

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

December 12th, 2009.

All schemes/671/Uttarakhand.

Shri. Nrip Singh Napalchyal
Chief Secretary,
Government of Uttarakhand.
Dehradun

Sub: Status of implementation of food and employment schemes.

Dear Shri. Napalchyal,

As you are aware, in our capacity as Commissioners of the Supreme Court in CWP 196/2001, PUCL v. UOI and others, we monitor the implementation of the food and employment related schemes in the country which fall under the purview of the case including the ICDS, MDMS, NREGA, NOAPS, TPDS, NMBS /JSY and NFBS.

One of us (Mr. Harsh Mander) has proposed to visit Dehradun on 16th December 09 to review with you the progress of the state in the implementation of the schemes and compliance with court orders.

In particular, we would like to draw your kind attention towards the vulnerable condition of rickshaw pullers of Mussoorie, in the vicinity of the National Academy of Administration. We had written to you in this regard earlier vide our letter AAY/574/ Uttarakhand, dated May 30th, 2008. Most of them do not have their own homes and are living in crowded dehumanised night shelters and are, therefore, always vulnerable to shivering cold especially in the ensuing winter, but to illnesses like TB at all times of the year because of overcrowding. We have learnt that the last night shelters that were built were during British times, and these are in terrible shape. Mr. Harsh Mander spoke to the District Magistrate, and requested him to take advantage of the Government of India scheme for night shelters, in the same locations where the old dilapidated shelters stand. He responded positively.

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We would like to bring to your kind notice the directions of the Supreme Court on 2nd May 2003, that all households belonging to six "priority groups" must be covered by Antyodaya cards. More precisely, the Government of India was directed "to place on AAY category the following groups of persons:

- 1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;
- 2) Widows and other single women with no regular support;
- 3) Old persons (aged 60 or above) with no regular support and no assured means of subsistence;
- 4) households with a disabled adult and assured means of subsistence;
- 5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;
- 6) primitive tribes."

Therefore, all subsequent AAY allocations should be made only in strict compliance with this order. In the first phase, a special drive may please be undertaken to cover all the rickshaw pullers and urban homeless people of Mussoorie, and then in other urban areas in Uttarakhand.

We would be very grateful if you can kindly send us a proposed action plan within two weeks to ensure that all the rickshaw pullers and urban homeless people of Mussoorie will have an AAY card and send us an action taken report on the same within two months, and in other areas of Uttarakhand in a phased manner over the coming year. When we talked to them we were surprised to learn that most of them did not even have a BPL card, and some had no card at all.

The following issues need discussion briefly if time permits.

Integrated Child Development Services:

1. It is estimated based on the census 2001 data of the total number of children under six in the state (1360032) and the reported performance of the State of the coverage of the

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children under SNP for 2007-08 that only 32.7 percent of the eligible children under six are actual beneficiaries of the ICDS. Efforts must be made to improve the coverage as about 68% of the children do not receive the benefits of the SNP which is a critical part of the ICDS programme. We would be grateful if you could please also examine and let us know the reasons why such a large gap still persists in this basic element of ICDS operationalisation.

2. The NFHS-3 data has shown the coverage under immunisation in the state has increased from **41%** to **60%** during the last eight years since NFHS-2. We appreciate the fact that state is taking efforts to increase the immunisation coverage, however, there still persists a huge gap. Therefore, efforts must be continued to increase the coverage to the full.
3. We recognise the fact that the percentage of children who are underweight (under 3 years) have decreased from **42 %** to **38%** during the last eight years since NFHS-2. However, 38% constitutes a large size of children of Uttaranchal. We therefore request you to accord this the highest priority in your intervention in the state.
4. Similarly, in line with the Supreme Court orders, we would also request a detailed survey of all urban slums and universal coverage of children living in all urban slums, across the State on a priority basis. Please separately list the numbers of SC and ST dominated hamlets and the population in each urban area under slums (both authorised and unauthorised) in the state, what is the current coverage of ICDS centres in these hamlets and slums, and the plans for filling the gap.
5. Further, we urge you to conduct a campaign to include disabled children under ICDS. For this Anganwadi level survey of disabled children should be undertaken in a time bound manner, and in future data at ICDS centre upwards to project, district and state levels disaggregated for coverage of disabled children.

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6. We would be grateful if the State Government ensures that the necessary steps are taken to ensure that children of all migrant workers have access to all the six services of the ICDS. We would appreciate it if you please send us a copy of the state Governments instructions in this regard.

7. Clear instructions may please be issued for implementing the orders of the Supreme Court dated 13 December 2006 for 'anganwadis on demand'. The Supreme Court, in its said orders directs, "Rural communities and slum dwellers should be entitled to an "Anganwadi on demand" (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi'.

