

Supreme Court of India

Kishen Pattnayak & Anr vs State Of Orissawithindian ... on 9 January, 1989

Equivalent citations: 1989 AIR 677, 1989 SCR (1) 57

Author: M Dutt

Bench: Dutt, M.M. (J)

PETITIONER:

KISHEN PATTNAYAK & ANR.

Vs.

RESPONDENT:

STATE OF ORISSAWITHINDIAN PEOPLE'S FRONT THROUGH ITS CHAIRMA

DATE OF JUDGMENT09/01/1989

BENCH:

DUTT, M.M. (J)

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SAIKIA, K.N. (J)

CITATION:

1989 AIR 677 1989 SCR (1) 57

1989 SCC Supl. (1) 258 JT 1989 (1) 46

1989 SCALE (1)32

ACT:

Constitution of India: Article 32.

Public Interest Litigation--Letter by social workers alleging-Starvation deaths--Exploitation of landless labourers--Children-Selling of--Treated as writ petition--Directions by Court.

Law and Poverty: Social justice--Orissa Relief Code--Paras 39, 40--Social Welfare Measures--District Level Natural Calamities Committees--Induction of social workers in committees.

HEADNOTE:

Two social workers addressed a letter to this Court bringing to its notice the miserable conditions of the people of the district of Kalahandi in the State of Orissa on account of extreme poverty. The said letter was treated as a writ petition. The petitioners in this petition alleged that in the district of Kalahandi on account of extreme poverty, there are starvation deaths and in order to save themselves from starvation deaths, people are compelled to subject themselves to distress sale of labour and paddy resulting in exploitation of landless labourers, deprivation of legitimate price of paddy to small peasants. It was also

alleged that on account of 'chill penury' people of Kalahandi district are even forced to sell their children.

In the other writ petition, Indian Peoples' Front alleged miserable conditions of the people of Koraput district in addition to the Kalahandi district. It was alleged that the starvation deaths, drought diseases and famine have been the continuing phenomenon in the said two districts.

The petitioners accused the Government of Orissa of its failure to

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protect the lives of the people of the two districts of Kalahandi and Koraput and sought directions that the State of Orissa should be directed to take immediate steps to alleviate the miseries and sorrows of the people of the said two districts.

With a view to ascertaining the correct state of affairs and to know whether the State has implemented the social welfare measures, and the adequacy of such measures to meet the needs of the people, the Court directed the District Judge of Kalahandi to submit a report. The learned District Judge in its report submitted that the State Government has implemented social welfare measures and there was hardly any case of starvation death.

The correctness of the facts found by the District Judge in his report was challenged by the petitioners, particularly the question of starvation deaths. The petitioners suggested that for the purpose of supervising relief work, a Committee of 11 member should be constituted comprising members of well-known social organisations.

On behalf of the State it was stated by the Attorney General that district level Natural Calamities Committees consisting of Collector, Officials, MPs and MLAs are already existing and these Committees review the progress of relief work and the measures taken to meet the drought conditions. It was submitted that members of voluntary social organisations can be inducted in these existing Committees instead of constituting a new Committee as suggested by the petitioners. The attention of the Court was also drawn to para 39 of the Orissa Relief Code dealing with enquiry in cases of starvation deaths and relief measures to be taken in such cases. It was stated that for the purpose of alleviating the miseries and sorrows of the people in the district of Kalahandi, State has already undertaken appropriate social measures, namely, allocation of Rs.8054 lakhs for Kalahandi during the Sixth Plan, constant vigilance under the direct supervision of the Chief Minister for redressal of the distress of the people, undertaking of massive scale labour intensive work to provide employment, free feeding programme in areas of acute distress, Emergency Feeding Programme in drought affected areas and crop damage areas, undertaking of a number of major, medium and small irrigation projects, digging of tube-wells for drinking water, starting afforestation programme to prevent recurrence of drought condi-

tions, fixation of minimum purchase price for paddy, providing adequate funds to purchasing agents to purchase surplus paddy at prescribed rates, direct procurement of entire paddy through Food Corporation of India and State Co-operative

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Marketing Federation, strict implementation of the Orissa Agricultural Produce Marketing Act and free supply of seeds to agriculturists in drought affected areas.

