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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8742/2016**

MATRI SUDHA A CHARITABLE TRUST Petitioner
Through: Mr. Setu Niket, Adv.

versus

GOVT OF NCT OF DELHI Respondent
Through: Mr. Devesh Singh, ASC(Civil)-
GNCTD with Mr. Rahul Adhana, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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06.12.2019

W.P.(C) 8742/2016

1. This writ petition has been preferred with the following prayers:

“A. Issue appropriate writ, order or direction in the nature of mandamus & for implementation of the National Food Security Act, 2013 and Constitution of State Food Commission in NCT of Delhi at the earliest.

B. Issue necessary directions to Government of NCT of Delhi for Development of State Plan of Action and State Nutrition Mission in the interest of the best health of women and children and to safeguard food security rights of children and others in Delhi

C. Issue necessary directions to bring on record the actual status of malnourished Children within the age

group of 0 - 18 years in Delhi and the State Plan to combat the situation

D. Issue necessary directions to bring on record the measures taken by their line departments, Department of Women and Child and Department of Education to manage malnutrition and monitor the Contractors who supply sub-standard food.

E. Issue any other direction, order, guideline as it may deem fit in the interest of justice by this Hon'ble Court.”

2. Having heard the learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that this petition has been mainly preferred for implementation of the provisions of National Food Security Act, 2013 by constituting the State Food Commission in National Capital Territory of Delhi at the earliest to prevent malnutrition in children of Delhi and for monitoring the contractors of Department of Women & Child Development and Department of Education, both falling within the Government of NCT of Delhi who are allegedly responsible for supplying sub-standard food to Anganwadi Centres and Government's schools in NCT of Delhi.

3. It appears that another similarly situated writ petition being W.P.(C) 4428/2016 has been disposed of by this Court *vide* order dated 6th December, 2019 and in the detailed counter affidavit filed by the Government of National Capital Territory of Delhi therein shows various steps taken by the respondents for the effective implementation of the National Food Security Act, 2013. Relevant

part of the order in that writ petition is as under :

“3. It appears from the facts of the case that detailed counter affidavit dated 17th October, 2016 has been filed by the respondent no.2 wherein it is stated that a notification dated 23rd August, 2013 has already been published.

4. It further appears from the facts of the case that the respondent no.2 has designated Public Grievance Commission as State Food Commission for the National Capital Territory of Delhi under Section 16 of the Act, 2013. Similarly, District Grievance Redressal Officer is also empowered for the proper and effective implementation of the provisions of the Act, 2013.

5. It is also clear from the counter affidavit filed by the respondent no.2 that the National Food Security Act, 2013 is brought into effect from 10th September, 2013, and the respondents have taken immediate steps for the proper and effective implementation of the Act, 2013. For the ready reference, paragraph 10 of the counter affidavit filed by the respondent no.2 reads as under :

“10. The contention that State Food Corporation has not been constituted is incorrect and denied. It is submitted that by notification bearing number F.No.3 (40)/2013/F&S/P&C/1234-1245 dated 23rd August, 2013, the Answering Respondent designated the Public Grievances Commission as the State Food Commission

for the NCTD. It is submitted further that by notification bearing number F.No.3(40)/2013/F&S/P&C/1246-59 dated 23rd August, 2013, the Answering Respondent designated the Additional District Magistrate of the Revenue district as the District Grievance Redressal Officer for the district concerned of NCTD. A true copy of the notification bearing number F.No.3(40)/2013/F&S/P&C/1234-1245 dated 23rd August, 2013 is annexed herewith and marked as Annexure R2/3. A true copy of the notification bearing number F.No.3(40)/2013/F&S/P&C/1246-1259 dated 23rd August, 2013 is annexed herewith and marked as Annexure R2/4.”

6. It further appears from the facts of the case that by the Public Distribution System, foodgrains and other articles have been distributed and the cautious mechanism of distribution is still going on for the effective implementation of the Act, 2013. Further, foodgrains amounting to 5 kg per person, per month is being distributed in accordance with the provisions of the Act of 2013.

