

Public Interest Litigation

Matri Sudha- A Charitable Trust vs. Govt. of NCT of Delhi (W.P. Civil 8742 of 2016)

Matri Sudha¹ (www.matrisudha.org) has approached the Honorable High Court of Delhi by way of Writ Petition under Article 226 of the Constitution a writ for Constitution of State Food Commission as required under the National Food Security Act, 2013 and effective implementation of the National Food Security Act, 2013, to secure the well-being, good health and safety of children attending Anganwadi Centers and Schools of Delhi, by ensuring access to adequate food and nutritional security.

Background

1. Role of State Food Commission

- The National Food Security Act, 2013 is a special law with a core objective of ensuring Food Security through various government programmes and Schemes
- While on one hand the Act provides rights to beneficiaries and on the other casts corresponding duty on various agencies and departments
- Section 16 (6) provides powers and functions to the State Food Commission, namely; monitor and evaluate the implementation of this Act and inquire into complaints of violations of entitlements, apart from giving advice to the State Government, their agencies, autonomous bodies as well as NGOs

In absence of State Food Commission the rights enshrined under the Act, towards ensuring food security such as identification of eligible households, right to receive food grains at subsidized prices, nutritional support to pregnant women, lactating mothers and to children aged six months to fourteen years, prevention and management of child malnutrition etc. all remain unimplemented and so violated

2. No Clarity in Respect to State Food Commission in Delhi

- On 23rd August, 2013, Lt. Governor of Delhi, through a gazette notification, designated Public Grievance Commission as State Food Commission for NCT of Delhi under Section 16 of the National Food Security Ordinance. [Source: RTI]
- On 26th October 2015, Office of the Commissioner: Food Supplies and Consumer Affairs [Policy Branch], informed that Public Grievance Commission, Delhi is designated as State Food Commission [Source: RTI]
- On 26th November 2015, Public Grievance Commission, informed that as per office record the State Food Commission for NCT of Delhi has not been constituted so far [Source: RTI]
- On 17th August 2016, Public Grievance Commission informed that constitution of State Food Commission is under consideration with the Delhi Govt. [Source: RTI]

3. Beneficiaries of Supplementary Nutrition and Mid-Day Meal

- There are 8.4 lakh beneficiaries who receive supplementary nutrition through 10,897 Anganwadi Centers and approx. 12 lakh children were covered under Mid-Day Meal programme in Delhi [Source: Government Reports for financial years 2016-17 and 2011-12]
- Total Beneficiary of Supplementary Nutrition under ICDS decreased from 10,72,226 in April 2012 to 8,37,942 in January 2016 whereas number of Anganwadi Centers increased from 10607 in April, 2012 to 10897 in January 2016 [Source: Govt. Reports]

4. Outsourcing of Supplementary Nutrition and Mid-Day Meal Manufacturing

- On 28th October, 2015, Directorate of Education reported that four Mid-Day meal service providers prohibited in 2013 to serve Mid-Day Meal due to children falling ill and lizards were found [Source: RTI]
- On 17.08.2016, Directorate of Education informed that there are 37 service providers which prepare Mid-Day Meal in Delhi [Source: RTI]
- On 24th August, 2016, Department of Women and Child Development, provided list of 23 NPOs, serving supplementary nutrition in Delhi. 3 NPOs were found to be the same which were blacklisted to serve Mid-Day Meal in Delhi due to hospitalization of children and lizard was found [Source: RTI]

5. Situation of Malnutrition in Delhi

¹Matri Sudha (www.matrisudha.org) is a registered non-government organization involved in issues relating to rights of children for past 15 years in Delhi, with focus on maternal and child health and nutrition, education and child participation through community interventions, research and advocacy.

- On 31st March 2012, CAG Performance Audit of ICDS informed that Delhi was among 9 States where more than 50 per cent children were malnourished
- On 25.11. 2014, Directorate of Health Services reported that there were 1, 33,482 children who were found malnourished and 1, 93,086 children were found anemic in 984 schools in government and government aided schools in Delhi. [Source: RTI]
- On 13.04.2015, Department of Women and Child Development replied that no expenditure made under Supplementary Nutrition for severely underweight/malnourished children between 2010-15 [Source: RTI]
- On 28th July 2015, Directorate of Health Services reported that 28, 293 children were found malnourished out of 4,69,144 children in 350 Delhi Govt./Aided Schools [Source: RTI]
- There has been over 200 deaths in Delhi due to Malnutrition between the period 2010 to 2014 [Source: Govt. Reports]

6. Quality of Food served under ICDS and Mid-Day Meal Programme

- On 31st March 2014, CAG, Performance Audit of Mid-Day Meal in Delhi, reported that 89 per cent samples of cooked meal failed and agreement of defaulted suppliers extended
- It was reported that 64% children in the visited schools were not satisfied with the quantity of meal served to them. It was also reported that 60% children were not satisfied with the quality of meal served to them [Source: Govt. Report dated 13th March 2015]
- Nearly 61% of children reported quality of Mid-Day Meal served in Delhi as dissatisfactory [Source: Govt. Report dated 31st March 2015]
- On 17th August 2016, Directorate of Education that 81 percent Mid-Day Meal samples failed on nutritional standards in 13 and 14. No samples were lifted in 15 and no lab reports were available in 16 [Source: RTI]
- Directorate of Education levied a penalty of Rs. 16, 86,164 on all service providers providing Mid-Day Meal [Source: RTI]

Grounds

Some of the important grounds on which the PIL has been framed:-

- In absence of the State Food Commission there is a lack of monitoring and coordinated working on the issues of nutritional and food security in Delhi as mandated under the National Food Security Act, 2013
- The quality of food being supplied under the Anganwadi and Midday meals in Delhi are of low standards and at times due to presence of extraneous substances creates health hazardous for children and violates their right to life and health.
- Food supplied of now quality and nutritious value are dangerous and harmful to the health of both pregnant and lactating mothers and child and hence is a complete violation of the fundamental right to health of women and children in India
- There is a collapse of monitoring mechanism in management of food manufacturing and supply in Delhi under the Anganwadi and Midday meals programme with no monitoring and regulation in place

Prayers

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