

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL No. 24 of 2020

Km. Thokchom Premlata Devi, aged about 46 years, D/O Th. Kunjakishore Singh, a resident of Kwakeithel Akham Leikai, P.O. Imphal and P.S. Singjamei, Imphal West District, Manipur, PIN-795001.

... Petitioner

1. The State of Manipur through the Principal Secretary (Health & Family Welfare) to the Government of Manipur, Manipur Secretariat, P.O. & P.S. Imphal, Imphal West District, Manipur, PIN-795001.
2. The Director, Department of Social Welfare, Government of Manipur, Directorate Complex, AT Line (2nd MR Gate), Manipur, PIN-795001.

... Respondents

B E F O R E

**HON'BLE THE CHIEF JUSTICE SHRI RAMALINGAM SUDHAKAR
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

For the petitioner :: Mr. M. Rakesh, Advocate
For the respondents :: Mr. Lenin Hijam, Additional A.G.

Date of Order :: 19.06.2020

ORDER

Justice A. Bimol

[1] Heard Mr. M. Rakesh, learned counsel appearing for the petitioner and Mr. Lenin Hijam, learned Additional Advocate General, appearing for the respondents.

[2] The issue raised in the present PIL is for non-supply of the entitled quantities of foodgrains, more particularly rice, from the month of December, 2019 till date, to the beneficiaries of Manipur State, such as

every pregnant woman, lactating mother till 6 (six) months after child birth, every child in the age group of 6 (six) months to 6 (six) years and children who suffered from malnutrition as provided under the National Food Security Act, 2013 and Rules made thereunder.

[3] It may be mentioned herein that the purpose and object for enacting the National Food Security Act, 2013 (hereinafter referred to as FS Act, 2013 for short) and the Supplementary Nutrition (under the Integrated Child Development Services Scheme) rules, 2017 (hereinafter referred to as Supplementary Rules, 2017 for short) have been enacted to provide, inter alia, for food and nutritional security, in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable price to people to live a life of dignity. To entitle every pregnant woman and lactating mother, every child upto age of 14 (fourteen) years and children suffering from malnutrition to meals, free of charge through Anganwadi, so as to meet the nutritional standards specified in the Act and Rules. The said Act also provides to ensure that every eligible person is entitled to receive such food security allowance from concerned State Government to be paid to each person in case of non-supply of entitled quantities of foodgrains or meals, within the time and manner prescribed.

[4] Some of the relevant provisions of the FS Act, 2013 and the Supplementary Rules, 2017 are reproduced hereunder for ready reference :-

“THE NATIONAL FOOD SECURITY ACT, 2013”

“CHAPTER II

PROVISIONS FOR FOOD SECURITY”

“4. Nutritional support to pregnant women and lactating mothers.

- Subject to such schemes as may be framed by the Central Government, every pregnant woman and lactating mother shall be entitled to—

(a) meal, free of charge, during pregnancy and six months after the child birth, through the local anganwadi, so as to meet the nutritional standards specified in Schedule II”

“5. Nutritional support to children. - (1) Subject to the provisions contained in clause (b), every child up to the age of fourteen years shall have the following entitlements for his nutritional needs, namely:—

(a) in the case of children in the age group of six months to six years, age appropriate meal, free of charge, through the local anganwadi so as to meet the nutritional standards specified in Schedule II: Provided that for children below the age of six months, exclusive breast feeding shall be promoted;

(b) in the case of children, up to class VIII or within the age group of six to fourteen years, whichever is applicable, one mid-day meal, free of charge, everyday, except on school holidays, in all schools run by local bodies, Government and Government aided schools, so as to meet the nutritional standards specified in Schedule II.

(2) Every school, referred to in clause (b) of sub-section (1), and anganwadi shall have facilities for cooking meals, drinking water and sanitation:

Provided that in urban areas facilities of centralised kitchens for cooking meals may be used, wherever required, as per the guidelines issued by the Central Government.”

“6. Prevention and management of child malnutrition. – The State Government shall, through the local anganwadi, identify and provide meals, free of charge, to children who suffer from malnutrition, so as to meet the nutritional standards specified in Schedule II.”

