

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.15 of 2017

Alka w/o Dilip Kambale	.. Petitioner
Versus	
The State of Maharashtra	.. Respondents

WITH

PUBLIC INTEREST LITIGATION NO.30 of 2010
WITH
PUBLIC INTEREST LITIGATION NO.184 of 2010

Shramik Mukti Sanghathna	.. Petitioner
Versus	
The Tahsildar and others	.. Respondents

WITH
CIVIL APPLICATION NO.25 of 2015
IN
PUBLIC INTEREST LITIGATION NO.30 OF 2010

The Tahsildar, Murbad & ors	.. Applicants
Versus	
Shramik Mukti Sanghathna & Anr	.. Respondents

WITH

PUBLIC INTEREST LITIGATION NO.40 of 2010

Sadashiv Lokhande	.. Petitioner
Versus	
The Director, Directorate Food and Civil Supplies and ors	.. Respondents

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WITH

PUBLIC INTEREST LITIGATION NO.50 of 2012

Jagrut Kashtakari Sanghatna & ors	.. Petitioners
Versus	
The Tahsildar and others	.. Respondents

WITH

PUBLIC INTEREST LITIGATION NO.111 of 2013

Mrs.Maneesha Rote	.. Petitioner
Versus	
Union of India, through Principal Secretary, Ministry of Rural Development..	Respondent

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Mr.V.S. Kapse, Amicus in PIL 15/2017.
Mr.P.P. Kakade, G.P with Nisha Mehra, AGP for the State in all matters.
Mr.Mandar Limaye for Respondent No.2 in PIL 40/2010.
Ms.Kranti L.C. for the petitioners in PIL 30/2010, 184/2010 and 50/2012.
Mr.Parag Vyas for UOI in PIL 184/2010, 30/2010 and 111/20113.
Mr.Nitin Gangal for Respondent No.5 in PIL 184/2010.
Mr.Vinod Mahadik for Respondent No.2 in PIL 40/2010.

WITH

ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.85 of 2014

Movement for Peace and Justice	.. Petitioner
Versus	
State of Maharashtra & Anr	.. Respondents

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Ms.Kranti L.C I/b Gayatri Singh for the petitioner.
Ms.Jyoti Chavan, AGP for the State.

**CORAM: PRADEEP NANDRAJOG, C.J.
AND BHARATI DANGRE, J.**

DATED : 16th SEPTEMBER, 2019

P.C:-

1 The grievance in the various Public Interest Litigations relate to the non-implementation of the provisions of the National Food Security Act, 2013, the object whereof was to provide for food and nutritional security in human life cycle by ensuring access to adequate quantity of quality food at affordable prices to people so that they can live a life of dignity and for matters connected therewith or incidental thereto. A brief penned profile picture of the Act shows that the State Government has to carry out the necessary survey and identify households which would be the beneficiary of the Targeted Public Distribution System. Expectant mothers, lactating mothers need to be identified, in the rural areas in particular, through co-operation with local anganwadi workers so that under the Integrated Women and Child Schemes of the Government, nutrition can be provided to these ladies. With the help of anganwadi workers, children upto the age of 14 years are to be

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screened and those who are found to be suffering from malnutrition have to be identified so that nutritional meals could be supplied to said children. For the aged and the infirm, free meals through local anganwadis have to be provided for.

2 This would require guidelines to be framed to identify the proposed beneficiaries. Internal Grievance Redressal Mechanisms have to be provided for by appointing Nodal Officers. Further, audit of what has been implemented needs to be carried out to ensure that the Targeted Beneficiaries are receiving necessary aid. The Act has penal provisions if public servants or authorities are found guilty of acts of commission or omission.

