

**PRASHANT BHUSHAN**

ADVOCATE

Residence:

Office

Chamber

To,

1. Pr. Secretary (Education), Education Department, Old Secretariat, New Delhi-110054
2. Director (Education), East Delhi Municipal Corporation, Plot No. 18-24, Udyog Sadan, Patparganj Industrial Area, New Delhi-110092
3. Director (Education), North Delhi Municipal Corporation, 15th Floor, Shyama Prasad Mukherjee, Civic Centre, New Delhi-110002
4. Director (Education), South Delhi Municipal Corporation, 23rd Floor, Shyama Prasad Mukherjee, Civic Centre, New Delhi-110002

21<sup>st</sup> February 2022

**Subject: Legal notice regarding non recommencement of hot cooked midday meals in all schools run by local bodies or Government, and Government aided schools in Delhi**

Dear Sir/Madam,

1. This legal notice on behalf of the Delhi Rozi Roti Adhikar Abhiyan (DRRAA) is with regard to the non-provision of hot cooked mid-day meals (MDM) to school children despite the reopening of schools for classes I to VIII in the NCT of Delhi since 14<sup>th</sup> February 2022. It has come to our notice that hot cooked meals under the Centrally Sponsored Scheme- the National Programme of Mid-Day Meal, now renamed as Pradhan Mantri Poshan Shakti Nirman (PM POSHAN) are not being

provided to children in schools, and parents have been asked to sign consent forms stating that they agree to send their children to school with their own food and water.

**A copy of Consent Form is annexed herewith and marked as Annexure A-1. (Pages 10 to \_\_\_\_\_)**

2. The National Food Security Act, 2013 read with the Midday Meal Rules 2015, make provision for a hot cooked meal in all schools run by local bodies or Government, and Government aided schools for children studying in classes I-VIII. The relevant sections of the Act and Rules are as under:

**The National Food Security Act, 2013:**

“5. Nutritional support to children –

(1) ...

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.

...

8. Right to receive food security allowance in certain cases – In case 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.”

**The Mid-day meal Rules 2015**

“3. Entitlement for nutritional meal. - Every child within the age group of six to fourteen years studying in classes I to VIII who enrol and attend the school,

shall be provided meal having nutritional standards as specified in Schedule II of the Act, free of charge every day except on school holidays.

9. Food Security Allowance. - (1) If the Mid-Day Meal is not provided in school on any school day due to nonavailability of food grains, cooking cost, fuel or absence of cook-cum-helper or any other reason, the State Government shall pay food security allowance as defined in clause (c) of rule 2 to every child referred to in rule 3 by 15th of the succeeding month in the manner provided herein below:-

- (a) Quantity of Food grains as per entitlement of the child; and
- (b) Cooking cost prevailing in the State.”

3. Further the Supreme Court in **People’s Union for Civil Liberties v. Union of India & Others in W.P(C)No. 196 OF 2001** vide order dated 28<sup>th</sup> November 2011 directed the state governments/ union territories to implement the mid-day meal scheme by giving each child in each Government and Government-aided primary school a prepared mid-day meal:

*“3 ...(ii) We direct the State Governments/ Union Territories to implement the Mid-Day Meal Scheme by providing every child in every Government and Government assisted Primary Schools with a prepared mid day meal with a minimum content of 300 calories and 8-12 grams of protein each day of school for a minimum of 200 days. Those Governments providing dry rations instead of cooked meals must within three months start providing cooked meals in all Govt. and Govt. aided Primary Schools in all half the Districts of the State ( in order of poverty ) and must within a further period of three months extend the provision of cooked meals to the remaining parts of the State.”*

4. As is plain from the reading of the relevant provisions of the statute, rules and the directions of the Hon’ble Supreme Court, midday meals are mandatory for children

so as to ensure every child's right to adequate nutrition. Only in the event of some contingency when the meal cannot be provided, there is provision for a food security allowance. However this provision is only to be used when there is a rare occasion of unavailability of food grains, absence of cook, etc. When schools have resumed with physical classes and activities in the premises for all the students, there is no reason for not restarting provision of hot cooked mid-day meals in the schools. There is no justification for the schools to not provide the midday meal which is a statutory right of each child in the age groups of 6-14 years.

5. In order to prevent the spread of COVID-19, most State governments and Union Territories directed closure of schools and anganwadis from early March 2020, even prior to the declaration of the national lockdown. Taking cognisance of the impact this would have on access to food for children who are provided nutritional support through the Mid Day Meal in schools, the Hon'ble Supreme Court took suo moto cognizance of the matter (Suo Motu Writ Petition (C) No(s).2/2020 In Re : Regarding Closure Of Mid-Day Meal Scheme). Vide order dated March 18, 2020, the Hon'ble Supreme Court directed that all the States should come out with a uniform policy to ensure that while preventing spread of COVID-19, the schemes for providing nutritional food to the children are not adversely affected (Suo Motu Writ Petition (C ) 2/2020, In Re: Regarding Closure of Mid-Day Meal Scheme). The court noted that non-supply of nutritional food to children as well as lactating and nursing mothers may lead to large-scale malnourishment.