“SCHEDULE II

[See sections 4(a), 5(1) and 6]

NUTRITIONAL STANDARDS”

“ Nutritional standards:- The nutritional standards for children in the age group of 6 months to 3 years, age group of 3 to 6 years and pregnant women and lactating mothers required to be met by providing “Take Home Rations” or nutritious hot cooked meal in accordance with the Integrated Child Development Services Scheme and nutritional standards for children in lower and upper primary classes under the Mid Day Meal Scheme are as follows:-

Serial number	Category	Type of meal	Calories (Kcal)	Protein (g)
1.	Children (6 months to 3 years)	Take Home Ration	500	12-15
2.	Children (3 to 6 years)	Morning Snack and Hot Cooked Meal	500	12-15
3.	Children (6 months to 6 years) who are malnourished	Take Home Ration	800	20-25
4.	Lower primary classes	Hot Cooked Meal	450	12
5.	Upper primary classes	Hot Cooked Meal	700	20
6.	Pregnant women and Lactating mothers	Take Home Ration	600	18-20

“CHAPTER III

FOOD SECURITY ALLOWANCE”

“8. Right to receive fod security allowance in certain cases. - In case of non-supply of the entitled quantities of foodgrains or meals to entitled persons under Chapter II, such persons shall be entitled to receive such food security allowance from the concerned State Government to be paid to each person, within such time and manner as may be prescribed by the Central Government.”

“CHAPTER IX

OBLIGATIONS OF STATE GOVERNMENT FOR FOOD SECURITY”

“24. Implementation and monitoring of schemes for ensuring food security. - (1) The State Government shall be responsible for implementation and monitoring of the schemes of various Ministries and Departments of the Central Government in accordance with guidelines issued by the Central Government for each scheme, and their own schemes, for ensuring food security to the targeted beneficiaries in their State.”

“(3) For foodgrain requirements in respect of entitlements under sections 4, 5 and section 6, it shall be the responsibility of the State Government to take delivery of foodgrains from the designated depots of the Central Government in the State, at the prices specified in Schedule I for persons belonging to eligible households and ensure actual delivery of entitled benefits, as specified in the aforesaid sections.

(4) In case of non-supply of the entitled quantities of foodgrains or meals to entitled persons under Chapter II, the State Government shall be responsible for payment of food security allowance specified in section 8.”

“THE SUPPLEMENTARY NUTRITION (UNDER THE INTEGRATED CHILD DEVELOPMENT SERVICES SCHEME) RULES, 2017”

“3. Nature of entitlements. - (1) The entitlements referred to in sections 4, 5 and section 6 of the Act shall be provided under the Supplementary Nutrition Programme of Anganwadi Services (Integrated Child Development Services Scheme) of the Central Government to every pregnant woman and lactating mother till six months after child birth, and every child in the age group of six months to six years (including those suffering from malnutrition).

(2) The Supplementary Nutrition under the Anganwadi Services (Integrated Child Development Services) is primarily designed to bridge the gap between the Recommended Dietary Allowance and the Average Daily Intake.”

“4. Place of serving meal. - (1) The Anganwadi Services (Integrated Child Development Services) is a self-selecting scheme and the entitlements, as mentioned in clause (a) of section 4, clause (a) of sub-section (1) of section

5 and section 6 shall be available to those who enroll themselves and visit the nearest anganwadi centre during its working hours, as notified by the State Government or the Union territory Administration from time to time.

(2) The meal shall be served at the nearest anganwadi centres where the beneficiary is registered or enrolled.”

“5. Supplementary Nutrition under ICDS - The Supplementary Nutrition under the Anganwadi Services (Integrated Child Development Services) for different categories of beneficiaries shall be as under:-

S. No.	Categories	Type of meal or food as per the nutritional standards specified in Schedule II of the Act
(1)	(2)	(3)
1.	Children (Between 6 to 36 months)	Take home ration as per Anganwadi Services (Integrated Child Development Services) guidelines in conformity with the provisions of the Act.
2.	Malnourished children (Between 6 to 36 months)	The same type of take home ration as above with food supplement of 800 calories and 20-25 grams of protein.
3.	Children (Between 3 to 6 years)	Morning snacks and hot cooked meal as per Anganwadi Services (Integrated Child Development Services) norms.
4.	Malnourished children (Between 3 to 6 years)	Additional 300 calories of energy and 8-10 grams of protein in addition to the meal or food provided to children between three to six years.
5.	Pregnant women and lactating or nursing mothers	Take home ration as per Anganwadi Services (Integrated Child Development Services) guidelines in conformity with the provisions of the Act.

