

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE**

**PUBLIC INTEREST LITIGATION NO.30 OF 2010**

Shramik Mukti Sanghathna. ...Petitioner.  
Vs.  
The Tahasildar & Ors. ...Respondents.  
....

**WITH**

**PUBLIC INTEREST LITIGATION NO.40 OF 2010**

Sadashiv Lokhande. ...Petitioner.  
Vs.  
The Director, Directorate of Food and  
Civil Supplies & Ors. ...Respondents.  
....

**WITH**

**PUBLIC INTEREST LITIGATION NO.184 OF 2010**

Shramik Mukti Sanghathna. ...Petitioner.  
Vs.  
The Tahasildar, Murbad & Ors. ...Respondents.  
....

**WITH**

**PUBLIC INTEREST LITIGATION NO.50 OF 2012**

Jagrut Kashtakari Sanghathana & Ors. ...Petitioners.  
Vs.  
The Tahasildar, Karjat, Dist. Raigad & Ors. ...Respondents.  
....

Mr. Kranti L.C. i/b. Gayatri Singh for the Petitioners.  
Mr. Nitin Deshpande, AGP for the Respondent-State.  
Mr. N.D. Sharma for Respondent No.5 in PIL 40/10.  
Mr. H.V. Mehta for Respondent No.6 in PIL 184/10  
Mr. D.A. Dube for UOI in PIL 50/12  
....

**CORAM : DR.D.Y.CHANDRACHUD AND  
S.C.GUPTE, JJ.**

**June 21, 2013.**

**P.C. :**

In **People's Union for Civil Liberties vs. Union of India**,<sup>1</sup> the Supreme Court by an order dated 2 May 2003 inter alia directed the Union Government to place in the Antyodaya Anna Yozana (AAY category), the following groups of persons :

“(1) Aged, infirm, disabled, destitute men and women, pregnant and lactating women:

- (2) widows and other single women with no regular support;

- (3) old persons (aged 60 or above) with no regular support and no assured means of subsistence;

- (4) households with a disabled adult and assured means of subsistence;

- (5) households where due to old age, lack of physical or mental fitness, social customs, need to care for a disabled, or other reasons, no adult member is available to engage in gainful employment outside the house;

- (6) primitive tribes.”

Subsequently, by an order dated 20 April 2004, the Supreme Court directed the Government of India to issue, within two months, guidelines so that the condition of possessing a BPL Card in the AAY category is dispensed with.

The State Governments, the Supreme Court ordered, should be directed by the Central Government to accelerate the issue of Antyodaya Cards in respect of primitive tribes. The State Governments were directed to implement the guidelines in letter and spirit. By a further order dated 17 November 2004, the Supreme Court noted that primitive tribal groups were found with a large presence inter alia in Maharashtra for whom the process of

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1 Writ Petition (Civil) No.196 of 2001

identification, the issuance of cards and providing supplies of foodgrains was still to be expedited. The Supreme Court directed that special attention was required to be given to such primitive tribal groups. The State Governments were directed to complete the process of identifying persons under the scheme and issue to them the red cards by the end of the year so that supply of food grains could immediately commence.

2. The Government of Maharashtra issued a G.R. on 10 December 2004 for implementing the directions of the Supreme Court and included primitive tribal groups as a priority group for the purposes of the AAY Scheme.

3. In the present PIL, the grievance relates to the non-implementation of the directions of the Supreme Court and the failure of the State Government to implement both in letter and spirit, the beneficial provisions for the primitive tribal groups primarily consisting of the Katkaris in the districts of Thane and Raigad. An affidavit was filed by the Tahsildar, Shahapur on 8 January 2013 stating that the benefits of the Antyodaya Scheme are provided by the Government to persons whose names appear in the BPL list of 1997. The affidavit states that a list of 2002 was prepared by the Block Development Officer in respect of BPL persons but, that the list awaits the approval of the Government.

