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

% *Date of Decision: 29th September, 2020*

+ W.P.(C) 3976/2020

NATIONAL FEDERATION OF THE BLIND Petitioner
Through: Mr. S.K. Rungta, Sr. Adv. with
Mr.Sumit Pangal, Adv.

versus

UNION OF INDIA & ANR. Respondent
Through: Mr. Chetan Sharma, ASG with
Ms.Monika Arora, CGSC with
Ms.Ankita Shah, Advocate for
UOI/R-1 & R-2
Mr. Sanjay Jain, Sr. Advocate with
Mr. Shadan Farasat, ASC, with Mr.
Ashray Behura and Mr. Bharat Gupta,
Advocates for GNCTD.
Mr. Tushar Sannu, ASC with Ms.
Ankita Bhadouriya for EDMC.
Mr. Ravindra Ashok Lokhande,
Advocate with Mr. Shyamsundar Das,
Advocate for State of Goa/R-7
Mr. Vishal Mahajan, Deputy
Advocate General Haryana for State
of Haryana
Mr. Anil Mittal, Adv. for State of
U.P.
Mr. Abhimanyu Jhamba, Advocate
with Ms. R.A. Thonpinao Thangal, &
Mr. Ashish Jhamb, Advocates for
State of H.P./R-12
Mr. Arjun Garg, Standing Counsel

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with Mr. Aakash Nandolia, Advocate
for State of MP
Mr. Nalin Kohli, Advocate with
Mr. Shuvodeep Roy & Mr. Ankit Roy,
Advocates for Aasam
Mr. Shuvodeep Roy, Standing
Counsel for Tripura
Ms. K. Enatoli Sema, Advocate with
Mr. Amit Kumar Singh, Advocate for
State of Nagland/R-21
Mr. Raghvendra Kumar, Standing
Counsel with Anand Kr. Dubey,
Advocate for Sikkim/R-23
Ms. G. Indira, Advocate with
Mr. K.V. Jagdishvaran, Advocate for
UT of Andaman/R-32
Mr. V.G. Pragasam, Adv. for Govt. of
Puducherry/R-36

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

The proceedings in the matter have been conducted through video conferencing.

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

“a) Issue a writ of mandamus or any other appropriate writ/order or direction thereby directing the respondent no.1 to issue direction to all State Govts. and Union Territories Under section 38 of National Food Security Act, 2013 for including visually impaired and other persons with disabilities in the category of eligible persons under Antyodaya Anna Yojana and priority households for the purpose of

implementation of the food security scheme guaranteed under Sub Section 1 of Section 10 of the National Food Security Act 2013 and also to ensure that at least 5% beneficiaries of food security scheme under the Act are from categories of persons with disabilities as defined in The Rights of Persons With Disabilities Act 2016 (in short RPD Act 2016) in terms of section 37(b) of RPD Act 2016.

b) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondent No.1 to consider the cases of persons with disabilities and visually impaired persons even without ration cards on the basis of their disability certificates and / or UDID for getting benefit under National Food Security Act, 2013.

c) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondent No.1 to direct all State Govt. and UTs under Section 38 of National Food Security Act to provide food grains free of cost to poor persons with disabilities as was done for migrant labourers and others during the present pandemic.

d) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondent No.1 to give free ration to all persons with disabilities without ration cards on the basis of their disability certificates and / or UDID under Pradhan Mantri Garib Anna Kalyan Yojana.

e) Grant any other or further relief which Your Lordship deem fit and proper in the circumstances of the case.”

2. The concern raised by the petitioner in this writ petition is with regard to the entitlement of persons with disabilities to the benefits under various programmes formulated by the Government of India under the National Food Security Act, 2013 (hereinafter referred to as “the Act, 2013”). According to the petitioner, persons with disabilities are required to be covered under the Antyodaya Anna Yojana (“AAY”), as well as the priority households (“PHH”) under the Act, 2013.

3. We have heard the learned counsel for both the sides at length and on earlier dates of hearing, Mr. S. K. Rungta, learned Senior Counsel for the petitioner has taken this Court to the various provisions of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as “the Act, 2016”), especially Section 37(b) thereof, which provides for a reservation in all poverty alleviation and developmental schemes for persons with disabilities.

