IN THE HON'BLE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

Writ Petition No. [illegible] / 2016 (PIL)

PETITIONERS:

1. Mahaabhiyan Swechhik Sansthan Kalyan Aum Samajik Vikas Samiti, registered under the M.P. Societies Registration Act, 1973 at Serial No.03/27/03/11245/08 through its President Smt. Neeta w/o Shri Anil Vaishnav, having its registered Office at "A-38,MIG Colony, Indore

2. Smt. Neeta Vaishnav, w/o Shri Anil Vaishnav, Aged "R/o A-38,MIG Colony, Indore

V/s

RESPONDENTS:

1. Government of India, through Chief Secretary, Ministry of Women & Child Development, Shastri Bhawan, New Delhi;

2. State of Madhya Pradesh, through Chief Secretary, State of M.P., Vallabh Bhawan, Bhopal;

3. State of Madhya Pradesh, through its Principal Secretary, Women & Child

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IN THE HON'BLE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

Writ Petition No. 1915 / 2016 (PIL)

PETITIONERS:

1. Mahaabhuday Swechhik Sangthan Kalyan Aum Samajik Vikas Samiti, registered under the M.P. Societies Registration Act, 1973 at Serial No.03/27/03/11245/08 through its President Smt. Neeta w/o Shri Anil Vaishnav, having its registered Office at 'Manglam' A-67, M.I.G. Colony, near CHL Hospital, behind Hanuman Temple, Indore; &

2. Smt. Neeta Vaishnav, w/o Shri Anil Vaishnav, Aged ...ult, occupation social ...rvices, R/o 34/1, L.I.G. Colony, Indore.

V/s

RESPONDENTS:

1. Government of India, through Chief Secretary, Ministry of Women & Child Development, Shastri Bhawan, New Delhi;

2. State of Madhya Pradesh, through Chief Secretary, State of M.P., Vallabh Bhawan, Bhopal;

3. State of Madhya Pradesh, through its Principal Secretary, Women & Child

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Development, Bhopal,

5. State of Madhya Pradesh through its Principal Secretary, Public Health & Family Welfare, Bhopal; &

6. M.P. State Agro Industrial Development Corporation, Panchanan Bhawan, 3rd Floor, Malviya Nagar, Bhopal.

IN THE MATTER OF
WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Your Lordships' humble petitioners beg to submit as under:-

1. **Particulars of the cause/order against which the petition is made:-**

(a) Date of order : Nil
(b) Passed in : Nil
(c) Passed by : Nil

However, the petitioners are challenging the public declaration made by the Chief Minister of Madhya Pradesh, wherein supporting the alleged cause floated by 'Dainik Bhaskar' newspaper he has stated that Take Home Ration preparation would be withdrawn from the contractors/manufacturers and would be given to Mahila Mandals, Aanganwadis, Self-help groups run by ladies or other NGOs

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HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

D.B.: HON'BLE MR. S. C. SHARMA AND
HON'BLE MR. ALOK VERMA, JJ

WRIT PETITION No. 6995 / 2016

MAHAABHUDAY SWECHHIK SANGATHAN KALYAN AUM SAMAJIK VIKAS SAMITI AND ANOTHER

Vs.

GOVERNMENT OF INDIA
AND FOUR OTHERS

* * * * *

ORDER
(13/09/2017)

PER : S. C. SHARMA, J :-

The petitioner before this Court, Mahaabhuday Swechhik Sangathan Kalyan Aum Samajik Vikas Samiti, which is a registered voluntary organisation, as stated in the Writ Petition, is engaged in the development of children and to provide appropriate education to children and also to look into the causes of young children, pregnant and lactating mothers, girls etc., The petitioner before this Court has filed this present writ petition seeking indulgence of this Court in respect of a statement made by the Hon'ble Chief Minister allegedly proposing to give the entire system of supply of

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Take Home Ration (T.H.R.) in the hands of those persons who are allegedly neither equipped properly nor in a position to observe the directions issued by the Hon'ble Supreme Court of India from time to time as well as by the Central Government. Various intervention applications have been filed in the present case by various organisations including People's Union of Civil Liberties (PUCL). It has been stated by the learned counsel for the PUCL that PUCL was a party to a Writ Petition ie., W.P. (Civil) No. 196/2001 – PUCL Vs. Union of India and the case got wide publicity as "Right to Food" case and the Hon'ble Supreme Court of India has passed various orders from time to time for protection of Right to food in respect of poor and under privileged. The petitioner's case is resting upon some declaration made by the Hon'ble Chief Minister, published in Dainik Bhaskar and the petitioner has prayed for the following reliefs :

