

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRAORDINARY CIVIL ORIGINAL JURISDICTION)

C.M. No ____ of 2020

IN

Writ Petition (Civil) No. 2161 of 2017

IN THE MATTER OF:

Delhi Rozi-Roti Adhikar Abhiyan

Through one of its members

...Applicants

AND IN THE MATTER OF:

Delhi Rozi-Roti Adhikar Abhiyan

...Petitioners

Versus

Union of India & Anr.

...Respondents

**APPLICATION FOR DIRECTIONS UNDER SECTION 151 OF THE CODE
OF CIVIL PROCEDURE**

To

The Hon'ble Chief Justice of the Hon'ble High Court of Delhi

And His other Companion Justices of the Hon'ble High Court of Delhi

The Humble Application of the Applicants above-named:

MOST RESPECTFULLY SHOWETH:

1. It is submitted that the Applicant herein is the Petitioner in the Captioned Writ Petition and as such competent to file this Application.
2. The Captioned Writ Petition, in the nature of Public Interest Litigation, has been filed for, inter alia, quashing the notification dated 08.02.2017 issued by the Respondent No.1 Union of India

effectively making the production of proof of possession of or proof of enrolment to Aadhaar mandatory for accessing subsidized foodgrains under the National Food Security Act, 2013 (NFSA) as being ultra vires the Constitution and the said NFSA. During the proceedings, the Hon'ble Court was also apprised of the state of implementation of the provisions of NFSA in terms of the Delhi government not having promulgated rules for the implementation of the Act, the constitution of the State Food Commission, and provisions of grievance redressal and accountability mechanisms as provided under the Act etc.

3. The present Application is necessitated following information received by the Petitioners about widespread violations in the implementation of the NFSA including ration shops being shut during working hours, denial of access to food grain and other key resources and lack of implementation of necessary grievance redressal and accountability mechanisms leading to detrimental impact on the right to life under Article 21 of a larger number of people and their sustenance and survival during the period of the distress caused by the ongoing lockdown in the city to contain the spread of COVID-19 pandemic caused by the SARS-Cov-2 viruses.
4. The present Application prays that appropriate directions be issued by this Hon'ble Court to the Respondent No.2 in the captioned Writ Petition i.e. the Government of NCT Delhi to ensure that such denial of access to food grain and other key resources are immediately redressed during the time of this crisis and that the Government of NCT Delhi is able to take all possible steps to alleviate the suffering

among the poor during the lockdown. The lockdown has led to large scale and sudden loss of livelihood of workers in the informal sector, daily wagers, self-employed persons working as plumbers, carpenters, rickshaw pullers, street hawkers etc. and has plunged lakhs of people into food insecurity and hunger. The various food programs under the NFSA are the only life-line for large number of persons and families in Delhi and therefore, it is crucial that these work properly to ensure that every person is able to access the fundamental right to food.

5. It is submitted that this Hon'ble Court vide its Order dt. 01.09.2017 noted with appallment that the Respondent No.2 government had not implemented several provisions of the NFSA, especially those relating to grievance redressal and accountability, despite four years having passed from the date of coming into force of the Act. The Hon'ble Court, in that Order had directed the Respondent No.2 to implement the provisions of the NFSA at the earliest.
6. Further, after several opportunities, this Hon'ble Court took notice of the continued default of the Respondent No.2 from compliance with the Order dt. 01.09.2017 and has also been pleased to issue notice to the Respondent No.2 in CONT.CAS(C) 138/2019 for failing to comply with its order dt. 01.09.2017. A true copy of the order dt. 01.09.2017 is annexed herewith and marked as **ANNEXURE-A-1**.
7. The persistent default in compliance with the orders of this Hon'ble Court, particularly the failure to set up a grievance redress system as required under the NFSA and lack of transparency in the functioning of the Public Distribution System has caused grave injury and denial

of rights to a vast number of people. The need for such an effective redressal system and public disclosure of necessary records is also most acutely felt during the present time of the lockdown, with the loss of income among large sections of the poor having in effect closed the possibility of them being able to afford buying grain in the general stores outside of the Public Distribution System or ration system.

8. The present Application also seeks a direction that the mid-day meals under the National Food Security Act, 2013 be continued to be provided to children so that their right to adequate nutrition is not affected during the present crisis times. Vide order dated March 18, 2020 the Hon'ble Supreme Court took suo moto cognizance of the matter of provision of mid-day meals and directed that all the States should come out with a uniform policy so as to ensure, that while preventing spread of COVID-19, the schemes for providing nutritional food to the children and nursing and lactating mothers are not adversely affected (Suo Motu Writ Petition (C) No(s).2/2020 In Re : Regarding Closure Of Mid-Day Meal Scheme). A true copy of the order dt. 18.03.2020 passed by the Hon'ble Supreme Court is annexed herewith and marked as **ANNEXURE-A-2**. It is prayed for herein that this Hon'ble Court direct Respondent No.2 to strictly adhere to the orders of the Hon'ble Supreme Court in letter and in spirit. The Ministry of Human Resource Development vide a letter dated 20.03.2020 through the Joint Secretary (EE.I), advised states to provide hot cooked mid day meals or Food Security Allowance, whichever is feasible till such times the schools are closed due to

COVID19 virus. A true copy of the letter dt. 20.03.2020 is annexed herewith and marked as **ANNEXURE-A-3**.