”

“8. Food Security Allowance. - (1) In case of non-supply of meal to the beneficiaries in anganwadi centre on any day due to non-availability of food grains or any other reason, the State Governments or Union territory Administrations shall pay food security allowance as defined in clause (d) of rule 2 to every beneficiary referred to in rule 3 as per rates specified in rule 11:

Provided that in case the beneficiaries have not taken food on offer for whatever reasons, no claim of food security allowance shall lie with the State Government or Union territory Administration or anganwadi centre:

Provided further that subject to the provisions of rule 7, no claim shall lie with State Government or Union territory Administration for reasons of quality of food grains and meal.

(2) On receipt of a complaint from beneficiary for non-supply of foodgrains, the concerned State Government or Union territory Administration shall enquire the issue, and in case it is decided to pay food security allowance to the beneficiary, the same shall be paid to the beneficiary, as per the entitlement, within one month of decision on the complaint.

(3) The State Government or Union territory Administration shall take action to fix responsibility on the person or agency in accordance with the procedure laid down, if meal is not provided in anganwadi centre continuously for three days or at least for five days in a month.”

“11. Cost norms for Supplementary Nutrition. - The cost norms for the Supplementary Nutrition for various categories of beneficiaries shall be as under or as may be revised by the Central Government:

S. No.	Categories	Present rates (per beneficiary per day)
(1)	(2)	(3)
1.	Children (Between 6 to 72 months)	Rs.6.00
2.	Malnourished children (Between 6 to 72 months)	Rs.9.00
3.	Pregnant women and lactating or nursing mothers	Rs.7.00

”

[5] It is the case of the petitioner that due to the outbreak of COVID-19, the Ministry of Home Affairs, Government of India issued an order on 24.03.2020 imposing nationwide lockdown to contain the pandemic of COVID-19 and the said lockdown have been extended for 5 (five) times with certain modifications. Amidst the said nation-wide lockdown, the Government of Manipur, as a precautionary measure, closed down the educational institutes and Anganwadi Centres in the State of Manipur.

[6] In order to mitigate suffering of the common people due to the nationwide lockdown, the Government of Manipur, as a special humanitarian measure, released NFSA rice allocation for the month of April, 2020 in advance and distributed the same to the poor and needy families free of cost. The Government of India under the Pradhan Mantri Gareeb Kalyan Anna Yojana (PMGKAY) provided 5 kgs of rice per person (above 5 years of age) and 1 kg of pulse to each household for 3(three) months with effect from the month of April, 2020. It is, however, stated that such free distribution of rice under NFSA and PMGKAY are not meant for children and other beneficiaries who are supposed to get supplementary nutrition as provided under the FS Act, 2013 and the Supplementary Rules, 2017.

[7] During the aforesaid nationwide lockdown, the Ministry of Women and Child Development, Government of India wrote a letter dated 30.03.2020 addressed to all Principal Secretaries/Secretaries dealing with Anganwadi Services in all States/UTs. The contents of the said letter are as under :-

**“F. No. 13/5/2020-CD-II
Government of India
Ministry of Women and Child Development**

*Shastri Bhawan, New Delhi
Dated: March 30, 2020*

To

The Principal Secretaries/Secretaries dealing with Anganwadi Services in all States/UTs

Sir/Madam,

With reference to Ministry of Home Affairs order No. 40-3/2020/D dated 24.03.2020 for containment of COVID-19 epidemic in the country and for ensuring continuous nutritional support for the beneficiaries under Anganwadi Services, the following instructions are issued to the States and UTs.

(i) Instructions issued vide No. CD-II-13/5/2020-CD-II dated March 23, 2020 may please be referred to.

