

ITEM NO.4 (PH)

COURT NO.5

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s) .857/2015

SWARAJ ABHIYAN

Petitioner(s)

VERSUS

UNION OF INDIA

Respondent(s)

(WITH APPLN. (S) FOR exemption from filing O.T. and interim directions and Office Report)

Date : 22/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. Prashant Bhushan, AOR
Mr. Rohit Kr. Singh, Adv.
Mr. Omanakuttan K.K., Adv.
Mr. T. Sudhakar, Adv.

For Respondent(s)

UOI

Ms. V. Mohana, Sr. Adv.
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Mr. Mukul Singh, Adv.
Mr. Ajay Sharma, Adv.
Mr. Raj Bahadur, Adv.
Mr. R.R. Rajesh, Adv.
Mr. Ajay Singh, Adv.
Mr. G.S. Makker, Adv.
Mr. Mukesh Kumar Maroria, AOR
Ms. Diksha Rai, Adv.

Mr. Neeraj Kumar Sharma, AOR

A.P.

Mr. Guntur Prabhakar, AOR
Ms. Prerna Singh, Adv.

Bihar

Mr. Gopal Singh, AOR
Mr. Manish Kumar, Adv.

Chattisgarh

Mr. C.D. Singh, AAG
Mr. Aniruddha P. Mayee, AOR
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Rajasthan	Mr. S.S. Shamsheery, AAG Mr. Amit Sharma, Adv. Ms. Ruchi Kohli, Adv.
Telangana	Mr. S. Udaya Kumar Sagar, AOR Mr. Mrityunjai Singh, Adv.
U.P.	Mr. Irshad Ahmad, AAG Mr. Vinay Garg, AOR Mr. Deepam Garg, Adv. Mr. Upendra Mishra, Adv.
Uttarakhand	Mr. Rajiv Nanda, Adv. Mr. Varinder Kumar Sharma, AOR Ms. Supriya Juneja, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the petitioner and yesterday we had briefly heard learned Attorney General as well.

National Food Security Act

It is a matter of regret that the provisions of the National Food Security Act, 2013 (for short "the Act"), which is law enacted by Parliament, are not being faithfully and sincerely implemented by the State Governments before us. It is a matter of concern that a Parliamentary legislation is not being given the importance that it deserves, particularly in a case which involves Article 21 of the Constitution and the right to food of millions of people.

On our asking, we have been told by learned counsel for the States mentioned below, that the State Food Commission under Section 16 of the Act has not yet been appointed as per the provisions of the Act. On an earlier occasion, we were informed that many State Governments have actually appointed State Consumer Disputes Redressal Forum as the State Food Commission under Section 16 of the Act. This is not in conformity with the provisions of the Act since the members of the State Consumer Disputes Redressal Commission do not necessarily have the qualifications required of the

members of the State Food Commission. That apart, it is somewhat odd that a body which performs judicial or quasi-judicial functions, such as the State Consumer Disputes Redressal Commission should be asked to perform administrative and quasi-judicial functions as a State Food Commission under the Act.

In our order dated 24th October, 2016, we had generally expressed that the appointment of the State Consumer Disputes Redressal Commission as the State Food Commission is most unsatisfactory and is hardly in consonance with the provisions of the Act, particularly the letter and spirit of the Act. This observation was made by us after we had heard learned Attorney General, learned Additional Solicitor General and learned counsel for all the States.

We had also pointed out to the learned Attorney General that the States do not seem to be fully on board with regard to the implementation of the statute and that this was an extremely unfortunate situation.

We had also suggested that to get over this unfortunate situation it would be appropriate if the Central Government may consider framing Model Rules under Sections 15 and 16 of the Act so that the law enacted by the Parliament is given some teeth and Parliament is given the respect it is entitled to.

We have now been informed that many of the State Governments have framed Rules and the Central Government

has also prepared Model Rules and circulated them to the State Governments. Notwithstanding this, even though considerable time has elapsed, as noted above, it is unfortunate that the State Food Commission has not been constituted in the following States:

(i) Madhya Pradesh, (ii) Karnataka, (iii) Andhra Pradesh, (iv) Telangana, (v) Maharashtra, (vi) Gujarat, (vii) Jharkhand, (viii) Bihar, (ix) Haryana and (x) Chhattisgarh.

We may mention that it is stated by learned counsel for the State of Haryana that the State Food Commission has been constituted. However, we have been informed that the Commission has not been given any infrastructure, office space or budget and the members of the Commission were apparently requested not to perform any function with the result that they were compelled to approach the Punjab and Haryana High Court. We fail to understand how this is compliance of the Act.

In view of the above circumstances and since Parliamentary legislation is applicable to everybody, we are compelled and constrained to require the presence of the Chief Secretaries of the States above mentioned in Court on 26th April, 2017 to inform us whether the legislation passed by Parliament is intended to be implemented or not.

We would also require the concerned Chief Secretaries to ensure the appointment of the State Food Commission in accordance with the provisions of the Act if the Act is to be implemented and also to give us full details of the appointment of independent District Grievance Redressal Officers (DGROs) under Section 15 of the Act that is independent of the persons against whom complaints are made and persons who are not subordinate to the officers against whom complaints can be made.

We would also like the concerned Chief Secretaries to inform us whether any social audit has been conducted under the provisions of Section 28 of the Act and whether the implementation of the mid-day meal is being carried out in terms of the orders passed by this Court from time to time.

The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (for short "the MGNREGA")

During the course of submissions yesterday, learned Attorney General stated that he would like to file a detailed affidavit giving the status report of the implementation of the MGNREGA. Learned Attorney General stated that he would file a detailed affidavit within a period of four weeks. The time as prayed for is granted.

We would like the learned Attorney General to focus, amongst other things, on the delay in payment of wages to the beneficiaries as well as the delay in payment of interest and compensation to them; reduction in

person-days from those projected by the State Governments; the constitution and functioning of the Central Employment Guarantee Council as well as the State Employment Guarantee Council under Sections 10 and 12 of the MGNREGA and also whether any social audit has been conducted under the provisions of the MGNREGA read with the Mahatma Gandhi National Rural Employment Guarantee Audit of Schemes Rules, 2011 as well as the report of the task force constituted subsequent to the report given by the Comptroller and Auditor General.

We would also like to know from the Chief Secretaries of the States mentioned above whether the Social Audit Unit has been constituted in terms of the Mahatma Gandhi National Rural Employment Guarantee Audit of Schemes Rules, 2011. In case such a Unit has been set up, whether a social audit has been conducted in any of the above States, whether any action has been taken thereon and whether the report has been placed before the State Legislature.

We expect the concerned Chief Secretaries to file an affidavit at least one week in advance of the next date of hearing with a copy to learned counsel for the petitioner who will then compile the information after the affidavits are received.

On the oral request of learned counsel for the petitioner, we implead the Reserve Bank of India, through the Deputy Governor, to inform and advise us on the

procedure that is followed in respect of loan waiver or restructuring and rescheduling of loans in case of crop failure and the steps that are taken for the benefit of the affected farmers.

List the matter on 26th April, 2017.

(SANJAY KUMAR-I)
AR-CUM-PS

(SHARDA KAPOOR)
COURT MASTER