3 The Scheme of the Act shows that State Food Commission would be at the top of the pyramid and said body has to ensure that the internal Grievance Redressal Mechanism requiring District Grievance Redressal Officer be put into place. Section 16 of the Act is the heart and soul of the Act. It requires the State Government to, by notification, constitute a State Food Commission for purpose of monitoring and reviewing the implementation of the Act. As per sub-section (2) of Section 16, the State Commission has to consist of a Chairperson plus five members plus a Member Secretary. Two out of the five nominated persons have to be women and one each from

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members of a Scheduled Tribe or a Scheduled Caste if neither Chairperson nor Member Secretary is a woman, member of the Scheduled caste or a Scheduled Tribe. Meaning thereby, the Commission would comprise 7 members with one Member Secretary and out of those 7, at least 2 have to be women and one each from a Scheduled Tribe or a Scheduled Caste. The Member Secretary has to be an Officer of the State Government not below the rank of Joint Secretary to the Government and in our opinion, the best person would be the Joint Secretary in the Ministry of Food Civil Supplies and Consumer Protection.

4 As per sub-section (3), the Chairperson and Members have to be appointed from amongst the class of persons enumerated in paras (a) to (c) of sub-section (3). The term of office of the Chairperson and every Member is upto five years. Sub-section (6) lists the functions of the State Commission and needless to state requires the State Commission to monitor and evaluate the implementation of the Act in relation to the State, give advice to the State Government on effective Implementation of the Act, hear Appeals against orders passed by the District Grievance Redressal Officer.

5 With regret, we note that for the last over six years, the State Government has take no steps to constitute the State Food Commission in the State of Maharashtra.

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6 The kind of issues which need to be addressed could be culled out with reference to the pleadings in PIL No.15/2017 as an illustrative example.

7 The petition highlights the unfortunate death of a widow mother, aged 36 years, having two children, one of whom was visually disabled. The unfortunate lady died due to starvation as pleaded in the petition. The petition highlights that no proper survey was done to identify the beneficiaries under the Targeted Public Distribution System. The petition highlights lack of proper guidelines based whereon the Targeted Beneficiaries would find their names in the computer system. The petition highlights that the State Government was just entering the names of the existing Ration Card holders in the computer systems to identify ghost beneficiaries. The grievance is that the State Government was not taking steps to carry out proper surveys by visiting the household to identify malnourished mothers and children.

8 Now, if the State Food Commission had been constituted we could have directed the State Food Commission to look at the grievances raised in the Public Interest Litigations and ensure through the District Grievance Redressal Officers compliance with the provisions of National Food Security Act,

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2013.

9 Suffice it to record that exercising jurisdiction under Article 226 of the Constitution of India, seized with Public Interest Litigations, the Court has not to take over the task of implementing the provisions of statutes for this would be impossible for a Court to handle. The duty of the Court is to pass suitable directions ensuring that the authorities contemplated by the Statute are constituted and are functioning and discharge their statutory obligations.

10 On 24th July 2019, while deferring in the PIL, we had directed the State Government by way of last opportunity to constitute the State Food Commission as contemplated by Section 16 of the National Food Security Act, 2013 with a warning. The warning was that if the State Government fails to do so, the Court would be constrained to constitute the State Food Commission and for which we had expected the learned Amicus to suggest suitable names of persons eligible keeping in view sub-section (3) of Section 16 of the Act.

11 Now, the task of identifying members of All India Services and other Civil Services under the Union or the State having knowledge and experience in matters relating to Food Security or eminent persons in public life with wide knowledge

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and experience in agriculture, law, human rights, management, nutrition, health and food with proven record of work relating to the improvement of the food and nutrition would require a search committee to be constituted. Thus, even learned amicus are handicapped.

12 Time has therefore, come for us to terminate proceedings in the Public Interest Litigations with a mandamus issued to the Principal Secretary, Ministry of Food Civil Supplies and Consumer Protection to constitute the State Food Commission in the State of Maharashtra by notifying each name of the Chairperson, five members and a Member Secretary of the Maharashtra State Food Commission within four weeks from today.

13 The Principal Secretary shall ensure that the necessary proposal is prepared by him and place before the State Government for approval and notification.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

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