

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12293 of 2021

Kamlesh Chandra Lal @ Kamlesh Chandra S/o-Saty Narayan Lal, Resident of Ayodhya Prasad Lane, Motijheel, P.S.-Town, Dist-Muzaffarpur, Bihar-842001

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Social Justice and Empowerment, Govt. of India, New Delhi.
2. The Secretary, Ministry of Social Justice and Empowerment, Govt. of India, New Delhi.
3. The Chief Secretary, Government of Bihar, Main Secretariat, Patna-800015.
4. Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Old Secretariat, PO-Sachivalaya, Patna-800015.
5. Additional Chief Secretary, Social Welfare Department, Government of Bihar, Main Secretariat, Patna-800015.
6. District Magistrate, Darbhanga.
7. District Magistrate, Patna.
8. District Magistrate, Chapra.
9. District Magistrate, Kishanganj
10. District Magistrate, East Champaran.
11. Bihar State Legal Service Authority through its Member Secretary, Budh Marg, Opp. Museum, Patna- 800001.
12. The Member Secretary, Bihar State Legal Service Authority, Patna.
13. The Secretary, Ministry of Health and Family Welfare, Government of India.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Akash Keshav, Advocate
Ms. Akanksha Malviya, Advocate
Mr. Deepak Kumar Singh, Advocate
Mr. Vishal Kumar Singh, Advocate

For the Respondent/s : Dr. K.N. Singh (ASG)
Mr. Manoj Kumar Singh, CGC
Mr. Pawan Kumar, A.C. to AG



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE A. M. BADAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 26-10-2021

From the submissions made, this Court is called upon to decide the following questions:-

- (i) Whether a person inflicted with physical disability arising out of Leprosy can be denied his constitutional and statutory right to food?
- (ii) Whether non-preparation of ration cards, more so by the vulnerable groups, as a ground for denial of ration can be countenanced under the provisions of the National Food Security Act, 2013?

2. The counsel on behalf of the petitioner has put forward before us the dilemma faced by individuals suffering from Leprosy in the State of Bihar. Counsel sets forth a staggering statistic- The State of Bihar has more than 11,000 cases. Leprosy patients result in a prevalence rate of 1.12 per 10,000 cases, accounting for 14% of total leprosy cases in the country.

3. During the incumbent Pandemic, individuals afflicted with Leprosy are particularly suffering because of their evident state of affairs. This mere fact testifies individuals suffering from the said curable disease were unable to avail the



most basic amenities under the Public Distribution System (PDS) in districts of Bihar such as Patna, Darbhanga, Kishanganj, Chpara and East Champaran. The petitioner contends that the device intended to streamline the Public Distribution System has hindered access to food to some in the opposite effect. While some affected families opted for nominees within the family, the struggle continues for those who do not have a suitable member. In contrast, others are confused about nominating someone from within the family for various other reasons, including awareness and easy access.

4. Moreover, in many cases, nominees do not turn up when they need the ration, thus rendering the nutritional needs of the patients unfulfilled. Also, several people suffering from this disease are denied the ration as their finger-prints do not match. The petitioner has presented before this Hon'ble Court a list of names of individuals who cannot avail benefit under the PDS. Four persons in Patna, Twelve in Darbhanga, Eleven in Kishanganj, Thirteen in East Champaran and one in Chapra suffering from Leprosy who are not able to avail such benefits.

5. The Government contends that it is fully conscious of its responsibility and committed to issuing ration



cards and making available foodgrain ration under the National Food Security Act, 2013 as well as “Pradhan Mantri Garib Kalyan Ann Yojna”, submitting that since the beginning of the Pandemic, it has issued over 31,00,000 (approx.) new ration cards.

6. Objections were raised on the introduction of compulsory biometric authentication, which facilitates, amongst others, the following:- (I) Inter and Intra-State portability of Ration card; (II) Functioning of One Nation One Ration Card; (III) Complete prevention of leakage and pilferage of food grains; (IV) Empowerment of Targeted Public Distribution System consumers and liberation of these consumers from the shackles of unscrupulous PDS dealers.

7. However, on the directions of the Hon'ble Supreme Court, the State Government is implementing the Scheme of One Nation One Ration Card, recognizing the need of migrant families to get the food grains at the places where they work. This Scheme is implementable without making Aadhaar based biometric authentication on an electronic Point of Sales (ePoS) device. To eliminate hardship, all e-PoS machines have an eye scanner that functions with 100% accuracy in the Aadhar-based identification of beneficiaries.