**A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure A-2. (Pages. 11 to 13)**

6. The Ministry of Human Resource Development vide a letter dated 20.03.2020 through the Joint Secretary (EE.I), advised states to provide hot cooked mid day meals or Food Security Allowance, whichever is feasible, till such time the schools were closed due to the COVID19 virus. The relevant extract is reproduced below:

“2. It is learnt that schools in many States and Union Territories have been closed as a precautionary measure to protect the students from Novel COVID-19 (Corona) virus. Under such extra ordinary circumstances, the Central Government has decided to provide Mid-Day Meal to meet the nutritional requirements of the eligible children under Mid-Day Meal Scheme in order to safeguard their immunity.

3. The MDM Rules, 2015 envisages that if Mid Day Meal is not provided in schools on any school day due to the non-availability of food grains, cooking cost, fuel, absence of cook-cum-helper or any other reason, the State Government shall pay the 'Food Security Allowance' consisting of

- i) Quantity of the food grains as per entitlement of the child and
- ii) cooking cost prevailing in the State, to every child.

4. As the country is passing through the difficult times of the Novel Covid-19 (Corona) outbreak The State Governments and Union Territories are advised to provide hot cooked Mid Day Meal or Food Security Allowance, whichever is feasible, to all eligible children till such time their schools are closed due to Novel COVID-19 (Corona) Virus. The modalities for this purpose may be decided by the respective States and UTs, suitable to the prevailing circumstances. It is also pertinent to reiterate that all the precautionary measures to face the situation arising out of Novel COVID-19 (Corona) virus, as advised by the Central and State Governments shall be followed. The regular Mid Day Meal shall resume as soon as the schools re-open.”

**A copy of the letter dated 20.03.2020 is annexed as Annexure A-3. (Pages. 14 to   )**

7. Thereafter, vide letter dated 29.4.2020 Ministry of Human Resource Development (MHRD) stated that Mid-Day Meal or Food Security Allowance will also be given during the summer holidays in 2020 due to the distress caused by the Covid-19 crisis. All state/UTs were advised to take necessary action to provide hot cooked meals or

Food Security Allowance (comprising of food grains and cooking costs) to eligible children during summer vacation in 2020-21. Implementing guidelines and reporting requirement were annexed to the said letter.

**A copy of the letter dated 29.04.2020 is annexed herewith and marked as Annexure A-4 (Pages. 16 to 21)**

8. Thereafter, vide letter dated July 31, 2020, MHRD taking into cognisance that schools continued to remain closed on account of the COVID-19 pandemic even after the summer holidays, approved the provision of Food Security Allowance comprising of food grains and pulses, oil etc. (equivalent to cooking cost) to all eligible children in lieu of hot cooked mid-day meal. The letter noted that closure of schools would deprive the children of their entitlement of hot cooked mid-day meal thereby adversely affecting their nutritional status as most of the eligible children are from poor background and belong to disadvantaged sections. **A copy of the letter dated 31.07.2020 is annexed herewith and marked as Annexure A-5. (Pages. 22 to 23)**
9. Despite the various advisories and guidelines of the MHRD and the directions of the Hon'ble Supreme Court regarding ensuring proper nutrition for children through the period of the closure of schools, in Delhi the provision of MDM or Food Security Allowance in lieu of hot cooked meal since March 2020 has been extremely erratic. For schools run by the Delhi government, initially only a paltry amount of cash transfer was provided on account of cooking cost and no dry ration was supplied. From July 2020 it was announced that dry rations would be provided, however the government failed to put in place a fixed and well publicised schedule for distribution of food grains, resulting in scores of children neither receiving any dry rations nor any food security allowance on a monthly basis, thereby denying them their statutory right. In fact, the Delhi Commission for Protection of Child Rights (DCPCR) issued a notice to the Director (Education) of the North Delhi Municipal

Corporation for not allocating dry ration as mid-day meal in its schools for 17 months. Minutes of official meetings and information accessed under the RTI Act, as reported in an article in The Hindu newspaper titled "When ration ran dry for Delhi schoolchildren" documents the apathy of the implementing agencies, including the Delhi government which did not lift the allocated grains for MDM for several months, leading to denial of food for lakhs of children.