Disposing these petitions, the Court,

HELD: 1. It is not disputed that the people of Kalahandi and Koraput are very poor and most of them have been living below the poverty line. Though the report of the District Judge is against the starvation deaths the happening of one or two cases of starvation deaths cannot altogether be ruled out. [1E-F]

2. Paragraph 39 of the Orissa Relief Code makes ample provision for taking steps in case of starvation deaths. [63D]

3. The State Government shall nominate at least 5 persons belonging to the recognised voluntary social organisation like Sarvodaya Gandhi Peace Foundation, Ramakrishna Mission, Bharat Sewa Sangha and registered voluntary agencies as contained in the State approved list of voluntary agencies as members of the said existing district level Natural Calamities Committees of the Districts of Kalahandi and Koraput. [64B-C]

4. The said Committees shall hold one meeting every two months and shall be responsible for looking into the starvation deaths and the welfare of the people of these districts. These committees shall also keep a watch over the working of the social welfare measures taken and which are likely to be taken by the State Government. [66A, B]

The social welfare measures and prompt action taken by Government of Orissa will help in ending the miseries of the people. [66C]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 12847 of 1985 & 1081 of 1987.

(Under Article 32 of the Constitution of India). R.B. Mehrotra, Amicus-Curiae, Kishan Pattnayak-in-person, and Ranjan Dwivedi for the Petitioners.

G. Rath, Advocate General, Orissa, R.K. Mehta, Inderjit Roy, Ms. Mona Mehta, K.R. Nagaraja, and Ms. Madhu Moolchan- dani for the Respondents.

The Judgment of the Court was delivered by DUTT, J. Writ Petition (Civil) No. 12847 of 1985 has its origin in a letter written by Shri Kishen Pattnayak and Shri Kapil Narayan Tiwary, two social and

political workers, addressed to the Hon'ble the Chief Justice of India. In this letter, they have brought to the notice of this Court the miserable condition of the inhabitants of the district of Kalahandi in the State of Orissa on account of extreme poverty. It is alleged that the people of Kalahandi, in order to save themselves from starvation deaths, are compelled to subject themselves to distress sale of labour on a large scale resulting in exploitation of landless labours by the well-to-do landlords. It is alleged that in view of distress sale of labour and paddy, the small peasants are deprived of the legitimate price of paddy and they somehow eke out their daily existence. Further, their case is that being victims of 'chill penury', the people of Kalahandi are sometimes forced to sell their children. It has been prayed that the State Government should be directed to take immediate steps for the purpose of ameliorating the misery of the people of the District of Kalahandi.

On receipt of the said letter, this Court directed the same to be treated as a writ petition and it was registered as such.

Another writ petition being Writ Petition (Civil) No. 1081 of 1987 has been filed by the Indian People's Front. This writ petition not only relates to the misery of the people of Kalahandi, but also of the people of another district, namely, the district of Koraput. In this writ petition, it has been alleged that the starvation deaths of the inhabitants of the districts of Koraput and Kalahandi are due to utter negligence and callousness of the administration and the Government of Orissa. It is alleged that the starvation deaths, drought diseases and famine have been the continuing phenomena in the said two districts since 1985. The Government of Orissa has been accused of utter failure to protect the lives of the people of the two districts. The State of Orissa appeared in both these writ petitions and opposed the same by filing counter-affidavits denying the allegations of the petitioners. The State of Orissa filed two statements one dated October 20, 1986 consisting of 160 pages and the other dated December 1, 1986 consisting of 181 pages. In these statements, it has been alleged by the State of Orissa that the State Government has implemented the social welfare measures in the district of Kalahandi.

In order to ascertain the correct state of affairs, this Court by its order dated January 16, 1987 requested the District Judge of Kalahandi to enquire as to whether the State Government has, in fact, implemented the social welfare measures in the district of Kalahandi and whether such measures were adequate to meet the needs of the people there. The learned District Judge was asked to submit a report to this Court. It was further directed by this Court that the learned District Judge, while preparing his report, would consider the feasibility of the implementation of some suggestions made by the petitioners regarding the steps to be taken for the purpose of ameliorating the condition of the people in the said district.

The learned District Judge has since submitted his report which runs into 361 pages. The petitioners are not at all satisfied with the said report of the learned District Judge. They have challenged the correctness of facts found by him, particularly with regard to the question of starvation deaths. It has been stated by the learned District Judge that there was hardly any case of starvation death; on the other hand, there has been implementation by the Government of the social welfare measures. We do not think it necessary to consider the report of the learned District Judge.

