

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (PIL) No. 7032 of 2012

All India Progressive Women Association, Jharkhand Chapter

... .. Petitioner

Versus

The Union of India and others Respondents

WITH

W.P. (PIL) No. 2810 of 2012

National Domestic Workers Welfare Trust Petitioner

Versus

The State of Jharkhand and others Respondents

**CORAM: HON'BLE MR. JUSTICE D. N. PATEL
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY**

For the Petitioners: M/s. Anup Kumar Agrawal, Ahmed Raza, Jawed Rabbani, Md. Asghar

For the Respondents: M/s. R.S. Mazumdar (AG), Rajiv Sinha (ASGI), Rohit Sinha, Rajesh Kumar (GP-V), Suchita Pandey

07/Dated: 20th November, 2014

Per D.N. Patel, J

1) These Public Interest Litigations have been preferred with the following prayers: -

W.P. (PIL) No.7032 of 2012

a) For a writ or mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to strict implement the guarantees under the National Rural Health Mission (NRHM), Janani Surakshan Yojna (JSY), National Maternity Benefit Scheme (NMBS), Integrated Child Development Scheme (ICDS) Schemes, specially, to ensure adequate facilities are set up in order to deliver NRHM service guarantees, including but limited to emergency obstetrical care, access to safe abortion services, timely and adequate referral system, and access to a functioning blood bank.

AND

b) For an order mandating development and implementation of a time bound Plan of Action for implementation of NRHM services as established under the MoUs.

AND

c) For an order directing an audit and quality control review

of all health facilities be done in Godda District by a third party commission including representatives from civil society appointed by the Court. Further to make publicity available the findings of the Audit and the Action Taken on these findings.

AND

d) For an order directing the establishment of an efficient and transparent mechanism to review and monitor the implementation and delivery of NRHM services, in particular the expenditure of Government. Data collected during the process of review must take into consideration factors such as, *inter alia*, conditions of health infrastructure, quality of care provided, and use of ambulance service.

AND

e) Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to establish a system of free transportation between facilities.

AND

f) For an order directing Respondent to immediately ensure the appointment of a sufficient number of Doctors, health professionals and support staff that are available 24 hours and 7 days at each level – Primary Health Centres (PHC), Community Health Centers (CHC), Sub Health Centre (SHC) and District Hospitals (DH) – of health institutions in Godda District.

AND

g) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to establish a qualified committee to conduct and publish maternal death audits.

AND

h) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to collect data and implement nationally and internationally recognized policies regarding malaria and pregnancy.

AND

i) For an order directing Respondents develop and implement training modules for health professionals &

community members on the risk associated with contracting malaria during pregnancy and the types of preventive and treatable measures available.

AND

j) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to implement a centralized, accountable referral system which must provide patient with the minimum information at time of referral: (1) name of referral facility, (2) contact information of referral facility including staff member name, address, and phone number, (3) reason for referral, (4) diagnosis and treatment to be sought at referral facility, (5) contact information of referring hospital in case of questions or concerns, (6) copies of all medical records and discharge slip(s), and (7) free transport of BPL patients.

AND

k) For a writ or mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to develop and implement a Grievance Redressal Mechanism to enable persons to report and if necessary, file health complaints with an Independent Commission/State Health Minister charged with overseeing the NRHM. Grievance mechanism must include a 24-hour emergency hotline, be accessible to persons living in rural areas, and compel the state agency to respond within a specified, time-sensitive period.

AND

l) For a writ of mandamus or any other writ, order or direction in the nature of mandamus directing the respondents to provide compensation to the victims and/or their families.

W.P. (PIL) No.2810 of 2012

(a) For issuance of an appropriate writ(s)/ order(s)/ direction(s) directing and commanding upon the respondents authority for the strict implementation and enforcement of “The Unorganised Workers Social Security Act, 2008” in the State of Jharkhand.

(b) For issuance of an appropriate writ(s)/ order(s)/

direction(s) directing and commanding upon the respondents authority to frame the mandatory rules under the Unorganised Workers' Social Security Act, 2008.

AND

(c) For issuance of an appropriate writ(s)/ order(s)/ direction(s) directing and commanding upon the respondent authorities for the constitution of State Social Security Board in the State of Jharkhand.

2) We have heard Mr. Anup Kumar Agrawal, learned counsel, and we appreciate the services rendered by him. Nicely the matter has been argued out by this counsel and he has brought to our notice several aspects of the matter. As for example, the Labour Laws which are enacted by the Parliament and the State Legislature, namely, the Industrial Disputes Act, the Workmen's Compensation Act, the Factories Act, etc are applicable to very limited number of workers/employees as defined under the Acts and as per one survey report, only 3% of the labourers are covered under those enacted legislatives. 97% of the workers are beyond the purview of these Labour Laws and, therefore, the Unorganised Workers Social Security Act, 2008 has been enacted by the Parliament which covers most of the left-out workers. It has also been pointed out by the counsel for the petitioners that under the said Act, especially under Section 3 thereof, various schemes have to be formulated and under Section 6 thereof as well as Rules under Section 14 of the Act have also been enacted after filing of these Public Interest Litigations and, therefore, all these credit goes to these petitioners. No Board was constituted in the State of Jharkhand before these writ petitions were filed.