4. We find it distressing that as late as January 2013, the BPL list which is being implemented is one that was formulated nearly sixteen years ago in 1997 and that even the list of 2002 (which would in any event be fairly

outdated by now) is yet to be approved. The serious consequence which ensues by the delay in formulating the BPL list is evident. Persons to whom benefits under the welfare scheme ought to have been granted upon their inclusion in the BPL status after 1997, would stand excluded only because of the administrative inefficiency of the Government in failing to update the list and in continuing to operate a list prepared sixteen years ago. We are of the view that this state of affairs cannot continue any further since the failure of the State Government to reach out to all persons below the poverty line constitutes the most serious violation of the right to life under Article 21 of the Constitution. Unless the BPL list of 2002 has already been approved by the date of this order, we are of the view that immediate steps should be taken for granting administrative approval to the 2002 list forthwith and in any event no later than within a period of four weeks from today. We also direct the State Government to apprise us by the next date of hearing as to why the preparation of the BPL list for Thane and Raigad is lagging behind by well over a decade and when the process of fresh updation will commence.

5. The next important point to note is that the Supreme Court has categorically directed in the order dated 20 April 2004 that the Union Government shall issue guidelines so that the condition of possessing a BPL Card for inclusion in the AAY category is dispensed with. Having regard to the directions of the Supreme Court, there is no reason or justification for the State Government to insist that unless members of primitive tribal groups possess a BPL Card, the State Government shall not take action to grant to them AAY status. The recognition of AAY status is not dependent on the

possession of a BPL Card. Therefore, delay in the preparation of the BPL list is absolutely no justification for depriving a member of a primitive tribal group of the benefit of AAY status that would enable the holder to avail of the supply of foodgrains. We direct that the State Government shall take action immediately in compliance with the aforesaid clarification which is consistent with the directions which were issued by the Supreme Court on 20 April 2004.

6. The process of issuing AAY Cards to persons belonging to the primitive tribal groups must be expedited. It would be far fetched to expect that persons who are poor, illiterate and ignorant of their rights should approach the Tahsildar at the Tahsil Headquarters. The process must be conducted by the Government by making every effort to trace out and identify such persons by holding camps at regular intervals close to their habitation. The State Government must make sure that efforts are made to convey information about the scheme by the involvement of civil society/ organizations in the area, in order to enable persons belonging to the primitive tribal groups to obtain immediate access to AAY status. Such camps, at the initial stage, must be held at least once every month so that all those to whom such an entitlement must enure are not deprived of the benefit of social welfare schemes. Immediate steps shall be taken by the State Government to comply with these directions.

7. During the course of the hearing, we are informed by the AGP that though a process of verification of Ration Cards is also carried out by Inspectors, verification is also entrusted to the owners of Ration Shops.

There can be no manner of doubt that the involvement of the owners of the Ration Shops in the process of conducting verification is liable to result in a serious conflict of interest and duty. The object of verification is to weed out bogus holders. For obvious reasons this cannot be entrusted to Ration Shop owners. The State Government shall, within a period of one month from today, formulate a comprehensive policy and issue a circular or, as the case may be, a Government Resolution formulating the manner in which verification shall be carried out. An important consideration which must be borne in mind by the State Government is as to whether it would be appropriate to involve responsible organizations in civil society or local self governing bodies in the process of verification. We would expect the State Government to be proactive in the area.

8. In the companion PIL 184 of 2010, it was noticed in the order dated 3 May 2012 passed by the Division Bench that the uptake of food grains even in the BPL category was only a small proportion of what is allotted by the Union Government. It is necessary to mention this facet as well because in the affidavit which has been filed on 8 January 2013 by the Tahsildar, it has been stated that it is not possible to add new beneficiaries in the Antyodaya Scheme until the quota of the number of persons is increased by the Central Government. This is a lame excuse on the part of the Tahsildar. The observation in the order of the Court dated 3 May 2012 was based on facts which were placed before the Court by the State Government from which it is clear that even the quota which is allotted has not been utilized. The justification which is sought to be set out in the affidavit for not

adding persons who are entitled to the benefit of the AAY Scheme is specifically disapproved and shall not be used hereafter by the State Government as a reason to deny benefits to those who are genuinely entitled.

9. We direct that the aforesaid directions of the Court shall be communicated by the State Government to all Collectors having jurisdiction over the areas where tribal populations reside, particularly those governed by the Integrated Tribal Development Project.

10. A status report shall be placed before the Court on the next date, informing the Court specifically about the additional persons who have been enrolled into the AAY Scheme, particularly from the primitive tribal groups. The status report shall be filed by the Collectors of Thane, Raigad, Nashik, Nandurbar and Amravati.

Stand over to 19 July 2013.

( Dr.D.Y.Chandrachud, J.)

( S.C.Gupte, J. )