During the last four months, on an average 7,39,993 ration card holders have availed foodgrains through the iris scanner.

8. That apart, by way of abundant caution, all beneficiaries suffering from Leprosy are allowed to nominate a government or semi-government official of the State for biometric authentication. It is submitted that the facility of nominees has worked very well, and till the filing of reply, 14,000 nominees (approx.) stood appointed. It is further submitted that the concerned officers have been ensuring the availability of foodgrains to every eligible household, ensuring that none suffers on account of this technical requirement.

9. In response to a Court query about the averments made in paras 17-20 of the petition, the State avers that the Food and Consumer Protection Department, Government of Bihar, Patna has tried to make available the food grains under NFSA to every eligible household, including those afflicted with Leprosy. This is why even petitioners could refer to only forty-one names, who allegedly had not received the share of foodgrains. Even concerning them, twenty-two are getting regular rations, and eight persons are not traceable. The remaining ration cards will be issued within three days, with the local authorities already identifying them.



LAW ON THE ISSUE

10. There have been numerous International Conventions on the issue relating to the Right to Food. India is also a signatory to several of these International Instruments. In light of Article 51(c) of the Constitution of India, the Government is obligated to enforce the International Covenants; it is a signatory to. Foremost amongst them is the Universal Declaration of Human Rights, and Article 25 whereof states that,

“Everyone has the right to standard of living adequate for the health and well-being of himself and of his family including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability widowhood, old age or other lack of livelihood in circumstances beyond his control”

11. Furthermore, Article 11 of the International Convention on Economic, Social and Cultural Rights states that,

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take



appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

12. The Committee on Economic, Social and Cultural Rights (Committee on ESCR) (General Comment 12 of 1999) states that,

“The right to adequate Food is realised when every



man, woman, and child, alone or in community with others as physical and economic access at all times to adequate food or a means for its procurement” (Para 6)

13. In **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan, (1997) 11 SCC 121**, the Court recognized the existence of an obligation upon the State machinery imposed by Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*, prescribing that State parties to the Covenant recognise everyone has a right to a standard of living for himself and his family including food, clothing, housing and to the continuous improvement of living conditions.

14. On the constitutional front, the Right to Food is inherent in life with dignity under Article 21. This when read with Article 47 of the Constitution provides a comprehensive understanding of the right to food. It spells out the duty of the State to raise the nutrition level and standard of living of its people as a primary responsibility.

15. The Hon’ble Supreme Court in **Francis Coralie Mullin v. Administrator, Union Territory of Delhi and Ors., (1981) 1 SCC 608**, held as under:-



“We think that the right to life includes the right to live with human dignity and all that goes along with it namely the bare necessities of life such as adequate nutrition clothing and shelter and facilities for reading writing and expressing oneself in diverse forms freely moving about and mixing and commingling with fellow human beings”.

(Emphasis supplied)

16. Further in **Shantistar Builders v. Narayan Khimalal Totame and Ors, (1990) 1 SCC 520**, the Court held that:-

“Basic need of men have traditionally been accepted to be three- food, clothing and shelter. The right to life is guaranteed in any civilized society that would take within its sweep the right to food, the right to clothing and the right to decent environment and reasonable accommodation to live in.”

(Emphasis supplied)

17. A pertinent paragraph from **Chameli Singh v. Uttar Pradesh, (1996) 2 SCC 549** reads as under:

“In any organised society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilised society implies the



right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights...”

(Emphasis supplied)

18. On the issue related to the Right to Food, the Hon'ble Supreme Court in **PUCL v. Union of India & Other, (2004) 12 SCC 108**, explicitly held that every single individual has a Constitutional Right to Food. It further determined a basic nutritional floor for India's impoverished millions, reminding the Government of India of its responsibility to bear, as a welfare State.

19. In **Lala Ram v. Union of India, (2015) 5 SCC 813**, Hon'ble Supreme Court opined that a welfare State denotes a concept of Government, in which the State plays a key role in the protection and promotion of the economic and social well being of all of its citizens. Article 38 and 39 of the Constitution of India provide that the State must strive to promote the welfare of the people by protecting all their economic, social and political rights. This may include equitable distribution of wealth and equal opportunities and public responsibilities for all those, who are unable to avail for themselves minimal



provisions for a decent life, and a welfare State must attempt to provide all facilities for decent living, particularly to the poor, the weak, the old and the disabled, i.e. to all those who admittedly belong to the weaker sections of society.