9. The Petitioners have been constrained to approach this Hon'ble Court vide the present Application after a series of correspondences to the Chief Minister's Office (Respondent No.2) have received no response on the various issues raised other than a formal acknowledgment of the communications.
10. Vide letter dt. 25.03.2020, the Petitioner organisation wrote to the Chief Minister suggesting emergency measures such as: ensuring adequate cooked food is served in anganwadis; inclusion of cooking oil, pulses and soaps in the list of items provided under the PDS (with soaps being an acute necessity for sanitation purposes in the times of COVID); universalising distribution under PDS irrespective of requirement of having to produce ration cards; continuing the Mid-day meal scheme; continuing nutrition schemes for children upto the age of 5 and for pregnant and lactating women; ensuring safety and free movement of front line workers and volunteers; and putting in place appropriate measures for transparency and grievance redress including setting up an SOS helpline. A true copy of the said letter dt. 25.03.2020 is annexed herewith and marked as **ANNEXURE-A-4**.
11. The Petitioner organisation undertook informal field surveys between March 29 and 31, 2020, to assess the functioning of ration shops in Delhi. It was found that: many Fair Price Shops (FPSs) were closed during working hours on the pretext that the stock of ration had finished. However, no information about the stock position at the shops in terms of the stock received, who all had availed of their

rations, and the remaining stock were publicly available, thereby preventing any verification of the actual stock position. A true copy of the reports dt. 31.03.2020 and 01.04.2020 are annexed herewith and marked as **ANNEXURE-A-5** and **ANNEXURE-A-6** respectively.

12. The Petitioners vide letter dt. 02.04.2020 apprised the Chief Minister of the acute need to universalise the distribution of items under the PDS in these crisis times. A true copy of the said letter is annexed herewith and marked as **ANNEXURE-A-7**.

13. The Petitioners vide its report published on 04.04.2020 of the findings of its field survey that took place between 01.04.2020 and 03.04.2020 found that some of the deficiencies found continued to exist. A true copy of the report dt. 04.04.2020 is annexed herewith and marked as **ANNEXURE-A-8**.

14. The Petitioners vide letter dt. 04.04.2020 apprised the Chief Minister of *inter alia* the acute need to set up information dissemination and transparency mechanisms and a robust grievance redress mechanism as envisaged under the NFSA. The letter notes: *"Increasingly, we are finding that many ration shops are shut across the city on the pretext that they do not have any stocks of ration. In the absence of proper information on availability of stock and details of cardholders who have accessed their entitlements, it is impossible to verify such claims. This results in hardships to people who are unable to access their rations in this time of crisis. Also, as per the Delhi government order dated March 26, 2020, ration stock of two months i.e. April and May 2020 was to be delivered to all ration shops by March 29. It is, therefore, not clear how the stock has finished already,*

especially since the update put out by the Delhi government on April 3, 2020, mentions that ration has been distributed to only 60% of cardholders. This raises serious concerns about the possibility of diversion of grains. As reported by the media, at a ration shop in Raghurir Nagar where the shopkeeper had displayed a sign stating that there was no ration stock, it was found that foodgrains had been misappropriated and 21 bags of rice meant for the Public Distribution System were diverted to a general shop. ” A true copy of the said letter is annexed herewith and marked as ANNEXURE-A-9.

15. The Petitioners vide letter dt. 06.04.2020 apprised the Minister of Food and Civil Supplies, Government of National Capital Territory of Delhi of the details of shops which were found shut during working hours as per the field survey carried out by the petitioner organization and shared a copy of the 3 field surveys undertaken and a copy of the letter sent to the Chief Minister dated April 4, 2020 regarding the urgent need for ensuring transparency and accountability in distribution of rations. A true copy of the said letter is annexed herewith and marked as ANNEXURE-A-10.

16. The Petitioners vide letter dt. 07.04.2020 apprised the Chief Minister of *inter alia* the acute and urgent need to simplify and rationalise system for delivery of foodgrains to people who don't have ration cards and not build complex unusable systems as is sought to be done with the e-coupons method. The letter notes that the system requires those without ration cards to apply for an e-coupon using a website for accessing rations which means they need to have the ability to access the internet, have a mobile phone to generate an OTP,

upload a photo of their aadhaar card and a photo of their family, and finally, download the e-coupon. The letter notes that in the current emergency situation, an elaborate system which people would find difficult even during ordinary times, will make rations inaccessible to the poorest and most marginalized who need it the most. In addition, it is pertinent to state that the designated website (<https://ration.jantasamvad.org/ration/>) where such applications are to be made was inaccessible for several days since April 6, 2020.”