7. Paragraph 11 of the counter affidavit filed by the respondent no.2 reads as under :

“11. The contention that Vigilance Committees have not been constituted is incorrect and denied. It is

submitted that by order bearing number F.3(47)/2013/F&S/P&C/121-131 dated 3rd February, the Answering Respondent constituted the Block/Circle Level Vigilance Committee for the NCTD. Further, by order bearing number F.3(47)/2013/F86/P&C/132-143 dated 3rd February, 2014, the Answering Respondent constituted the District Level Vigilance Committee for the NCTD. Additionally, It by order bearing number F.3(47)/2013/F86/P&C/144-157 dated 4th February, 2014, the Answering Respondent constituted the State Level Vigilance Committee for the NCTD. A true copy of the order bearing number F.3(47)/2013/F86/P&C/121-131 dated 3rd February, 2014 is annexed herewith and marked as Annexure R2/5. A true copy of the order bearing number F.3(47)/2013/F86/P&C/132-143 dated 3rd February, 2014 is annexed herewith and marked as Annexure R2/6. A true copy of the order bearing number F.3(47)/2013/F&S/P&C/144-157 dated 4th February, 2014 is annexed herewith and marked as Annexure R2/7. State level & District level vigilance committees are yet to be formed.”

8. In view of the aforesaid submissions and the factual averments made in the counter affidavit filed by the respondent no.2, it appears that for the effective implementation of the Act, 2013, Vigilance Committees have already been constituted at Block Circle level as well

as at District level. Necessary annexures have also been annexed which reveals the constitution of such Vigilance Committees.

9. Further, looking to the order dated 3rd February, 2014 (Annexure R-2/5 of the counter affidavit) passed by the respondent no. 2, the respondent has taken enough and adequate steps for the proper implementation of the Act, 2013.

10.Paragraph 5 of the counter affidavit filed by the respondent no.2 reads as under :

“5. It is submitted that Anganwadis as required under Sections 4 and 5 of the Act are already set up by the Answering Respondent under the Integrated Child Development Scheme “ICDS”), and the same are discharging the requirements under Sections 4 and 5 of the Act as well, and the contention to the contrary in the Petition is incorrect and denied.”

11.In view of the aforesaid facts, Anganwadi Centers as required under Section 5 to be read with Section 6 of the Act, 2013, have already been set up by the respondents.”

12. Thus, in view of the aforesaid facts, The State Food Commission has been appointed in National Capital Territory of Delhi and such other authorities have also been constituted by the respondents as per the provisions of the National Food Security Act,

2013 for effective implementation thereof. Moreover, looking to the counter affidavit filed by the Department of Food, Supply and Consumer Affairs, GNCTD, it has been established by the respondents that adequate number of fair price shops for proper distribution of food-grains have been set-up. Furthermore, necessary guidelines have also been issued as stated in the counter affidavit, and houses which requires the food-grains have been identified. For ready reference, order dated 9th July, 2013 (Annexure SA-1) passed by the respondents reads as under :

“ORDER

For smooth and speedy implementation of National Food Security ordinance in Delhi, a Task Force is constituted with immediate effect with the following composition :-

- | | | |
|---|----------|---------------------|
| <i>1. Minister of Food & Supplies</i> | <i>:</i> | <i>Chairperson</i> |
| <i>2. Sh. Sandeep Dikshit, MP</i> | <i>:</i> | <i>Member</i> |
| <i>3. Sh. Mahabal Mishra, MP</i> | <i>:</i> | <i>Member</i> |
| <i>4. Sh. Subhash Chopra, MLA</i> | <i>:</i> | <i>Member</i> |
| <i>5. Sh. Kanwar Karan Singh, MLA</i> | <i>:</i> | <i>Member</i> |
| <i>6. Ch. Mateen Ahmed, MLA</i> | <i>:</i> | <i>Member</i> |
| <i>7. Pr. Secretary, Finance/Planning:</i> | | <i>Member</i> |
| <i>8. Secretary, Education</i> | <i>:</i> | <i>Member</i> |
| <i>9. Secretary, Health & F.W.</i> | <i>:</i> | <i>Member</i> |
| <i>10. Secretary, Women & Child Dev.:</i> | | <i>Member</i> |
| <i>11. Commissioner-cum-Secy, F&S:</i> | | <i>Member Secy.</i> |