**(A copy of The Indian Hindu article dated 09.10.2021 and titled "When ration ran dry for Delhi schoolchildren" is annexed as Annexure A-6. (Pages. 24 to 25))**

10. Vide letter dated October 6, 2021, addressed to the Education Departments across the country, the Ministry of Education conveyed the approval of the Central government for implementation of the Centrally Sponsored Scheme PM POSHAN (earlier known as National Programme of Mid-Day Meal) vide which food grain of 100 grams per child for primary school children and 150 grams for upper primary school children was approved along with cooking cost of Rs. 4.97 and Rs. 7.45 for primary and upper primary respectively. The letter noted that the cooking cost included the cost of ingredients including pulses, vegetables, oil and fat, salt and condiments and fuel at specified quantity for primary and upper primary school children.

**A copy of the letter dated 06.10.2021 is annexed herewith and marked as Annexure A-7. (Pages. 26 to 30)**

11. Vide letter dated November 16, 2021, the Ministry of Education advised the resumption of hot cooked mid-day meals in schools as states had eased restrictions and were beginning to open schools. The letter included detailed "SOP/Guidelines for Health and Safety protocols for Reopening of Schools and Learning with Physical/Social Distancing" which has an extensive section titled "SOPs FOR

SERVING MID- DAY MEAL IN SCHOOLS” regarding guidelines for safe resumption of serving of hot cooked mid day meals in schools.

**A copy of the letter dated 16.11.2021 is annexed herewith and marked as Annexure A-8. (Pages. 31 to 05)**

12. The direction to resume hot cooked mid-day meals in schools as the schools resumed physical functioning was reiterated by the Ministry vide its letter dated December 21, 2021. The letter noted that in case hot cooked meal could not be served, the requisite quantity of foodgrains and cooking cost in the form of Direct Benefit Transfer must be provided within a period of 15 days to ensure timely nutrition. Letter can be accessed at

**A copy of the letter dated 21.12.2021 is annexed herewith and marked as Annexure A-9. (Pages. 06 to     )**

13. As per details available on the official website of the government of India on the MDM (mdm.nic.in) foodgrains have been allocated for 6,45,311 students in primary schools and 6,39,793 students in upper primary schools in Delhi for the 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2021-22 i.e. October 2021 to March 2022.

14. In such a scenario, wherein foodgrains have been provided for nearly 13 lakh children till March 2022, and directions have been issued by the Government of India for resumption of MDM in the form of hot cooked meals as schools reopen, there is no basis for denial of hot cooked meals to eligible children in schools run by local bodies or government and government aided schools. The implementing agencies in Delhi have made a mockery of the MDM scheme by failing to provide adequate and timely hot cooked meals or Food Security Allowance in lieu of a hot cooked meal for the last 23 months when schools were closed on account of COVID-19.

15. Vide this legal notice, we call upon all implementing agencies for MDM in Delhi to commence providing the midday meal in the form of a hot cooked meal for all eligible children with immediate effect. The concerned authorities are also called upon to transfer forthwith into each eligible child's bank account the requisite amount of food security allowance or the requisite food grain for the concerned period when the MDM was not provided to them, which has not been paid or supplied, or paid and supplied only in part. In event of non compliance with these, we will be constrained to approach the Courts to seek accountability and hold responsible the concerned officials and departments for violation of this statutory right of children to a hot cooked meal during school hours.

Regards,

Prashant Bhushan.

## Parent's Consent-cum-Undertaking Form

I \_\_\_\_\_ father/mother/Legal guardian of Master / Miss \_\_\_\_\_, student of class \_\_\_\_\_ and section \_\_\_\_\_ do hereby give my consent and permission to my ward to attend the School physically .

I agree that in addition to precautions and necessary arrangements taken by the School, my ward will ensure and follow the safety precautions to contain the spread of corona virus, as stated below:

- To use the Face Mask / shield, Hand Sanitizer during presence in School at all times
- To carry own water bottle and food and not to share the same with other class students
- To always maintain physical / social distancing
- To not attend in case of sickness or ill health.
- To Immediately inform the teacher / concerned at the School if any member at home is sick and not to attend the School for the duration as prescribed by the doctor.
- To occupy the seat allocated in the class by the teacher and to follow all instructions / guidelines as issued from time to time.

I confirm that my ward is medically fit to attend the school and I shall immediately stop sending my ward to school if anyone at home has indifferent health.

Further, I undertake that I am aware of the current prevailing COVID 19 situation and the School authorities shall not in any way be held responsible/liable for my ward's health under any circumstances.

In case my ward shows symptoms like fever, cough, cold etc in school, I may be informed at my emergency contact number..... and I will immediately take my ward home.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Relation : \_\_\_\_\_