20. Recently, in the landmark judgment in **K.S. Puttaswamy vs. Union of India, (2017) 10 SCC 1**, the Hon'ble Supreme Court said “..India is a responsible member of the international community and the Court must adopt an interpretation which abides by the international commitments made by the country particularly where its constitutional and statutory mandates indicate no deviation.”

21. A co-ordinate Bench of this Court noted in **Parul Prasad v. State of Bihar and Ors. (CWJC No.5609 of 2020)** that,

"The Pandemic has brought great hardships for the people, including loss of livelihood to a large number of people who now require assistance for their daily food and essential supplies. Undoubtedly, every person has a right to receive effective help, which ensures to them a right to life and livelihood guaranteed under Article 21 of the Constitution."

22. The National Food Security Act, 2013 (NFSA) is the primary legislation dealing with the right to food and



adequate nutrition in India. The very intent of NFSA is to provide for food and nutrition security in the human life cycle approach by ensuring access to sufficient quantities of quality food at affordable prices for people to live a life with dignity.

Relevant Sections of the NFSA read as follows:-

“3. (1) Every person belonging to priority households, identified under sub-section (1) of Section 10, shall be entitled to receive five kilograms of foodgrains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System:

Provided that the households covered under Antyodaya Anna Yojana shall, to such extent as may be specified by the Central Government for each State in the said scheme, be entitled to thirty-five kilograms of foodgrains per household per month at the prices specified in Schedule I.”

(Emphasis supplied)

“10. (1) The State Government shall, within the number of persons determined under section 9 for the rural and urban areas, identify—

(a) the households to be covered under the Antyodaya Anna Yojana to the extent specified under sub-section (1) of section 3, in accordance with the guidelines applicable to the said scheme;

(b) the remaining households as priority households to



be covered under the Targeted Public Distribution System, in accordance with such guidelines as the State Government may specify.”

(Emphasis supplied)

23. About NFSA, the Hon’ble Apex Court in **Bandhua Mukti Morcha v. Union of India, 2021 SCC Online SC 441**, stated the duty of the State concerning migrant labours as follows:

"24. Those migrant workers, who possess the ration card and are covered under the National Food Security Act, 2013 can avail the dry ration utilising their card even in the State where they have migrated for work. Real difficulty arises with regard to migrant workers who do not possess any card issued under National Food Security Act or even by respective States. There is a large number of such migrants who do not possess any card. Their above disability is due to their poverty and lack of education but the State cannot abdicate its duty towards such persons, especially in the wake of the Pandemic and the events where large numbers of migrant workers are not able to get jobs which may satisfy their basic needs."

24. Further, in para 80 of the Opinion, Hon’ble Apex Court issued the following directions:

“80. In view of the foregoing discussions and our conclusions, we dispose of the writ petitions



with the following directions:—

(i) It is directed that the Central Government to develop the Portal in consultation with National Informatics Centre (NIC) for registration of the unorganized labourers/migrant workers. We also impress upon and direct that the Central Government as well as the respective States and the Union Territories to complete the process of Portal for registration under National Data Base for Unorganised Workers (NDUW Project) as well as implement the same, which by all means may commence not later than 31.07.2021. We also impress upon and direct that the process of registration of the unorganized labourers/migrant workers is completed at the earliest, but no later than 31.12.2021. All the concerned States/Union Territories and the Licence Holders/Contractors and others to cooperate with the Central Government to complete the process of registration of migrant workers and unorganized labourers so that the benefits of the welfare schemes declared by the Central Government/State Governments/Union Territories be available to migrant workers and unorganized labourers for whose benefits the welfare schemes are declared.

(ii) The Central Government having undertaken to distribute additional quantity of foodgrains as demanded by the States/Union Territories for distribution to migrant labourers



under some Scheme framed by the States, we direct the Central Government, Department of Food and Public Distribution (Ministry of Consumer Affairs, Food and Public Distribution) to allocate and distribute foodgrains as per demand of additional foodgrains from the States for disbursement of dry foodgrains to migrant labourers.

(iii) We direct the States to bring in place an appropriate scheme for distribution of dry ration to migrant labourers for which it shall be open for States to ask for allocation of additional foodgrains from the Central Government, which, as directed above, shall provide the additional foodgrains to the State. The State shall consider and bring an appropriate Scheme, which may be implemented on or before 31.07.2021. Such scheme may be continued and operated till the current Pandemic (Covid-19) continues.