(ii) As per the National Food Security Act, 2013 provision of nutrition to the beneficiaries of Anganwadi Services scheme is a legal entitlement. Sections 4, 5 and 6 of the National Food Security Act (NFSA), 2013 mandates Supplementary Nutrition be provided to every Pregnant Women and Lactating Mother till 6 months after child birth, and every child in the age group of 6 months to 6 years (including those suffering from malnutrition).

(iii) Section 8 of the National Food Security Act, 2013 provides that in case of non-supply of the entitled quantities of food grains or meals to entitled persons, such persons shall be entitled to receive such food security allowance from the concerned State Government to be paid to each person, within such time & manner as may be prescribed by the Central Government.

(iv) Rule 8 of the Supplementary Rules, 2017, provides that if in case of non-supply of meal to the beneficiaries in Anganwadi Centre on any day due to non-availability of food grains or any other reason, the State Governments or Union Territory Administration shall pay food security allowance as defined in clause (d) of rule 2 to every beneficiary referred to in rule 3 as per rates specified in rule-11.

(v) It is observed that in many States/UTs, in the light of Ministry of Home Affairs order mentioned above, the Anganwadi Centres are closed and States/ UTs have taken steps to provide Supplementary Nutrition to the beneficiaries at their door steps. Accordingly, necessary instructions may be given to the district authorities to utilize services of Anganwadi Workers/ Helpers for such delivery of food items for continuous nutritional support. During this time, suitable measures suggested by health authorities such as avoidance of social contact, usage of sanitizer, wearing of protection gear etc. by the Anganwadi Workers/ Anganwadi Helpers during distribution may be ensured.

(vi) States/ UTs that have decided to provide the Supplementary Nutrition at the doorstep of beneficiaries may provide entitlement as per norms, as a single instalment to the extent possible, to avoid repeated contact. The evidence of distribution of Supplementary Nutrition at the doorstep such as photographs, acknowledgement receipts shall be maintained.

(vii) States/UTs are also advised to comply with the Operational Guidelines for Food Safety and Hygiene in ICDS circulated vide this Ministry's Letter number F. No. 5(25)/2010/ND-Tech Pt. Dated 24.12.2013 of this Ministry during such distribution at the doorsteps of the beneficiaries.

Yours faithfully,
Sd/-
(Anuradha S. Chagti)
Joint Secretary (ICDS)"

[8] On coming to know about the existence of the aforesaid letter of the Ministry of Women and Child Development, Government of India dated 30.03.2020, the petitioner, as a progressive social activist and very much concerned about the welfare of the people, particularly the poor and downtrodden women, conducted fact finding visits at some Anganwadi Centres located in and around her residential areas on 03.06.2020. During her fact finding visits, the petitioner visited 25 Anganwadi Centres under the ICDS project, Imphal city and ascertained the following :-

Sl. No.	Name of Anganwadi Centre	Supplementary nutrition made available
1.	Kwakeithel Moirangpurel Leikai	Red Lentil, split pea, peanut, cooking oil, turmeric and chickpea
2.	Kwakeithel Akham Leikai	-do-
3.	Thouda Bhabok Leikai	-do-

4.	<i>Awang Thouda Bhabok</i>	-do-
5.	<i>Irom Pukhri Mapal Makha</i>	-do-
6.	<i>Keishamthong Irom Pukhri Mapal</i>	-do-
7.	<i>Sega Road Thouda Bhabok</i>	-do-
8.	<i>Kwakeithel Pukhri Achouba Mapal</i>	-do-
9.	<i>Sega Road Thouda Bhabok Mayai Leikai</i>	-do-
10.	<i>Kwakeithel Moirangpurel Maning</i>	-do-
11.	<i>Kwakeithel Akham Leikai Makha</i>	-do-
12.	<i>Longjam Leikai</i>	-do-
13.	<i>Keishamthong Irom Pukhri Mapal Maning Leikai</i>	-do-
14.	<i>Thouda Bhabok Mayai Leikai Sega Road (1)</i>	-do-
15.	<i>Thouda Bhabok Takhel Leikai</i>	-do-
16.	<i>Kwakeithel Moirangpurel Leikai (B)</i>	-do-
17.	<i>Kwakeithel Moirangpurel Mamang Leikai (B)</i>	-do-
18.	<i>Kwakeithel Moirangpurel (C)</i>	-do-
19.	<i>Keishamthong Irom Pukhri Mapal (B)</i>	-do-
20.	<i>Kwakeithel Moirangpurel Leikai Mayai</i>	-do-
21.	<i>Elangbam leikai Leirak Macha</i>	-do-
22.	<i>Keishamthong Moirangningthou Leikai</i>	-do-
23.	<i>Keishamthong Aheibam Leikai</i>	-do-
24.	<i>Keishamthong Moirangpurel Leirak Mamang</i>	-do-
25.	<i>Keishamthong Moirangpurel Leirak Maning</i>	-do-

