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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W. P. (C) 7687/2010 & CM APPL 6265/2011

PREMLATA & ORS

..... Petitioner

Through: Ms. Ritu Kumar, Advocate

versus

GOVT OF NCT DELHI & ORS

..... Respondents

Through: Mr. A.S. Chandhiok, Additional Solicitor General with Mr. Abhimanyu Kumar, Mr. M.P. Singh and Mr. Manish Tandon, Advocates for UOI. Ms. Ruchi Sindhvani, Advocate for GNCTD along with Mr. G. Barapatra, Joint Commissioner, Mr. Chillar, Inspector, Food & Supplies Deptt., GNCTD and Dr. Neelam Bharti, CMO, Health Deptt., GNCTD

CORAM: JUSTICE S. MURALIDHAR

ORDER

13.05.2011

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1. This petition was heard at length yesterday, i.e. on 12th May 2011 as well as today.

2. A reply has been filed by Respondent No. 1 GNCTD to CM Application

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Court Master
High Court of Delhi
New Delhi

No. 6265 of 2011 stating that the grievances of the Petitioners have more or less been resolved. Nevertheless, learned counsel for the Petitioners has pointed out that the issues that require to be addressed.

3. It is stated by Respondent No. 5, Union of India ('UOI'), that pursuant to the orders dated 21st February 2011 and 18th April 2011 costs of Rs. 5,000/- have been paid to each of the Petitioners. Also cash assistance of Rs. 500/- per live birth has been paid to each of them under the National Maternity Benefit Scheme ('NMBS'). A copy of letter dated 21st April 2011 of the Ministry of Health & Family Welfare, RCH Division addressed to the GNCTD that "payments are to be made under JSY component of RCH programme", has been placed on record.

4. Ms. Ritu Kumar, learned counsel appearing for the Petitioners points out that this is not in compliance with the orders of the Supreme Court passed on 20th November 2007 in terms of which, according to her, the benefits under both the NMBS and the Janani Suraksha Yojana ('JSY') would be available to the Petitioners. . Mr. A.S. Chandhiok, learned Additional Solicitor General ('ASG') appearing for the UOI informs the Court that the application filed by

the UOI seeking clarification of the aforesaid order of the Supreme Court was mentioned before the Supreme Court. The learned ASG states that the Supreme Court requested that this Court should take up this issue after the Supreme Court hears the said application on 21st July 2011.

5. In view of the aforesaid statement made by the learned ASG the consideration of the issue concerning NMBS is deferred till the next date of hearing.

6. The second issue concerns the Janani Suraksha Yojana ('JSY') Scheme. In particular, it is pointed out that Petitioner No. 4 has been given cash assistance only in respect of one child. Ms. Ruchi Sindhvani, learned counsel appearing for the GNCTD states that necessary orders will be issued to enable Petitioner No. 4 to get cash assistance for the second child also. This should be done within four weeks from today.

7. The third issue concerns the prayer of Petitioner No. 5 for shifting her name to mother-in-law's card. Ms. Sindhvani states that Petitioner No. 5 was not found at the given address. It is directed that Petitioner No. 5 will present

herself before Mr. Chillar, Food & Supplies Officer ('FSO') on 23rd May 2011 at 11.00 am. Necessary steps will be taken within two weeks thereafter.

8. The next grievance is about Petitioner No. 6 not being shifted from the ration card of her father to be included in the ration card of her husband who has not yet been issued a below poverty line ('BPL') card. Ms. Sindhwani informs the Court that no fresh BPL cards are being issued by the Food & Supplies Department ('FSD') keeping in view the maximum limit of BPL cards fixed by the Government of India and the decision of the Cabinet of Government of Delhi. The Petitioners have placed on record a copy of the Samajik Suvidha Sangam Survey commissioned by the GNCTD which show that 55% of the BPL population in Delhi is "un-carded".

9. Learned counsel for the Petitioner has produced a copy of communication dated 12th April 2011 addressed to the NGO assisting the Petitioners by Dr. N.C. Saxena, the Commissioner appointed by the Supreme Court in W.P. (C) No. 196 of 2001 (*PUCL v. UOI*) in which it is clarified that "all State Governments are at a liberty to make provisions for additional BPL/AAY cards in excess of the 'caps' imposed by the Planning Commission". The said

letter refers to a large number of States that have been significantly expanded the coverage of the BPL/AAY cards "over and above the 'caps' imposed by the Planning Commission". A copy of the letter dated 12th April 2011 has been handed over to Ms. Sindhwani.