National Maternity Benefit Scheme:

1. The performance of JSY in the State have been increased considerably over the years, but we regret the coverage of poor pregnant women who deliver at home is still a issue of concern in the State. For 2007-08, we have calculated a total number of 89282 women who had home deliveries would be eligible for the NMBS benefits under JSY, but only 26706 pregnant women have reported been provided any benefit under JSY. This would amount to only 29.9 percent coverage of home deliveries under JSY.

2. We would also like to bring to your notice the latest order of the Supreme Court (dated 20.11.2007) which states that, "The Union of India and all the State Governments and the Union Territories shall (i) continue with the NMBS and (ii) ensure that all BPL pregnant women get cash assistance 8-12 weeks prior to the delivery." The above order also states that, "The amount shall be Rs.500/- per birth irrespective of number of children and the age of the women". Therefore, we urge you that the State government should give a priority to this scheme and issue clear instructions to all the PHCs and gross root level institutions that all the pregnant women who are BPL and deliver at home are eligible to be provided Rs. 500 as maternity benefit under the JSY scheme, irrespective of the place of delivery and number of children.

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Public Distribution System:

1. The offtake (for 2008-09) of rice allocated under AAY category is around 83.8 % and almost 87 % for BPL. Also the offtake (2008-09) of wheat allocated under AAY is 93.4 % and 84.9 % for BPL. The percentages of BPL and AAY quota are already underestimated, therefore, efforts must be made to ensure that the entire food grain quota allocated for the state is utilised, so that all those need subsidised grains get it.
2. Of the quota of 1.909 lakh Antyodaya Anna Yojana (AAY) cards sanctioned in Utrakhand, about 0.40 lakh cards are yet to be distributed. We request you to distribute the entire quota of cards under the AAY without any further delay, since this scheme affects the poorest of the poor.
3. In the interim order dated May 2nd 2003, the Honorable Supreme Court had declared that all households belonging to six "priority groups" would be entitled to Antyodaya cards. The Government of India was directed "to place on AAY category the following groups of persons:
 - Aged, infirm, disabled, destitute men and women, pregnant and lactating women, destitute women;
 - widows and other single women with no regular support;
 - old persons (aged 60 or above) with no regular support and no assured means of subsistence;
 - households with a disabled adult and no assured means of subsistence;
 - households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;

We would like information on whether all the categories of people mentioned above have been fully covered under the AAY Scheme. Please send us information on the following questions:

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- 1) Did the State Government enumerate the numbers of the above mentioned categories of people by conducting a census survey ? If so, could you please share a copy of the order on the Antodaya survey.
 - 2) Were all the categories of the above listed groups, provided with Antodaya ration cards in line with Supreme Court Orders? If so, please attach a copy of the administrative instructions that were issued to ensure this process.
 - 3) What percentage of Antodaya families was issued Antodaya cards? A copy of the orders detailing the numbers district-wise may kindly be appended to the note.
 - 4) Was a grievance redressal mechanism put in place to address those cases where there was a grievance regarding the identification process? If so, a copy of the order setting up the grievance redressal mechanism may kindly be attached with this note?
4. The Government of Delhi has started a process of identifying homeless people in the city for allocation of ration cards. We suggest that the Government of Uttarakhand also consider initiating a similar process of identifying homeless populations in urban areas and distributing ration cards among this category of people. We suggest that all urban homeless people should be given Antodaya cards on a priority basis.
5. Further, we recommend that all slum dwellers, both authorised and unauthorised, should be given BPL cards.

Indira Gandhi National Old Age Pension Scheme:

1. The NOAPS has been extended to cover all the BPL aged persons above 65 years with effect from November 2007, therefore, the eligible beneficiaries would increase to almost double. However, the estimations on the no. of beneficiaries using 36% poverty line and projected population for 2006 for the State of Uttarakhand shows that a total number of 200819 old people who are BPL and above 65 years of age would be eligible to the old age pensions after universalising the pension but among those only a smaller number of 76385 eligible people have been covered in the State for 2007-08. Therefore, we urge you

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that efforts must be made to increase the coverage of the scheme as more than 60 percent eligible are still barred from the benefits of the scheme.

2. We would like to bring in your notice that Supreme Court in its order dated 28th November, 2001 has clearly stated that "Payment of pensions is to be made by the 7th day of each month". Therefore, we request please take steps to ensure that the monthly old age pension reaches the beneficiaries at time.
3. We would be grateful if you could please also send us the details about the total number of the widows in the state and the present coverage of the widows under the widows' pension scheme of the state government. We would also be grateful for details of the procedure that State has been following for the identification of widows as beneficiaries for the widow pension scheme.

