

**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**

November 8th, 2010

To
The Registrar
Supreme Court of India
New Delhi

Subject: Right to life of Homeless people and responses of State governments over Supreme Court orders

Dear Sir,

The interventions of the Supreme Court in this matter have been invaluable in directing central and state governments to undertake programmes for the most disadvantaged urban citizens – namely urban homeless women, children and men. We have visited several states personally and plan to cover the remainder in coming months, and are happy to observe that the outcomes of the directions of the Supreme Court have been favourable in stirring several of these into action for the first time – although others have been less forthcoming.

We summarise herewith the major responses of the state governments with regard to each of the matters raised with them.

1. Permanent Homeless Shelters

In this regard, the action sought by governments was as follows:

Direct the central government and all state governments/UTs in India, to build permanent 24 hour shelters for the urban homeless, with appropriate facilities, to enable them to enjoy their fundamental right to life with dignity. The shelters must be adequate in numbers, in the ratio of at least one per lakh of population in all 62 major urban centre identified under JNNURM, by March 31st, 2011. The remainder cities above one lakh population should be also covered by this programme in 3 years. All shelters for homeless people should be functional all through the year, and not as a seasonal facility only during the winters. Entry to the shelters should be open to homeless all through the day and night.

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Action taken:

- i) There is no report of directions from the central government to state governments to undertake this work under JNNURM. Such directions should be issued forthwith.
- ii) The following state governments have agreed to undertake this work: Andhra Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Mizoram, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, Andaman and Nicobar Islands, Puducherry.
- iii) The following state governments have already undertaken effective steps to implement the orders in full spirit: Andhra Pradesh, Delhi, Jharkhand, Karnataka, and Tamil Nadu.
- iv) The following state governments have refused to take action: Gujarat and Kerala. It is recommended that they should be issued firm directions.
- v) The following state governments have not yet replied: Haryana, Jammu and Kashmir, West Bengal, Chandigarh, Once again, it is proposed that severe strictures should be issued to them.

2. Specialised Shelters for Most Vulnerable Groups among the Homeless

Direct the central government and all state governments/UTs that 30% of the shelters in every city should function as specialized shelters catering to particularly vulnerable populations such as women, aged, disabled, mentally challenged, and recovery shelters for homeless patients etc.

Action Taken

- i) There is again no report of directions from the central government to state governments to undertake this work under JNNURM. Such directions should be issued forthwith.
- ii) The following state governments have agreed to undertake this work: Andhra Pradesh, Madhya Pradesh, Karnataka, Mizoram, Punjab, Rajasthan, Tamil Nadu, Delhi

- iii) The following state governments have refused to take action: Gujarat and Kerala, Assam, Bihar, Chhattisgarh, Goa, Orissa, Sikkim, Tripura, Uttar Pradesh, Uttarakhand, A&N Islands, Lakshadweep, Puducherry . It is recommended that they should be issued firm directions.
- iv) The following state governments have not yet replied Haryana, Jammu and Kashmir, West Bengal, Chandigarh: It is recommended that they should be issued firm directions

3. AAY Cards

Direct the central government and all state governments/UTs in India to ensure that all rural and urban homeless people in the country should be given AAY ration cards within a maximum of 6 months of this order.

Action Taken:

No action taken by any governments. Strictures should be passed.

4. Community Kitchens

Direct the central government and all state governments/UTs to ensure community kitchens at the ratio of at least one per 20,000 urban population, with 6 months of this order. Wholesome and hygienic meals should be provided within 10 rupees per meal to all working male homeless people, at 5 rupees for women, and free for children, the aged, infirm and destitute.

Action taken:

- i) The Central Government has not yet formulated such a scheme, nor issued suitable directions to state governments. It may be directed to do so forthwith.

5. Procedures for Deaths on the Streets

Direct the central government and all state governments to issue detailed instructions and guidelines to ensure that any death occurring on the streets and any unclaimed

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body, not resulting from an accident, must be treated as a possible starvation death unless proved otherwise, entailing mandatory inquest as per CrPC by an executive magistrate, a verbal autopsy by recognised NGOs, and a post mortem by doctors, to ascertain whether death was caused by severe food deprivation. In the event of the death being proved to be by starvation, stringent punitive action taken for the same along with compensation to next of kin should be ensured.

Action Taken

No action taken by any governments. Strictures should be passed.

6. Comprehensive Survey

Direct all State Governments and Union Territories to conduct a comprehensive survey and identify the Urban Homeless within 6 months.

Action taken

- i) The following state governments have committed to undertake survey of the homeless: Delhi, Karnataka, Andhra Pradesh Assam, Madhya Pradesh, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, and Tripura. The state governments like Andhra Pradesh, Delhi and Punjab; are planning to link it to other entitlements such as ration cards, and health insurance.

Whereas it is heartening that many state governments have commenced work in compliance with Supreme Court orders in right earnest, some others have refused or have not yet replied. These defaulting state governments need to be given firm directions. The Central Government also needs to be more pro-active in issuing necessary guidelines, and monitoring the progress of all state governments.

Sincerely

Dr. N.C. Saxena

Harsh Mander