[9] It is the case of the petitioner that during her interaction with the Anganwadi Workers of the above mentioned 25 Anganwadi Centres, the petitioner came to know that the beneficiaries under those Anganwadi Centres did not get even a single grain of rice from the month of December, 2019 till date and thus, the Anganwadi centres were not able to provide free meals to the beneficiaries except for providing the items supplied by the Government as indicated hereinabove. It is also ascertained by the petitioner that no food security allowance have been paid by the Government for non-providing of rice from the month of December, 2019 till date.

It has also been stated that the respondents failed to lift the quota of WBNP rice meant for allocation to the beneficiaries of Anganwadi Centres from Food Corporation of India due to want of transport contractors and there is also failure on the part of the respondents to arrange their own means to lift WBNP rice from the godown of FCI.

[10] Mr. M. Rakesh, learned counsel appearing for the petitioner strenuously submitted that despite the elaborate provision under the FS Act, 2013 and the Supplementary Rules, 2017 for providing supplementary nutrition including rice to the beneficiaries, the respondents not only failed to provide rice to the Anganwadi Centres in Manipur from the month of December, 2019 but they have also failed to pay food security allowance to the beneficiaries as provided under Section 8 of the FS Act, 2013 and Rule 8 of the Supplementary Rules, 2017.

In such facts and circumstances, the present PIL have been filed claiming for the following reliefs :-

“(ii) to issue a writ in the nature of mandamus or any other appropriate writ or order or direction thereby directing the Respondents to lift full and complete WBNP rice quota from the godown of Food Corporation of India including backlog rice quota and allocate the same to the Anganwadi Centres;

(iii) in the interim to issue a writ in the nature of Mandamus or any other appropriate writ or direction thereby directing the Respondents to provide supplementary nutrition including rice to all Anganwadi Centres immediately including the backlog rice quota which were not given from the month of December 2019.”

[11] Mr. Lenin Hijam, learned Additional Advocate appearing for the respondents fairly submitted before this Court that the present PIL may be disposed of at this stage by issuing appropriate direction to the respondents to consider and redress the issues raised in the present PIL.

[12] After hearing both the counsel and after examining the relevant provisions of the FS Act, 2013 and the Supplementary Rules, 2017 and also

keeping in view the letter of the Ministry of Women and Child Development, Government of India dated 30.03.2020, we are of the considered view that a duty had been cast statutorily to the Government of Manipur for supplying the entitled quantities of foodgrains or meals to the entitled persons or beneficiaries so as to achieve the national goal of raising the level of nutrition and the standard of living of each people and the improvement of public health.

We, therefore, direct the respondents to take prompt and appropriate steps to supply to the Anganwadi Centres in Manipur the entitled quantities of foodgrains, more particularly rice, timely and regularly and in their failure to do so, the respondents shall pay food security allowance to the beneficiaries as provided under Section 8 of the FS Act, 2013 and Rule 8 of the Supplementary Rules, 2017 as early as possible.

[13] With the above direction, the present PIL is disposed of.

JUDGE

CHIEF JUSTICE

FR/NFR

Sandeep

WAIKH
OM
TONEN
MEITEI

Digitally
signed by
WAIKHOM
TONEN MEITEI
Date:
2020.06.24
13:42:06
+05'30'