A true copy of the said letter is annexed herewith and marked as

ANNEXURE-A-11.

17. The Petitioners vide its report published on 10.04.2020 of the findings of its field survey that took place between 04.04.2020 and 08.04.2020 found that some of the deficiencies found continued to exist. A true copy of the report dt. 10.04.2020 is annexed herewith and marked as **ANNEXURE-A-12.**

18. The Petitioners vide letter dt. 16.04.2020 apprised the Chief Minister of *inter alia* the concern regarding inordinate delay in distribution of additional rations under the PDS and reiterated the need to ensure public disclosure of records regarding distribution of grain to prevent diversion at this critical time. A true copy of the said letter is annexed herewith and marked as **ANNEXURE-A-13.**

19. All the averments and findings in the said communications may be read as part and parcel of this Application and as having been averred herein. The representation/s made by the Petitioner organisation to the Hon’ble Chief Minister and Minister of Food and Civil Supplies vide the communications herein above had several requests and

suggested measures. Only some of them are pressed herein as reliefs claimed. The Petitioner organisation craves liberty to institute appropriate proceedings or prefer appropriate application in the captioned Writ Petition for appropriate directions as to the rest of the measures suggested therein, which the Petitioners believe are still being considered by the Respondent No.2 government. Such measures include universalization of PDS entitlement for the duration of the COVID crisis and immediate disbursal of maternity benefits.

20. This Application is *bona-fide* and the Petitioner has not approached any other forum for similar relief. It is imperative that appropriate directions are passed by this Hon'ble Court urgently to ensure the realization of the right to food of a large number of people who are dependent on the Public Distribution System.

PRAYER

21. In view of the above facts and in the circumstances of the case, this Hon'ble Court may be pleased to issue:

- a) A direction to the Respondent No.2 in the Captioned Writ Petition to set up and operationalise the accountability and Grievance Redress System (including a State Food Commission, social audits) as envisaged under Sections 14, 15,16 and 28 of the National Food Security Act, 2013 in order to ensure that no one goes hungry for want of food and its denial on any technical ground.
- b) A direction to the Respondent No. 2 in the Captioned Writ Petition that the following information be provided proactively in the

public domain on the website of the food department to ensure transparency and accountability in the functioning of the PDS :

- i. The list of all ration shops in Delhi, with their phone number, address and GPS location;
- ii. Ration shop-wise list of all ration card holders– along with their phone numbers and addresses;
- iii. Shop-wise details of stock position in real time, or updated at the end of each day;
- iv. Shop-wise record of sale of rations updated at the end of each day - if the records are in physical form, they can be scanned and uploaded (the Delhi government order dated March 26, 2020 directed all ration shops to ensure that proper records are maintained for sale and distribution of ration);

c) A direction to the Respondent No.2 in the Captioned Writ Petition that the following information, in addition to the food department website, must be disseminated widely in local languages through boards at ration shops, display of posters and public announcements in low income settlements, about:

- i. Quantity of free ration to be made available to different categories of cardholders each month;
- ii. Timing of functioning of ration shops;
- iii. Stock of ration available at FPS (on board outside the FPS);
- iv. Phone number of FPS and helpline number to register complaints (on board outside each FPS);

- v. Sample of ration supplied to be displayed at each FPS, as required under existing NFSA rules.
- d) A direction to Respondent No.2 in the captioned Writ Petition to continue providing mid-day meals (either in the form of cooked meals or equivalent quantities of dry rations or food allowance in lieu of cooked meals) in all government schools.;
- e) A direction to Respondent No.2 to file a status report on the compliance of the above directions within one week;
- f) And Pass any other or further order/s or direction/s as this Hon'ble Court may deem fit in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS, THIS HUMBLE APPLICANT AS
IN DUTY BOUND, SHALL FOREVER PRAY

FILED BY: -

APAR GUPTA

PRASANNA S

ADVOCATES FOR THE PETITIONER

B-22 (Basement), Defence Colony,

New Delhi – 110024

Mobile – 87503 50762

Filed on:- 20.04.2020

Place: - New Delhi

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1. That the Deponent is a member of the organization who is the Petitioner in the captioned writ petition and the Applicant in the accompanying Application and as such aware of the facts and circumstances of the case and is as such competent to swear this Affidavit.
2. That the accompanying Application has been drawn up on behalf of the Applicants under the instructions of the Deponent.
3. That the Deponent has perused the contents of the Application running from Paras 1 through 20 and the same are true to the best of the knowledge and belief of this Deponent and nothing material has been concealed therefrom.

4. That all the documents annexed as annexures numbered as **ANNEXURE-A-1** and **ANNEXURE-A-13** are true copies of their respective originals.

DEPONENT

Verification:

Verified at New Delhi on this the twentieth day of April, 2020 that the contents of para 1 through para 4 of the above affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom. L A W

DEPONENT