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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16579 of 2020

Prafulla Samantara *Petitioner*
Mr. Ishwar Mohanty, Advocate
-versus-
State of Odisha *Opposite Party*
Mr. M.S. Sahoo, A.G.A.
for the State

CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROU TRAY

ORDER
12.04.2021

Order No.

13. 1. This matter is taken up by video conferencing mode.
2. Mr. Ishwar Mohanty, learned counsel appearing for the Petitioner has drawn the attention of the Court to the earlier affidavit dated 9th October 2020, filed by the Commissioner-cum-Secretary to Government, F.S. and C.W. Department, Government of Odisha paragraphs 5.1 and 5.2 of which read as under:

5.1 That after nearly 3 years' of implementation of NFSA across the State from November/December 2015, it was observed that there are still some eligible population who are out of the ambit of the NFSA and thus State Government decided to implement its own food security scheme from October 2018 namely 'State Food Security Scheme' (hereinafter referred to as SFSS) and has provided food security to around 11.10 lakh eligible population who were not having ration cards.

5.2. That food security is provided to about 80% of State's eligible population confined to poor and

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vulnerable population in the State seeking food security, in both National Food Security Act and State Food Security Scheme, under Public Distribution System, at subsidized prices.”

3. He further draws attention to paragraph 15.3 of the said affidavit in which it is stated that as per the 2011 census data, the rate of growth of population of Odisha has increased. It has grown to 4,62,63,983 from 4,19,74,218. It is further stated that coverage under the National Food Security Act, 2013 (NFSA) is linked to the census data. The State is entitled to an upper ceiling of 3,60,85,907 beneficiaries as against 3,26,41,800 being covered now. In other words, Odisha is entitled to an additional target of 34.44 lakh beneficiaries.

4. The dilemma faced by the State Government is that the Government of India has declined to increase the beneficiary's upper ceiling saying that till such time the 2011 census figures are revised, there cannot be an increase in coverage.

5. The same affidavit states that as a result the Government of Odisha decided to introduce its own State Food Security Scheme (SFSS) from October 2018 onwards to cover the left out eligible non-card holders, who were outside the ambit of the NFSA. Initially, 25 lakh beneficiaries were targeted with each selected beneficiary entitled to get 5 kgs of rice per person per month at Rs.1/- per kg. It is stated that as on 9th October 2020, 3, 53,000 such families comprising of 11,10,007 members having no ration card, were issued ration cards as well as food grain entitlements under the SFSS.

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6. Mr. Mohanty then refers to the recent affidavit dated 4th March 2021, filed by the Principal Secretary to Government, F.S. and C.W. Department where it is stated in paragraph 11 that as on date, the SFSS coverage is 3,86,061 families comprising of 11,66,235 members. In other words between October 2020, and March 2021, the actual number of persons covered under the SFSS has increased by a mere 56,000. He appears justified in making a grievance that a large number of people are still left out from the ambit of either the NFSA or the SFSS.

7. Mr. M.S. Sahoo, learned Additional Government Advocate for the State states that for being brought under the SFSS the beneficiaries are required to make an application. Alternatively, the State can *sou moto* locate such persons for distribution of rations. What is, however, not clear is whether among those who continue to remain left out from either the NFSA or the SFSS there are any belonging to the BPL and other vulnerable categories. The Court would like to emphasize that under the directions of the Supreme Court in *PUCL v. Union of India*, that concerns the issue, no BPL person and no person belonging to any vulnerable group should be left out from the ambit of a State sponsored food security scheme. It is therefore essential for the State of Odisha to ensure that there are mechanisms put in place even under the SFSS which is supposed to cover the gap under the NFSA, so that no BPL or vulnerable group person is left out. It is not sufficient to state that the Government has already covered 80% of the State population under the PDS. There cannot be any persons belonging to vulnerable categories in Odisha who are left out of either the NFSA

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or the SFSS. A constant endeavour must be made to increase the coverage with every passing month.

8. Consequently, the Court would require the Commissioner-cum-Secretary to Government, F.S. and C.W. Department, Government of Odisha to inform the Court by an affidavit whether those belonging to BPL and other vulnerable groups have been specifically targeted and included under the SFSS irrespective of whether they are located in an urban or a rural area and whether each such person has a ration card or other document which is enable such person to approach a fair price shop or any other distribution centre to avail the rations. The affidavit be filed on or before 17th May, 2021.

9. List on 20th May, 2021.

10. As the restrictions due to the COVID-19 situation are continuing, learned counsel for the parties may utilize a soft copy of this order available in the High Court's website or print out thereof at par with certified copy in the manner prescribed, vide Court's Notice No.4587, dated 25th March, 2020.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

S.K. Guin

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