(1) to observe the provisions contained in Articles 21, 29(f), 45 and 47 of the Constitution of India;

(2) The Government of Madhya Pradesh may be directed not to change the system or policy or plant

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of THR until appropriate directions are obtained from the Hon'ble Supreme Court of India ;

(3) the State Government be directed not to change the entire system simply under the pressure of a newspaper and be further directed to abide by the directions by the Hon'ble Supreme Court of India;

(4) The Government be also directed to see that the system and policy known as THR continue through existing joint venture plants as it is, until further directions are issued by the Hon'ble Supreme Court of India for Take Home Ration (THR);

(5) The State Government be restrained from giving any orders for preparation, manufacture and supply of Take Home Ration (THR) to self-help groups, Aanganwadi workers, Sanza Chulha, Mahila Mandals, Village communities or NGOs etc or call fresh tender for THR;

(6) allow this petition with costs and award any other further relief in favour of the petitioners.

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Today also the matter has been listed on intervention application. However, at the outset, Mr. Manoj Dwivedi, learned Additional Advocate General has informed this Court and argued before this Court that the tender which was accepted in respect of respondent No.5 was for a period upto 31/3/2017 and, therefore, a liberty be granted to the State Government to issue a fresh tender keeping in view the various directions issued by the Hon'ble Supreme Court of India from time to time.

The aforesaid fact that the work awarded to the joint venture of respondent No.5 was upto 31/3/2017 has not been

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disputed by either side and the fact remains that the tender period itself has come to an end. The present Public Interest Litigation involves a very sensitive issue which relates to supply of Take Home Ration and it is the State Government and the Central Government which are funding the project.

The People's Union for Civil Liberties (PUCL) – Intervenor, has stated that the decision of the Government of Madhya Pradesh to decentralise supply of meals to Aanganwadi Centres through various Self Help Groups (SHGs) is in pursuance to directions given by the Hon'ble Supreme Court of India from time to time. It has been stated that the State Government's decision therefore was to develop a long term decentralisation policy which would include training and capacity building of Self Help Groups, provisions for loan to set up their kitchens, sustainability plan for future etc., It has also been brought to the notice of this Court that in Madhya Pradesh various Self Help Groups are providing nutritious hot cooked meals under the Integrated Child Development Scheme (ICDS) at

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Aanganwadi Centres for children in the age group of 3 to 6 years. It has also been stated that the agreement in question which is subject matter of the present Writ Petition is for supply of Take Home Meals (Rations) to children in between the age of 6 months to 3 years which as per the Hon'ble Supreme Court of India's directions, should be done by the Self Help Groups and not by large industrial establishments like M. P. Agro and its joint ventures. The intervenor – PUCL, has also stated that the agreement for meals supply between the State Government and the M.P. Agro has expired and Government cannot be compelled to renew it. The Government is free to take any policy decision in the matter regarding implementation of the Scheme. It has also been stated that a primary reason for this policy shift is that the local women at village level can monitor and prepare meals for their children as Self Help Groups and the Self Help Groups are generally the groups of local women joining hands to empower themselves by running small businesses. It has also been stated that the State Government

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is not under any obligation to renew or to re-issue tender for supply of meals but to shift away from the system of supply from private manufacturers / contractors to a system of decentralised supply from local Self Help grops in accordance with the directions of the Hon'ble Supreme Court of India in W.P.(Civil) No. 196/2001. Certain orders have been brought to the notice of this Court passed by the Hon'ble Supreme Court of India from time to time and the extracts of the same reads as under :

(a) Order dated 07/10/2004 : (2004) 12 SCC 104 (Annexure I/2) to intervention application :

"The contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying grains and preparation of meals".

(b) Judgment dated 13/12/2006 : (2007) 1 SCC 719 (Annexure I/3 to intervention application) :

"Chief Secretaries of all State Governments and UTs are directed to submit affidavits giving details of the steps that have been taken with regard to the order of this Court of October 7th, 2004 directing that "contractors shall not be used for supply of nutrition in Anganwadis and preferably ICDS funds shall be spent by making use of village communities, self-help groups and Mahila Mandals for buying of grains and preparation of meals". Chief Secretaries of all State Governments / UTs must indicate a time frame within which the decentralisation of the supply of SNP through local community shall be done.

