who was appointed as Chairman of Central Vigilance Committee on public distribution system visited almost all districts of the country and submitted about 19 comprehensive and detailed reports. The High Power Committee consists of number of experts and representatives of the petitioner organization. It is presently engaged in a computerization programme. We request this very Committee to identify the poorest districts or poorest segments of our society and ensure that additionally allocated food grains reach this segment from time to time. 5 million tonnes of food grains additionally allocated would be distributed to the 150 poorest districts or pockets where people are living in penury.

The additional 5 million tonnes which has been reserved by the Union of India may be allocated to 150 poorest districts or other poorer segments of the society on the recommendation of the Committee from time to time. The exercise may be done by the Committee in consultation with the representative(s) of the Government of India and the petitioners. The Committee would be at liberty to co-opt any individual or organization to assist them. The Committee in consultation with the government may also decide at what subsidized rate and to whom the food grains should be allocated.

This order is made to ensure that no starvation deaths may take place and people can be saved from malnutrition as far as possible.

All the States Governments/Union Territories are directed to forthwith exhaust the existing quantity which has been allocated to them. The Chief Secretaries of all the States/Union Territories are directed to

ensure that the food grains allocated to those States and lifted and distributed immediately and a copy of this order be sent to all the State Governments/Union Territories.

In order to avoid any delay, all the concerned parties are requested to appear before Justice Wadhwa Committee at 11.00 a.m. on Monday the 16th May, 2011.

We request Justice Wadhwa Committee to submit a small summary report on or before 22nd July, 2011.

Mr.Mohan Parasaran, learned Additional Solicitor General undertakes to file an affidavit within six weeks and reply, if any, be filed before the next date of hearing.

List this matter on 22.07.2011 at the end of the Board. A copy of this order be sent to Hon'ble Mr.Justice D.P.Wadhwa through a Special Messenger today itself.

(G.V.RAMANA)
COURT MASTER

(NEERU BALA VIJ)
ASSTT. REGISTRAR