The terms of reference for the task force will be as under:

- 1.Completion of all preparatory work related to implementation of Food Security Law*
 - 2. Identification of households to be covered*
 - 3. Finalization of rules to be framed by State Government in respect of certain provisions listed under Sec. 48 of the Act.*
 - 4. Reforms to be undertaken in the Targeted Public Distribution System including transparency, application of Information Technology, leveraging Aadhaar, Diversification of commodities to be distributed under PDS and other reforms envisaged under the Act.*
 - 5.Setting up of effective Grievance Redressal Mechanism as envisaged under the Act.*
 - 6.Inter-departmental co-ordination for implementation of provisions of the Act.*
 - 7. Any other issue needing attention for successful implementation of the Act.*
- This issues with the approval of the competent authority.”*

13. In view of the facts and terms of reference as stated hereinabove, a multi-member special task force has been constituted by the respondent for smooth and speedy implementation of National Food Security ordinance in Delhi and the field in which they have to work has been specified.

14. It appears from the annexures (SA-III that is the cabinet

decision of Government of NCT of Delhi dated 25th July, 2013) annexed with the aforesaid counter affidavit, that detailed guidelines including guidelines for identification of the houses which require food-grains have been prescribed.

15. Moreover, looking to the counter affidavit filed by the Department of Women and Child of the respondents, *Anganwadi* Centres have already been constituted and established by the respondents for providing free of charge meals to children, who suffer from malnutrition in order to meet the nutritional standards specified under Schedule II of National Food Security Act, 2013. Moreover as per Pradhan Mantri Maitreyi Vandana Yojana which has been made effective from 1st January, 2017, there are several benefits given to pregnant women and the lactating mothers. The said benefits are mentioned at page 212 of the paper book which read as under :

“Brief note on PMMW (Pradhan Mantri Matru Vandana Yojana)

The Ministry of Women and Child Development, Govt. of India formulated a Conditional Maternity Benefit (CMB) Scheme namely Indira Gandhi Matritva Sahyog Yojana (IGMSY) in 2010, which was being implemented in 53 pilot district under which two districts of Delhi i.e. North-West and Westwere implementing the IGMSY scheme.

Now, with effect from 01.01.2017, under Pan-India implementation, the Maternity Benefit Programme is being implemented in all Districts of Country in accordance with provision of the National Food Security

Act, 2013. The programme is named as Pradhan Mantri Matru Vandana Yojana (PMMVY). Under PMMVY, a cash incentive of ₹ 5000/- is being provided directly in the account of Pregnant Women and Lactating Mothers (PW&LM) for first living child of the family subject to their fulfilling specific conditions relating to maternal and Child Health.

Objectives of PMMVY:

I. Providing partial compensation for the wage loss in terms of cash incentives so that the woman can take adequate rest before and after delivery of the first living child. .

II. The cash incentive provided would lead to improved health seeking behaviour amongst the Pregnant Women and Lactating Mothers (PW&LM).

Target beneficiaries:

I. All Pregnant Women and Lactating Mothers, excluding Pregnant Women & Lactating Mother who are in regular employment with the Central Government or the State Governments or PSUs or those who are in receipt of similar benefits under any law for the time being in force.

II. All eligible Pregnant Women and Lactating Mothers who have their pregnancy on or after 01.01.2017 for first child in family.

The date and stage of pregnancy for a beneficiary would be counted with respect to her LMP date as mentioned in the MCP (Mother Child Protection) card.