It is agreed by the parties including Shri Pattnayak, the petitioner No. 1 in Writ Petition No. 12847 of 1985, who has appeared before us in person, that some steps should be taken for the purpose of alleviating the miseries and sorrows of the poor inhabitants of both the said districts. It is not disputed that the people of the districts of Kalahandi and Koraput are very poor and most of them have been living below the poverty line. Although the learned District Judge's report is against the alleged starvation deaths, we are of the view that the happening of one or two cases of starvation deaths cannot altogether be ruled out. Shri Pattnayak laid much emphasis in his submissions on the duty of the Government to take immediate steps to prevent starvation deaths. He has submitted before us some suggestions in writing, So far as prevention of starvation deaths is concerned, his suggestion are inter alia that the Government should constitute a 11- Member Committee, of which the majority should be social workers, for the purpose of supervising matters arising out of drought and other natural calamities. This committee may be called the Kalahandi Relief Implementation Committee (KRIC). The nonofficial members should not be members of any political party and should belong to well-known organisations of social work, such as, Sarvodaya Gandhi Peace Foundation and registered voluntary agen-

cies, as contained in the State approved list of voluntary agencies. He has also enumerated the duties of the Committee.

The learned Advocate General of Orissa, appearing on behalf of the State of Orissa, has drawn our attention to paragraph 39 of the Orissa Relief Code which provides as follows:

"39. Reports on starvation:

(i) In spite of taking adequate precautions in providing relief works for able-bodied persons, and gratuitous relief and feeding programmes for those who cannot undertake physical labour and other relief measures, reports of starvation cases very often appear in the Press. Whenever a report of death due to starvation is published and it comes to the notice of the Collector, he shall immediately cause an enquiry into the allegation. The enquiry shall be conducted by a gazetted officer in the presence of the Sarpanch, Ward Member or some gentlemen of the village and the result of the enquiry reported in the Pro forma in Appendix VI within 48 hours, if possible. The Pro forma is not exhaustive. The Collector should include such other information which he considers necessary to give Government a complete picture of the situation in which the alleged death has taken place. If all the information cannot be collected forthwith a preliminary report should be furnished immediately to be followed by a complete report soon.

(ii) After the receipt of the enquiry report, the Collector shall review the relief measures undertaken in the area and also if he deems proper, may visit the area himself or depute a senior officer to take stock of the situation and be satisfied about the adequacy of labour employment, food position, and other relief arrangements. He should take further steps to alleviate distress in the area as far as possible. In case he considers necessary to further strengthen the relief measures, he shall furnish

concrete proposals promptly with necessary justification through the Revenue Divisional Commissioner to the Board of Revenue/Special Relief Commissioner."

In this connection, we may also refer to paragraph 40 relating to verification of Press reports and issue of contradiction, if any. Paragraph 40 reads as follows:

"40. Verification of Press reports and issue of contradiction, if any--Besides alleging starvation deaths, reports on large scale migration of population on account of lack of work, scarcity of drinking water, outbreak of epidemics etc. appear in the Press very often. The Collector shall take steps to get such reports immediately verified by proper enquiry or otherwise and if found true should take immediate remedial action. Proper publicity relating to the relief measures undertaken should also be given. If on the other hand, the report is found inaccurate, exaggerated or incorrect a contradiction stating the correct facts may be issued by the Collector immediately. Copies of such contradictions should be made available to the higher authorities."

It is apparent from paragraph 39 that ample provision has been made for taking steps as soon as the report of starvation death is published or any starvation death comes to the notice of the Collector.

It is also submitted by the learned Advocate General that there is a district-level Natural Calamities Committee consisting of the Collector, other officials and the popular representatives like MPs and MLAs of the district, who are required to review the progress of relief work and the measures taken to meet the drought conditions from time to time. He submits that instead of constituting another Committee, the Natural Calamities Committee will serve the purpose. Shri Pattnayak also agrees that another separate Committee need not be constituted, but he submits that the Natural Calamities Committee should include at least five non-official and non-political members belonging to well-known organisations of social work, such as, Sarvodaya Gandhi Peace Foundation and registered voluntary agencies, as already suggested by him. The learned Advocate General states that the Government has no objection to induct into the Committee non-officials, such as, representatives of the recognised voluntary organisations as suggested by Shri Pattnayak.

