

PEOPLE'S UNION FOR CIVIL LIBERTIES

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v.

UNION OF INDIA AND ORS.

JULY 9, 2007

[DR. ARIJIT PASAYAT AND S.H. KAPADIA, JJ.]

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Public Interest Litigation—Integrated Child Development Scheme—In terms of the directions by Supreme Court, 14 lakhs Anganwadi Centres to be sanctioned and operationalized in a phased and even manner by December, 2008—Only 10.53 lakhs sanctioned as on March, 2007 and sanctioned centres not made operational to a large extent—Thus, issuance of directions to States to make sanctioned centres operational and functional and to file affidavits regarding the action taken.

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This Court by order dated 13.12.2006 directed the Government of India to sanction and operationalize minimum of 14 lakh Anganwadi centres in a phased and even manner starting forthwith and ending December 2008. However, the number of centres sanctioned as on March, 2007 was 10.53 lakhs and about 3.47 lakhs centres were to be sanctioned; and even the sanctioned centres did not become operational in some of the States to a large extent. Hence the present matters.

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Adjourning the matters and giving directions, the Court

HELD: In the circumstances, it is directed that the backlog has to be cleared immediately and the centres which have been sanctioned upto September 2006 shall be made operational and functional by 15.07.2007 in case of all States except State of U.P. where last date is fixed to be 31.07.2007. Those centres which have been sanctioned upto January, 2007 shall be made functional by 30.9.2007. Non observance of the time period fixed would be seriously viewed. The States are directed to file affidavits by 20.07.2007, 10.08.2007 and 10.10.2007 in respect of the date lines fixed indicating the action taken. [Paras 8 and 9] [163-F-H]

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CIVIL ORIGINAL JURISDICTION : I.A. Nos. 34, 35, 40, 49, 58, 59, 60, 61 & 62

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IN

Writ Petition (Civil) No. 196 of 2001.

Jyoti Mendiratta, V.K. Verma, Sushina Suri, S. Wasim A. Qadri, D.S. Mahra, Kamlendra Mishra, Pradeep Misra, Ravindra K. Adsure, T.V. George, Anil Shrivastav, Hemantika, Wahi, U. Hazarika, Sumita Hazarika, Ajay Pal, A. Subhashini, Tara Chandra Sharma, Gopal Singh, Ng. J.R. Luwang, Riku Sharma, Corporate Law Group, J.S. Attri, A. Mariaputham, Aruna Mathur, Arputham Aruna & Co. K.N. Madhusoodhanan, R. Sathish, T.V. George, S. Balaji, Suparna Srivastava, Rajesh Srivastava, KH Nobin Singh, Ranjan Mukherjee, V.G. Pragasam, S. Vallinayagam, S. Prabhu Ramasubramanian, Sibo Shankar Mishra, G. Prakash, Beena Prakash, Rachna Srivastava, Aruneshwar Gupta, Vikas Upadhyay, B.S. Banthia, Sunita Sharma, Kamini Jaiswal, Gopal Prasad, D. Bharthi Reddy, Aparna Bhardwaj, Rajesh Srivastava, Jana Kalyan Das, Anis Suhrawardy, B.B. Singh, Indra Sawhney, R.K. Maheshwari, Prashant Kumar, S.V. Dehspande, K.V. Mohan, Mukesh K. Giri, Ramesh Babu, M.R. Prakash Shrivastava, Sanjay R. Hedge and Viswajit Singh for the Appearing parties.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Grievance of the writ petitioner in these I.As. is that a number of Anganwadi centres which are required to be sanctioned by December 2008 is 14 lakhs. But the number of centres sanctioned as on March, 2007 is 10.53 lakhs. Therefore, about 3.47 lakhs centres need to be sanctioned. As per the data available, the numbers of Anganwadi centres which are operational as on 30.9.2006 is 7.81 lakhs. Therefore, even the sanctioned centres have not become operational and their number is 2.72 lakhs. The details of some of the States where sanctioned Anganwadi centres have not been operationalized to a large extent are as follows:

State	No. of sanctioned Anganwadi*	No. of sanctioned Anganwadi centres Not operationalised*	
		As per UOI	As per State Govt. Affidavits
Bihar	80528	22761	19602
Jharkhand	32097	10638	7680
Madhya Pradesh	69238	19432	16165
Punjab	20169	5439	5439
Haryana	17192	1225	1225
West Bengal	92152	37088	37092
Uttar Pradesh	150727	33987	22087
Manipur	7639	3138	3138
Assam	37082	11635	11666

* This includes the ICDS centres sanctioned in December 2006 under Phase II expansion. None of these centres have obviously been operationalised.