(iv) The States, who have not yet implemented “One Nation One Ration Card” scheme are directed to implement the same by not later than 31.07.2021.

(v) The Central Government may undertake exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under the Rural and Urban areas of the State.

(vi) We direct all the States/Union Territories



to register all establishments and license all contractors under the Act, 1979 and ensure that statutory duty imposed on the contractors to give particulars of migrant workers is fully complied with.

(vii) The State/Union Territories are directed to run community kitchens at prominent places where a large number of migrant labourers are found for feeding those migrant labourers who does not have sufficient means to procure two meals a day. The running of the community kitchen should be continued at least till Pandemic (Covid-19) continues."

25. It is the considered opinion of this Court that the same duty of the State is extended to persons falling within vulnerable groups and their disability should not hinder fulfillment of the basic needs qualifying the right to life with dignity.

26. The Hon'ble Supreme Court in **Pankaj Sinha v. Union of India, (2014) 16 SCC 290**, had noted that Leprosy still remains a stigmatic Disease in the society due to apparent lack of empathy from the concerned authorities. The Court noted that:-

"... Leprosy as a disease has been scientifically and medically proven to be durable



and manageable with MDT, yet the fact remains that millions of people and their family members still suffer from Leprosy and the social, economic and cultural stigma attached to the said disease. This fact reveals the lack of awareness and the prevailing misguided notions in the society pertaining to Leprosy. Further, the miserable plight of the persons afflicted with Leprosy does not end here. It has been highlighted that due to the disability that entails as a result of the disease, the people affected by Leprosy suffer additional discrimination in the form of denial of access to health services, education and livelihood options. At present, majority of the populace which is afflicted with Leprosy live as a marginalized Section in the society deprived of even basic human rights which manifestly results in violation of the fundamental right to equality and right to live with dignity."

"This is a cause which can be taken on a priority basis by the States, for what has been agitated before us is that Leprosy, as of today, is curable. Yet, because of apathy shown by the concerned authorities, it still remains a stigmatic disease in the society. It is inconceivable as it affects the human dignity and the basic concept of humanness."

27. This very Court in **Sam Utthan v. Union of India**, (CWJC No. 5631 of 2020) already issued directions for



providing Leprosy patients and their family members in the State with cooked food or grains, drinking water and other eatables essential for survival, regularly with medical facilities and sanitation. Moreover, the High Court expected that the Government would ensure drinking water supply and payment under different schemes to patients suffering from Leprosy without obtaining thumb impressions whose thumbs have become non-functional.

28. Hon'ble Apex Court in **K.S Puttaswamy** (Supra) said "Denial of benefits arising out of any social security scheme which promotes socio-economic rights of citizens in violative of human dignity and impermissible under our constitutional scheme".

29. Questions of law are answered as under:-

- (a) None, including persons who have disability, including inflicted with the disease of Leprosy, can be denied their right to food as mandated under the Constitution and other Statutory Laws of the Land;
- (b) Non-preparation of Ration Cards cannot be grounds for denying ration to persons with a disability.

30. Further, this writ petition is disposed of with the following directions:-



- (i) The State must take all possible effort to ensure that benefits of social security provisions, be it a Statute or schemes, reach those who are the most vulnerable.
- (ii) While Hon'ble, the Supreme Court has recognised the importance of one Nation one Aadhar Card scheme, but the State must ensure that its absence does not preclude vulnerable people from receiving benefits, thus adversely affecting their health and undermining the constitutional goals.
- (iii) As noted by the Hon'ble Supreme Court, in **Pankaj Sinha** (Supra), Leprosy's stigma is still considerable. The State must actively endeavour to introduce awareness and sensitization programs, facilitating the assimilation of those afflicted with the same back into the society as equal contributing individuals to lead a life of respect and dignity.
- (iv) The State to take expeditious steps in verifying the individuals' conditions, as highlighted by the petitioner. Further, ensuring prompt and suitable resolution to their problems.
- (v) The State must take suitable action at the earliest about the guidelines laid down by the Hon'ble Court in **Bandua Mukti Morcha** (Supra) concerning persons with disabilities.

31. We place on record our appreciation for the public-spirited petitioner and all the learned counsel who aided



the Court in this matter.

32. The writ petition stands disposed of with the observations above and directions.

33. Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(A. M. Badar, J)

PKP/Amrendra

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