4. In our order dated 22nd July, 2020, we took note of the statutory provisions and the stand taken by the Department of Empowerment of Persons with Disabilities, Government of India, as reflected in the counter affidavit filed by the Union of India. During the course of proceedings, all States and Union Territories were also impleaded as parties to the writ petition, as they are the implementing agencies under the Act, 2013.

5. At the hearing on 24th August, 2020, we were informed that the Government of India has issued a communication dated 22nd August, 2020 to all States and Union Territories regarding the coverage of persons with disabilities under the Act, 2013. A copy of the said communication issued by the Department of Food and Public Distribution (“DFPD”), Ministry of Consumer Affairs, Food and Public Distribution has also thereafter been placed on record. It was *inter alia* reiterated therein that disability is one of the criteria for inclusion of beneficiaries under the AAY and as per the identification criteria as PHH.

6. Pursuant to the aforesaid communication, certain further concerns were raised by Mr. Rungta at the hearing on 07th September, 2020. Mr. Chetan Sharma, learned Additional Solicitor General and Mr. Sudhanshu

Pandey, Secretary, DFPD (who also attended the hearing on that date) assured the Court that these concerns would also be looked into, and appropriate directions would be issued.

7. Now, the Central Government has issued further directions to all the states on 07th September, 2020, which have also been placed on record. Paragraph 2 of the said communication sets out the following directions to the States and Union Territories:

“i. Disability as separate criteria within the eligibility criteria may be identified by all States/UTs for inclusion of persons with disability, subject to exclusion criteria, for coverage under National Food Security Act, 2013.

ii. It may be ensured that all the disabled persons, who are eligible as per identification criteria of beneficiaries under NFSA, are covered under the National Food Security Act, 2013. Those who are not already covered should be covered with fresh ration cards to be issued as per the existing/revised eligibility criteria that include disability as separate criteria.

iii. If a disabled candidate is at par with another general candidate, preference should be given to disabled person.

iv. It may be ensured that a data base of disabled persons covered under both categories viz. AAY & PHH under NFSA shall be created/maintained separately even for PwDs being covered as a part of a family. A suitable mechanism of monitoring and reporting may accordingly be put in place for compliance.

v. No disabled person otherwise eligible shall be denied on the ground that the State has exhausted its upper limit under NFSA. In case such a situation arises, inclusion of disabled person shall take precedence. He may be given precedence over those persons who may be either at par or

above in terms of consumption expenditure criteria.

vi. All the States/UTs shall ensure and direct the concerned District Administration to put in place an appropriate mechanism and whole machinery may be mobilized in a mission mode for compliance of directions made above.”

8. Mr. Rungta submits that these directions issued by the Central Government serve the purpose of the present petition, and seeks appropriate directions to the States and Union Territories for effective implementation thereof.

9. We find that the directions have been issued under Section 38 of the Act, 2013, which requires the State Governments to comply with directions issued by the Union Government thereunder. These directions are thus bound to be followed by all the States and Union Territories and correspondingly, the States shall revise their criteria and persons with disabilities shall be added as a separate class and they shall be considered for the benefits to be extended to the persons with disabilities of the Antyodaya Anna Yojna scheme as well as priority households.

10. We expect from the States and the Union Territories that the directions issued by the Central Government, as mentioned hereinabove, shall be scrupulously followed by them and they will revise the criteria as early as possible and practicable for enabling the benefits under the aforesaid schemes to be availed by persons with disabilities.

11. We place on record our appreciation of the constructive assistance rendered by Mr. S.K. Rungta, learned Senior Counsel for the petitioner, Mr. Chetan Sharma, learned Additional Solicitor General and learned counsel

for the States and Union Territories.

12. With these observations, the petition alongwith pending application is hereby disposed of. The petitioner shall however be at liberty to file a further petition before the appropriate Court if the need arises.

CHIEF JUSTICE

PRATEEK JALAN, J

SEPTEMBER 29, 2020
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