10. This Court is unable to appreciate how the Capital city of Delhi, with a growing population and constant influx of a large number of migrants can abide by a 'cap' on BPL cards. With a growing number of persons in need of BPL cards, there cannot be any 'caps' imposed by the Central Government/Planning Commission which disables the GNCTD from proceeding to issue fresh BPL cards. Denial of a ration card to a BPL person is virtually a denial of his or her right to food and thereby the right to life under Article 21 of the Constitution.

11. Mr. Chandhiok assures the Court that this issue will be sorted out by a meeting to be jointly held by the Government of India as well as the GNCTD. It is expected that such meeting will be held within four weeks from today. A copy of the decision taken at the meeting will be placed on record before the next date. The problem faced by Petitioner No. 6 as regards issuance of a

fresh BPL card would be decided after the above decision is placed on record.

12. Learned counsel for the Petitioner raised problem of quality of food grains being supplied from the Fair Price Shop ('FPS') No. 8180 at Bhim Nagar, a sample of which was handed over to Ms. Sindhwani at the hearing on 12th May 2011. Today, i.e. on 13th May 2011, Ms. Sindhwani produces before this Court reports of the two Area Inspectors who visited the shop, collected samples and found the rations to be of good quality. While this Court does not wish to enquire into this aspect in these proceedings, it certainly highlights the needs for having in place an appropriate grievance mechanism that can address all issues connected with the distribution of rations through the public distribution system.

13. Learned counsel for the Petitioners points out that there were several recommendations made by Justice Wadhwa Committee in this regard. This Court, by the order dated 2nd February 2011, had required the GNCTD to inform of the steps taken to implement the recommendations of Justice Wadhwa Committee.

14. In an affidavit dated 18th February 2011 the Additional Commissioner, FSD informed the Court that apart from Control Room (No. 23370841 and Helpline No. 1800-11-841) which operates from 8.00 am to 10.00 pm where the Inspectors of the FSD are on duty by rotation, any aggrieved person can meet the Senior Officers of the FSD. It is stated that the FSD also has a Public Grievance Branch functioning under a Joint Commissioner. In addition, there is a full-fledged Public Grievance Commission of the GNCTD. It is further stated that a vigilance committee has been notified on 16th February 2009.

15. It appears that the ration card holders themselves are not aware of the existence and functioning of these mechanisms. Ms. Sindhwani states that she will place before this Court an affidavit giving complete details of the Vigilance Committee ('VC') that has been notified by the GNCTD on 16th February 2009. This will indicate the procedure for filing complaints before the VC, the procedure followed by it in dealing with such complaints and time limit within which such complaints are disposed of by the VC.

16. A grievance is made by the learned counsel for the Petitioners that the direction issued by this Court on 2nd February 2011 that there must be a notice

board outside every FPS indicating the helpline number for lodging complaints as well as procedure for renewal of ration cards has not been complied with. Ms. Sindhwani states that an affidavit was filed by the FSD, GNCTD on 18th February 2011 stating that notice boards with the above details have been displayed outside every FPS/KOD. Learned counsel for the Petitioners states that she will place on record a sampling of photographs of the FPSs/KODs at Bhim Nagar area which would indicate the correct factual position.

17. This Court is concerned that apart from the Petitioners who have approached this Court there could be many others similarly placed in need of redress. Learned counsel for the Petitioners states that there were several persons in Bhim Nagar itself whose biometric identification had been done and cards have also been stamped but were unable to get rations. Learned counsel for the Petitioners will furnish to Ms. Sindhwani a list of such persons in the Bhim Nagar area within two weeks from today with additional copy to Mr. Chillar, Inspector, FSD. This Court will be informed by the FSD on the next date whether the grievances of such persons have been addressed.

18. Learned counsel for the Petitioners states that the Kerosene Oil Depot ('KOD') in the area is not functioning on a regular basis. Ms. Sindhvani states that she will seek instructions and address this issue on the next date of hearing. Ms. Sindhvani also states that any other grievance that the Petitioners may have, should be taken up with Mr. Chillar directly.

19. This Court would like the FSD to nominate either Mr. Chillar himself or any officer of the FSD as a Nodal Officer to address the various issues raised by the Petitioners from time to time.

20. The matter be treated as part heard.

21. List on 29th July 2011, at 2.15 pm.


22. A copy of this order be given dasti to learned counsel for the parties under signature of the Court Master.

Sd/-
S. MURALIDHAR, J

MAY 13, 2011
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