

## **A Brief Summary of the Proceedings of the Food Security Case** **Currently pending in the Supreme Court of India** **[PUCL vs Union of India & others, Writ Petition (Civil) 196 of 2001]**

The prevalence of “hunger amidst plenty” in India took a new turn in mid-2001, as the country’s food stocks reached unprecedented levels while hunger intensified in drought-affected areas and elsewhere. This situation prompted the People’s Union for Civil Liberties (Rajasthan) to approach the Supreme Court with a writ petition on the “right to food”. Initially, the case was brought against the Government of India, the Food Corporation of India (FCI), and six state governments, in the specific context of inadequate drought relief. Subsequently, the case was extended to the larger issue of chronic hunger, **with all states and union territories as respondents.**

The legal basis of the petition is simple. Article 21 of the Constitution is a guarantee of the “right to life”, and imposes upon the state the duty to protect it. This right is fundamental. **The Supreme Court has held in previous cases that the right to life includes the right to live with dignity and all that goes along with it, including the right to food.** The petition argues, in essence, that the response to the drought situation by central and state governments constitutes a clear violation of this right.

The petition points out two aspects of the state’s negligence in providing food security. The first is the breakdown of the public distribution system (PDS). The failures of the PDS arise at various levels: its availability has been restricted to families living below the poverty line (BPL), yet the monthly quota per family cannot meet the nutritional standards set by the Indian Council of Medical Research (ICMR). Even this is implemented erratically: a survey in Rajasthan indicated that only one third of the sample villages had regular distribution in the preceding three months, with no distribution at all in one sixth of them. The identification of BPL households is also highly unreliable. All in all, the assistance provided to BPL households through the PDS amounted to less than five rupees per person per month.

The other focus of the petition is the inadequacy of government relief works. Famine Codes operational in various states govern the provision of these works, and make them mandatory when drought is declared. Despite being required to give work to “every person who comes for work on a relief work”, the Rajasthan government has followed a policy of “labour ceilings”, which then restricted employment to less than 5 per cent of the drought affected population, by the government’s own statistics. Actual employment has been even lower, and failure to pay the legal minimum wage has been reported at many places.

The petition demolishes one official excuse for both these problems, namely the lack of funds. The SC has already held that shortage of funds cannot excuse the failure to fulfil constitutional obligations. That excuse is singularly inapplicable, given the availability of

gigantic food stocks. The state government has repeatedly requested free grain for relief works from the central government, with little success. However, its failure to utilise the quantities already allotted to it undermines its own case.

The SC in its order dated 23.7.01 says: “In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and non-existent leading to mal-nourishment, starvation and other related problems.”

In another order dated 20.8.01, the SC says: “The anxiety of the Court is to see that the poor & the destitute and the weaker sections of the society do not suffer from hunger and starvation. The prevention of the same is one of the prime responsibilities of the Government - whether Central or the State. How this is to be ensured would be a matter of policy which is best left to the Government. All that the Court has to be satisfied and which it may have to ensure is that the food grains which are overflowing in the storage receptacles, especially of FCI godowns, and which are in abundance, should not be wasted by dumping into the sea or eaten by the rats. Mere schemes without any implementation are of no use. What is important is that the food must reach the hungry.”

In furtherance of these goals, the Supreme Court in the course of the past several months has passed Orders giving directions to Central Government and all the State governments for the smooth implementation of several schemes like the Sampoorna Grameen Rozgar Yojana (SGRY), Public Distribution System (PDS), Mid-Day Meal Scheme (MDMS), National Social Assistance Programme (NSAP) which includes the National Old Age Pension Scheme(NOAPS), National Maternity Benefit Scheme(NMBS) and the National Family Benefit Scheme(NFBS), Antyodaya Anna Yojana(AAY,) Integrated Child Development Scheme (ICDS) and the Annapurna scheme. With respect to the SGRY, the SC issued an order highlighting the fact that the State Governments and UTs must adhere to the Scheme guidelines and make sure that there is a complete ban on Contractors and labour displacing machines. Following the SC directions the Noon-meal schemes have been started in several states. The SC had also directed State governments and the UTs to complete the proper identification of the BPL families and start the implementation of the AAY and the schemes under the NSAP. SC has also said in its order dated 28.11.01 that that in order to ensure transparency in the implementation of these schemes, wide publicity must be given by displaying the details of these schemes in the Panchayat Offices, schools and Fair Price Shops. It also directs the AIR, Doordharshan and the other media to publicise various schemes and the orders.

The Supreme Court has appointed Dr.N.C.Saxena as the Commissioner on Food Security with Advisors and Nodal Officers in every state, whose joint function will be to monitor the implementation of these schemes and give periodical reports to the Supreme Court.