

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

Writ Petition No. 6995/ 2016 (PIL)

Mahaabhuday Swechhik Sangathan

Kalyan Aum Samajik Vikas Samiti

.....Petitioners

VERSUS

Govt. of India & Others

.....Respondents

AND

Peoples' Union for Civil Liberties

.....Proposed Intervener

Synopsis on behalf of Peoples' Union for Civil Liberties

1. At the outset it is stated that the decision of Government of Madhya Pradesh to decentralize supply of meals to Anganwadi Centres through various self-help groups (SHGs) is in pursuance of the several directions passed by the Hon'ble Supreme Court from time to time. The State Government's decision therefore was to develop a long term decentralization policy which would include training and capacity building of SHGs, provision for loans to set up their kitchens, sustainability plan for future etc. It is also pointed out that several SHGs in the Madhya Pradesh are already providing nutritious hot cooked meals under the ICDS Scheme at Anganwadi Centres for children in the age group

Refer this for successive stage

of 3 to 6 years. The agreement in question is for supply of take home meals/rations to children between age of 6 months and 3 years, which as per Supreme Court directions should be done by SHGs and not large industrial establishments like MP Agro and its joint ventures.

2. It is also stated that the agreement for meals supply between state government and MP State Agro has expired and there cannot be any compulsion the government to renew it. The state government is therefore free to take any policy decision with regard to implementation of the scheme. A primary reason for this policy shift is that local women at village level can monitor and prepare meals for their children as the SHGs are generally groups of local women joining hands to empower themselves by running small businesses. The State Government is not required to renew or reissue tenders for supply of meals but to totally shift away from the system of supply from private manufacturers/contractors to a system of decentralized supply from local SHGs, in accordance with the directions of the Hon'ble Supreme Court in W.P. (C) 196 of 2001.

3. Some of the key directions of the Hon'ble Supreme Court in this regard are as under:

a. **Order dated 07.10.2004** (2004) 12 SCC 104
(Annexure I/2 to Interventional 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 decentralization of the supply of SNP through local community shall be done."

c. **Judgment dated 22.04.2009** (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 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 dated 7th October, 2006 which was reiterated by order dated 13.6.2006 shall continue to be operative."

4. The Supreme Court in the PUCL case (W.P. (C) 196 of 2001) has recently also reviewed its past judgments and orders and passed directions to Government of Gujarat and Rajasthan to decentralise and ensure supply from local SHGs and local Mahila Mandals in its orders dated 10.07.2013, 06.08.2013 and 01.09.2014. The Writ Petition (196 of 2001) was disposed of by the Hon'ble Supreme Court on 10.02.2017 in view of the National Food Security Act being enforced. It is also pointed out that all the orders and judgments passed by the Hon'ble Court in W.P. (C) 196/2001 were final orders passed during pendency of the writ petition and were not written

as interim orders, since the court had treated the writ petition as a continuing mandamus. The order of the Hon'ble Court on 10.02.2017 was as follows:

"In view of the passage of the National Food Security Act, 2013, 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."

5. It is to be noted that several directions of the Hon'ble Supreme Court were also adopted and incorporated by the Parliament in the National Food Security Act, 2013. This was clarified in Parliament by Union Minister of Consumer Affairs, Food and Civil Supplies in his speech in the Rajya Sabha during legislation of the National Food Security Act. Relevant portion of the Minister's speech on 02.09.2013 is as under:

"Sir, another thing is that in the same nutritional component, there was some kind of view that this is to help the biscuit barons, readymade nutrients because many of my friends raised this issue, we changed it. This was one of the amendments we made in the Lok Sabha that it ought to be cooked food. It is just to protect

our young children from the big business houses and multinational companies. A basic change we have done.”

6. Similarly, Rule 9 of the Supplementary Nutrition (under the Integrated Child Development Services Scheme) Rules, 2017 under the National Food Security Act, 2013 specifically provides for the provision of services by self help groups in the following fashion:

“Rule 9: Responsibility to monitor and review arrangement for supplementary nutrition.- The respective State Governments and Union territory Administration, and the Monitoring and Review Committees at the National, State, District, Block and Anganwadi levels, constituted by the Central Government in the Ministry of Women and Child Development from time to time, shall be responsible to monitor and review the status of arrangement for Supplementary Nutrition, convergence with the line Departments to ensure water and sanitation facilities, ensure regular functioning of Anganwadi Centres, ensure regular supply of Supplementary Nutrition at Anganwadi Centres without disruptions and use of iodized or iron fortified iodized salts, ensure

monitoring and supervision visits by officials at different levels as per norms, method of delivery of supplementary food at Anganwadi Centres, engagement of Self Help Groups, ensure supply and quality of Supplementary Nutrition through them and all other issues relating to the above, as per their roles defined in the guidelines issued by the Central Government in the Ministry of Women and Child Development from time to time:

Provided that till the engagement of Self Help Groups, the supply of Supplementary Nutrition shall be ensured from such other sources or approved agencies in terms of the existing rules and regulations notified by the Central Government and the State Governments."

7. In view of the above directions of the Supreme Court and provisions under the National Food Security Act, the decision of the State Government to decentralise supply of meals to SHGs was a positive step. The intervenor in the intervention application has also demonstrated several financial irregularities as per CAG reports in functioning of MP Agro and its Joint Ventures where supply of children's meals was captured by big businessmen and industrialists, against the

letter and spirit of the National Food Security Act and Hon'ble
Supreme Court directions stated above.