Mid Day Meal Scheme:

1. For 2007-08, our estimation shows that almost 96 percent of the enrolled children have been served MDM in the schools. We appreciate this, however, the calculation on offtake of food grains by the State for MDM shows a lesser figure of only 79.5 percent, which would indicate that either the attendance is being fudged in the State or the meal isn't provided sufficient in quantity to the students.
2. Further, out of the total available budget (both centre and State) for 2007-08 for cooking cost, the State has been able to utilise only 64 percent. In view of the fact that State government has reported 96 percent coverage of the enrolled children, the low utilisation of the available budget would mean that the quality of the meal has been greatly compromised.
3. The Supreme Court order dated 20th April 2004 states, 'In appointment of cooks and helpers, preference shall be given to Dalits, Scheduled Castes and Scheduled Tribes". Therefore, we request you please let us know the total number of cooks appointed in the state under MDM and the number of the cooks appointed from the above categories. Kindly attach the orders and guidelines issued in this direction by the State.

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4. Has the State Government issued guidelines regarding varied menus to the districts and implementing agencies? Please send a copy of the same.
5. Has the costing for the provision of this menu been worked out? Please provide details.

National Family Benefit Scheme:

1. We would like to bring it in your notice that that Supreme Court in its order dated 28th November, 2001 has clearly stated that "BPL families are to be paid Rs 10,000 within four weeks through the local Sarpanch when the breadwinner dies". Therefore, we request please take steps to ensure that the benefit under this scheme reaches the beneficiaries at time.
2. We would also like to request you to send us the information for 2008-09 on the number of beneficiaries reported, number estimated, funds allocated and utilised.
3. As there have been issues of misidentification of beneficiaries due to the under-estimated ceiling, therefore, we would like to know how the distribution of funds allocated collectively by Government of India, is done for NOAPS and NFBS?
4. What is the process of identification of the beneficiaries under the scheme? Kindly attach the details outlining the methodology used for such process.
5. What kind of investigation is conducted into the deaths of adults of the BPL families to determine whether the person who died was primary bread earner in the family? Please send us the details of the same.
6. How is the primary bread earner defined and whether the definition equally applies to the single women headed households? Please send us a copy of the guidelines.
7. What percentage of the beneficiaries were the families where women had died, for the last year? Please send us the details.
8. What is the mode of payment and process for ensuring that payment is made within four weeks of time as per the Supreme Court orders? Please send us the details and guidelines of the same.

National Rural Employment Guarantee Act:

9. We had requested you vide our letter: NREGA/519/all states, and reminded you vide our letter: Reminder/554/Uttanchal that if you could kindly send us a detailed report about the work site facilities that are being provided in your state. Please refer to that letter and send us the information.
10. It seems from the official website of NREGA that the coverage of disabled beneficiaries is very low (only 412 in the financial year 2008 -09 & 75 in the financial year 2009 - 10) in the State. Please examine and let us know what are the reasons of low coverage of disabled beneficiaries under NREGA.

We would like to request you that State government should also consider the increase in the number of work days to the households with a disabled member and should ensure that work is being provided to disabled persons on demand. The government of Andhra Pradesh has recently issued order in this direction.

Further a listing of all the light tasks like carrying drinking water for labourers, looking for the children accompanying nursing mothers, maintaining muster rolls and attendance register etc. should be done before the work actually begins at the worksite and allocated to the disabled persons.

11. We found through the official website of NREGA only 77 percent of the total fund available have been spent under the scheme. Whereas only 50 percent of funds has been spent on wages. Please undertake steps in advance to ensure full utilization of funds.

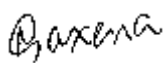
Grievance Redressal Mechanisms and Social Audits:

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1. We request to the state government kindly takes steps immediately to implement the following order of the Supreme Court dated 8 May 2002 relating to establishing a grievance redressal system has not been implemented.
“Gram Sabhas are entitled to conduct social audits of SGRY (and indeed of all food-related schemes). On receipt of any complaint of misuse of funds from the Gram Sabhas, the implementing authorities shall “investigate and take appropriate action in accordance with the law.”
2. Also, a register may please be opened to receive complaints in every district collector’s office, and the receipt and disposal of the complaints posted on a website.
3. Further the District Magistrate’s office and the Gram Sabha should put on their notice boards all the complaints received and the redressal undertaken for the complaint.

We would be grateful if you could kindly look into the above listed matters and respond to us at the earliest.

Warm Regards,



Dr. N.C. Saxena



Harsh Mander