From the affidavit of the Union of India it appears that the position is as follows:

2. By 31.3.2005 - 7,64,709, by 30.9.2006 - 9,46,000 (approx.) and by December 2006- 1.02 lakhs centres have been sanctioned with a total of about 10,48,000.

3. By order dated 13.12.2006 it was *inter-alia* directed as follows:

"(1) Government of India shall sanction and operationalize a minimum of 14 lakh AWCs in a phased and even manner starting forthwith and ending December 2008. In doing so, the Central Government shall identify SC and ST hamlets/habitations for AWCs on a priority basis.

(2) Government of India shall ensure that population norms for opening of AWCs must not be revised upward under any circumstances. While maintaining the upper limit of one AWC per 1000 population, the minimum limit for opening of a new AWC is a population of 300 may be kept in view. Further, rural communities and slum dwellers

A should be entitled to an Anganwadi on demand” (not later than three months) from the date of demand in cases where a settlement has at least 40 children under six but no Anganwadi.”

4. It is a matter of concern that even the sanctioned centres (the number of which is much less than the targeted one) have not been made operational.

B 5. Learned counsel appearing for different States have indicated various reasons for the same. Prima facie we are not satisfied with the reasons indicated. The need for having functional Anganwadi centres have never been questioned and cannot be questioned.

C 6. The importance of Anganwadi centres has been highlighted by this Court in several orders. By order dated 7.10.2004 it was noted as follows:

D “.....Now we would deal with the aspect of sanctioned AWCs and their working. In the Order dated 29.4.2004 it was directed that the sanctioned AWCs shall be made fully operational by 30th June, 2004. Further direction issued was that the sanctioned AWCs shall supply nutritious food/supplement to the children, adolescent girls and to pregnant and lactating women under the scheme for 300 days in a year. The Report presents a glooming picture both in regard to the operation of the sanctioned AWCs in some of the States like Uttar Pradesh, Bihar and Jharkhand and the position in those which are operational. Instances have been given in the Report where for months the supplies were not made to the children. For example, in the State of Jharkhand, the sanctioned AWCs were not working from May to December, 2003. No satisfactory reply is forthcoming from that State. Further, there are material discrepancies in two affidavits filed by the said State one in September and the one handed over in the Court today. In the September affidavit, it was deposed on oath that 16689 AWCs were operational. In the affidavit filed today, the figure of operational AWCs is stated to be 7429. According to the Report, on an average, 42 paise as against the norm of rupee one was being allocated per beneficiary per day by the State of Jharkhand. The position in Bihar and Uttar Pradesh is also no better. Out of 394 sanctioned ICDS projects, only 249 were operational in the State of Bihar. As per the affidavit dated 30 September, 2004, all the projects were being made operational from 4 October, 2004. Whether that has happened or not, Mr. B.B. Singh learned counsel appearing for the State is unable to state for want of instructions. Be that as it may, if all have not been made operational

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since 4th October, 2004 has already passed and gone we direct that the same shall be made operational in period not later than one week from today. A

In the State of Uttar Pradesh, though percentage of non- functional/ non-operational AWCs is more as per the Report but according to the State, admittedly 24 per cent are not operational. In the affidavit, it has been claimed that the remaining will be operational by 30th November, 2004. We direct the State Government to make operational all sanctioned AWCs by 30th November, 2004. After that, we would not entertain any application for extension of time. B

The Report also mentions that some of AWCs are operating from private houses including those of grain dealers which it is suggested is not a healthy way of working as it is likely to increase the chances of pilferage of the grain etc. We are happy to note that as stated in the affidavit of State of Uttar Pradesh, it has made efforts to shift AWCs to primary schools. It is a good example for other States to follow. The Report also mentions about the attempt to centralise the procurements in some of the States which has many fallouts. It has been explained in one of the affidavits that the procurements is at district level and not at the State level. Further, the problem of using contractors for procurement has also been mentioned in the Report suggesting that it should be done by agencies and officers at the Government level. These are only by way of illustrations as to facts and figures given in Section 1 of the Report relating to Integrated Child Development Services. C D E

7. Learned counsel for the State of U.P. has pointed out that because of elections there was some delay.

8. In the circumstances, we direct as follows:

The backlog has to be cleared immediately and the centres which have been sanctioned upto September 2006 shall be made operational and functional by 15th July, 2007 in the case of all States except the State of U.P. where the last date is fixed to be 31st July, 2007. Those centres which have been sanctioned upto January 2007 shall be made functional by 30.9.2007. F

9. It is made clear that if there is any non observance of the time period fixed would be seriously viewed. Affidavits shall be filed by 20th July, 10th August and 10th October, 2007 by the States in respect of the date lines fixed indicating the action taken. G

10. List this matter on 20th July, 2007.