3) We have passed several orders in both these Public Interest Litigations. We have also given directions to the Board as envisaged under Section 6 of the Act. Now, the Board has been constituted.

4) Further, we have passed detailed orders on 7th August, 2013, 27th August, 2013, 11th September, 2013, 12th November, 2013 and 29th April, 2014 in W.P. (PIL) No.2810 of 2012. By virtue of these orders, several schemes which have been floated by the Central Government like Indira Gandhi National Old Aged Pension Schemes, National Family Benefit

Schemes, Aam Admi Bima Yojna Schemes, Rashtriya Swasthya Bima Yojna Scheme, etc, which have now been implemented by the State of Jharkhand very effectively. The concerned Departments connected with those schemes are;

- (a) The Labour, Employment and Training Department;
- (b) Industries Department,
- (c) The Health, Medical Education & Family Welfare Department;
- (d) Animal Husbandry and Fisheries Department.

5) There is also one scheme, namely, Janshree Bima Yojna, which is to be implemented by the Life Insurance Corporation of India Limited. In our detailed order dated 12th November, 2013, we have narrated all the schemes and the eligibility for getting the benefits under the schemes, etc.

6) All the aforesaid Departments are now implementing these schemes very effectively. The rank & file of the State of Jharkhand are in dire need of accurate implementation of the schemes under the Act, 2008. Money is being given by the Central Government on reimbursement basis upon proper presentation of "utilization certificate".

7) Time & again, this Court has given enough guidelines for the implementation of these schemes through the Para Legal Volunteers (PLVs) and Jharkhand State Legal Services Authority. The officers of Labour Employment and Training Department were extremely helpful to this Court for better understanding of these schemes. Jharkhand State Legal Services Authority have been provided enough and adequate materials by these Departments and necessary pamphlets have also been prepared by the Jharkhand State Legal Services Authority with the help of officers of Labour, Employment & Training Department. As enough directions have been given, we see no reason to monitor implementation of the Act by these two Public Interest Litigations. The petitioners, namely, All India Progressive Women Association, Jharkhand Chapter, through Secretary of Jharkhand Chapter and National Domestic Workers Welfare Trust, have painstakingly assisted Court in these Public Interest Litigation because the schemes which are meant for workers are now reaching to "the last man in the

queue".

8) One Interlocutory Application has been preferred for modification of the order dated 29th April, 2014 passed in W.P. (PIL) No.2810 of 2012, especially paragraph 9 thereof. We have heard the counsel for both sides and now we are satisfied that very effectively the Labour, Employment and Training Department is executing the schemes floated under the Act, 2008 and, therefore, we delete paragraph 9 from our order dated 29th April, 2014 passed in W.P. (PIL) No. 2810 of 2012. The observations made in paragraph 9 of the order dated 29th April, 2014 passed in W.P. (PIL) No. 2810 of 2012 are hereby deleted. This order will be treated as part & parcel of the order passed on 29th April, 2014 in W.P. (PIL) No. 2810 of 2012.

9) We, therefore, direct;

(a) The State and especially the officers of four departments and the Life Insurance Corporation to implement the schemes envisaged under the Act, 2008 especially under Section 3 thereof.

(b) We also direct the State of Jharkhand to utilize the services of Para Legal Volunteers available in the State of Jharkhand through Jharkhand State Legal Services Authority to create awareness amongst the public at large of the State of Jharkhand, to get benefits under the aforesaid schemes.

(c) We also direct the State to assist the Jharkhand State Legal Services Authority in publishing in adequate number of necessary pamphlets/booklets for the schemes so that through the District Legal Services Authorities, these pamphlets/booklets may be distributed in the Jharkhand so as to make public at large, aware about their rights.

(d) We also direct the State to put necessary hoardings, signboards with lights/without lights to give necessary advertisements through print and electronic media and also through LED Electronics Boards. The State will also use community radio for the aforesaid purpose.

(e) We also direct the Jharkhand State Legal Services Authority to prepare the necessary summary, pamphlets, hoardings, signboards, LED Electronics Display Boards at

conspicuous places like,

- (i) Railways Station;
- (ii) Bus Stands;
- (iii) Public places of the offices like offices of Deputy Commissioners, etc;
- (iv) Civil Courts premises in the districts;
- (v) All public hospitals;
- (vi) At different block offices of the State of Jharkhand;
- (vii) Offices at Panchayet levels;
- (viii) Primary Health Centres;
- (ix) Community Health Centres.

(f) We further direct the State that necessary Utilization Certificate shall be sent to the concerned Department of the Central Government for reimbursement of the money, of which the expenditure will be made by the State for the effective implementation of the schemes floated by the Central Government under Section 3 of the Act, 2008.

(g) We further direct the Central Government that upon receipt of the necessary papers from the State of Jharkhand including Utilization Certificate, etc, the money will be reimbursed to the State of Jharkhand at the earliest.

10) In view of the aforesaid directions and also keeping in mind the earlier directions and orders passed by this Court in both these Public Interest Litigations, we see no reason to further monitor these Public Interest Litigations for effective implementation of the schemes floated under the Act, 2008 and hence, these Public Interest Litigations are hereby disposed of. In view of the disposal of these Public Interest Litigations, any other pending interlocutory application is/are also disposed of.

11) Copy of this order will be given to the counsel for both sides.

(D. N. Patel, J)

(Rongon Mukhopadhyay, J)