(c) Judgment dated 22/4/2009 (Annexure I/4 to the intervention application):

"Colin Gonsalves, Sr. Counsel on the other hand stated that though there has been substantial compliance of the directions passed by this Court yet there is some

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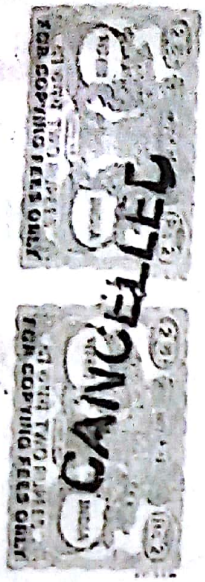
> reservation about the revised nutritional and feeding norms in ICDS Scheme. It is submitted that there is scope of involving contractors in the supplies which was prohibited by that court. .. .. It shall however be ensured that the following direction by order dt. 7th October 2006 which was reiterated by order dated 13/6/2006 shall continue to be operative".



It has been further brought to the notice of this Court that the Hon'ble Supreme Court of India in W.P.(Civil) No. 196/2001 has also recently reviewed its past judgment and and issued directions to the Government of Gujarat and Rajasthan to decentralise and ensure supply from Local Self Help Groups and Local Mahila Mandals in its order dated 10/7/2013, 6/8/2013 and 1/9/2014. The Hon'ble Supreme Court of India while disposing of W.P.(Civil) No. 196/2001 has held as under :

> "In view of the passage of the National Food Security Act, 2003, nothing further survives in this petition. It is accordingly disposed of. In case the petitioner has any grievance with regard to the implementation or otherwise of the National Food Security Act, 2013 he may file a fresh petition"

It has also been stated that the directions issued by the Hon'ble Supreme Court of India were also adopted and incorporated by the Parliament in the National Food Security Act, 2013. It has also been stated that Rules have

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been framed known as Supplementary Nutrition (under the Integrated Child Development Services Scheme) Rules, 2017 governing the field. The stand of the intervenor is that the question of permitting the respondent No.5 to continue to supply Take Home Ration is contrary to the directions of the Hon'ble Supreme Court of India and the State Government does not have any choice except to follow the directions of the Hon'ble Supreme Court of India and to follow the statutory provisions as contained under the National Food Security Act read with Supplementary Nutrition (under the Integrated Child Development Services Scheme) Rules, 2017.

The supply of food based upon the tender has to be given as per the policy of the State Government only after issuing a Notice Inviting Tender and after accepting the tender offering lowest rates. The contract period of respondent No.3 is already over on 31/3/2017 and, therefore, the present petition stands disposed of with direction to the State Government to comply the orders passed by the

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Hon'ble Supreme Court of India in W.P. (Civil) 196/2001 and various directions issued by the Government of India from time to time and to issue a fresh tender in respect of Take Home Ration. The exercise of issuing a fresh tender in consonance with the directions issued by the Hon'ble Supreme Court of India and Government of India from time to time be concluded within a period of 30 days from today.

This Court, as the tender awarded to respondent No.5 is already over, is not touching the other issues involved in the present Writ Petition and the State Government shall abide by all the directions issued by the Hon'ble Supreme Court of India from time to time on the subject as well as all consequential directions issued by the Government of India from time to time and shall follow the statutory provisions as contained under the National Food Security Act and the Rules framed thereunder. The respondent State shall frame a policy keeping in view the National Food Security Act and the Rules framed thereunder and the directions of the Hon'ble Supreme Court of India and shall issue fresh tender

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/ tenders in respect of Take Home Ration. The exercise of taking a policy decision and issuing fresh tender / tenders be concluded within a period of 30 days from today.

With the aforesaid, the present Writ Petition stands disposed of.

(S. C. SHARMA)
JUDGE

(ALOK VERMA)
JUDGE

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High Court of Madhya Pradesh

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Application No. 46490 / 2017

B-16
C.J.

Application received on	Applicant told to appear on	Applicant appeared on	Application (with or without further correct particulars) sent to Record Keeper / Dealing Assistant on	Application (with record or without record, and for further or correct particulars, if any required) received from the Record Keeper / Dealing Assistant on	Applicant given notice for further or correct particulars on	Applicant given notice for further funds on	Notice in Sr. No. (6) or (7) complied with on	Copy ready on	Copy delivered on	Court-fee realised
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