Conditionalities and Instalments

PW&LM shall receive a cash benefit of Rs. 5000/- in three instalments at the following stages as specified in the table given below:

<i>Conditionalities and Instalments</i>		
<i>Instalment</i>	<i>Conditions</i>	<i>Amount</i>
<i>First Instalment</i>	<i>Early Registration of pregnancy</i>	<i>Rs. 1,000/-</i>
<i>Second Instalment</i>	<i>Received at least one ANC Rs. 2,000/- (can be claimed after 6 months of pregnancy)</i>	<i>Rs. 2,000/-</i>
<i>Third Instalment</i>	<i>i. Child Birth is registered ii. Child has received first cycle of BCG, OPV,DPT and Hepatitis-B or its equivalent/substitute</i>	<i>Rs. 2,000/-</i>

Benefits under PMMW:

*Cash incentives in three instalments i.e. **first instalment** of Rs. 1000/- on early registration of pregnancy at the Anganwadi Centre (AWC) with all relevant documents such as Aadhaar card of the beneficiary including husband's Aadhaar card /Alternate IDs alongwith Aadhaar seeded bank Account of the beneficiary, MCP(Mother Child Protection) card and other similar documents of pregnancy/ approved Health facility as may*

*be identified by the respective administering State/ UT, **second instalment** of Rs. 2000/- after six months of pregnancy on receiving at least one ante-natal check-up (ANC) and **third instalment** of Rs. 2000/- after child birth is registered and the child has received the first cycle of BCG, OPV, OPT and Hepatitis-B. or its equivalent/ substitute.”*

16. Paragraph 11A of the aforesaid affidavit dated 12th April, 2019 filed by the Department of Women and Child Department, which reads as under :

“11(A). In reply to the contents of corresponding paragraph 11(A) of the instant Petition, it is humbly and most respectfully submitted that the contents thereof are wrong and denied. It is submitted that the food supplied to Anganwadi centers of Delhi are as per the nutritional standards specified in Schedule II of the Act. The present menu with required Calories and Proteins is as under :-

S.No.	Age group/category of beneficiaries	Name of SNP and Quantity to be given per day per beneficiary	Required calorie and protein content
1.	06 month – 01 year children	Weaning food (Panjiri)-140 gm	500 calories and 12-15 grams of protein
2.	01 year – 03 year children	Hot cooked Meal-270 grams along with Snacks-50 gm	500 calories and 12-15 grams of protein
3.	03 year – 06 year children	Hot cooked Meal-270 grams along with Snacks-50 gm	500 calories and 12-15 grams of protein

4.	Pregnant & Nursing mother	Hot cooked Meal-350 grams along with Snacks-75 gm	600 calories and 18-20 grams of protein
5.	Severely Malnourished children (1-3 year)	Hot cooked Meal-400 grams along with Panjiri-150 gm	800 calories and 20-25 grams of protein
6.	Severely Malnourished children (3-6 year)	Hot cooked Meal-400 grams along with Snacks-150 gm	800 calories and 20-25 grams of protein

In view of the aforesaid facts, it is evident that there is sufficient supply of quality and nutritious food in *Anganwadi* Centres.

17. Thus, in light of the above steps taken by the respondents, for the effective implementation of the National Food Security Act, 2013, we see no reason to further monitor this case. Nonetheless, we direct the respondents that the steps which are already taken for the constitution of the State Food Commission, Public Grievance Commission, District Grievance Redressal Officers, Vigilance Committees at Block level and District level and *Anganwadi* Centres shall be maintained and continue to operate by the respondents for the effective implementation of the Act, 2013. It is also submitted by counsel for the petitioner that despite the Act being of the year 2013 till today, the rules for effective implementation of the Act are not enacted. Thus, we expect from the respondents that instead of implementing the provisions of the Act, 2013, by executive orders, the better proposition is that execution of the Act and the governance should be done as far as possible by making appropriate rules so that there is no discretion left with the executives. Moreover, proper

guidelines etc. can be incorporated in the rules so that the provisions of the Act, 2013, can be implemented without any discrimination.

18. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

DECEMBER 06, 2019/kr