In the circumstances, we direct the Government of Orissa that it shall, within a month from date, nominate the names of at least five persons belonging to the recognised voluntary organisations like Sarvodaya Gandhi Peace Foundation, Ramakrishna Mission, Bharat Sewa Sangha and registered voluntary agencies as members of the said Natural Calamities Committee of the district. We also accept the suggestion of Shri Pattnayak that the Committee shall hold at least one meeting every two months. The function of the Committee will not be confined only to the cases of starvation deaths, but it shall be responsible for looking after the welfare of the people of the district. We are given to understand that there is also such a district-level Natural Calamities committee in the district of Koraput. We make it clear that the Government will also nominate at least five such persons belonging to recognised voluntary organisations within a month from today and the Committee will also perform the same functions. So far as the district of Kalahandi is concerned, it has been urged by the learned Advocate General that the Government of Orissa has already undertaken appropriate measures for mitigating the miseries of the people of that district. The steps

which have been taken by the Government may be stated in brief. The State Government has allotted a sum of Rs.8054 lakhs for Kalahandi during the Sixth Plan. The State Government is fully aware of the situation in Kalahandi and constant vigilance is maintained under the direct supervision of the Chief Minister to redress the distress of the people. The labour intensive work has been undertaken by the government on a massive scale to provide employment opportunity to the people of the district of Kalahandi. During the year 1984-85, in areas of acute distress, free feeding programme has been undertaken on a massive scale. During 1987- 88 the coverage under the Normal Feeding Programme was 2,12,800 persons. Besides, 1,20,000 persons were also covered under the Emergency Drought Feeding Programme covering all the drought affected areas of the district. In 128 Gram Panchayats where crop damage was more than 50%, 1,20,000 persons were covered under the Emergency Feeding Programme during 1987-88. During the current year, preliminary survey indicated that crop damage was likely to occur in 74 Gram Panchayats and, accordingly, 40,000 persons from the said affected areas have been covered under the Emergency Feeding Programme in addition to the Normal Feeding Programme for 2,12,800 persons. Under the Area Development Approach Programme for Total Backwardness Scheme covering certain blocks, about 20,000 persons are being fed under the Feeding Programme. According to the Government, 2,72,000 persons are being covered by the Feeding Programme in Kalahandi district in 1988.

Kalahandi is a drought-prone district and Government has, according to the learned Attorney General, already taken a number of major, medium and small Irrigation Projects in the said district to provide irrigation facilities for agriculturists. 485 tube-Wells are stated to have been dug as a major source of drinking water in Kalahandi. The Government has also started afforestation programme so as to prevent the recurrence of drought conditions.

Much facilities are stated to have been given to the weavers of the district.

Elaborate measures have also been taken for ensuring that poor cultivators are not coerced to sell their surplus paddy at a lower rate on account of their poverty. The Orissa Agricultural Produce Marketing Act is being strictly implemented. The entire procurement of paddy has been entrusted to the Food Corporation of India and the State Cooperative Marketing Federation. These two Organisations specialised in such purchases, are possessed of godowns and have their local centres throughout the State for purchase of surplus paddy. The FCI at the request of the State Government, has established purchase centres at Junagarh, Khariar Road and Kesinga in the district of Kalahandi. The FCI has also made arrangements for direct purchase of paddy at Dharmagarh, Junagarh and Narala. The State Cooperative Marketing Federation has also opened direct purchase centres at Boden and Sinapalli in the district of Kalahandi. Furthermore, when surplus paddy comes to market, additional purchase centres are provided for purchase of the surplus paddy.

The minimum purchase price for paddy is fixed by the Government of India. Adequate funds are provided to the purchasing agents to purchase the surplus paddy at the rates prescribed by the Government. State Government also ensures that unscrupulous traders do not coerce the farmers to sell paddy at a distress price.

Assistance to agriculturists is also being given by the Government. Due to drought conditions, the Kharif crop was damaged in some areas of Kalahandi district in 1987-88. To enable cultivators to undertake resowing, Government is stated to have supplied seeds free of cost in mini-bags. The measures which have been taken and are being taken, as stated in the written note submitted by the learned Advocate General, have been briefly mentioned. There is no reason not to accept the statements made on behalf of the State of Orissa that the measures, stated above, are being taken for the purpose of mitigating hunger, poverty, starvation deaths, etc. of the people of Kalahandi. If such measures are taken, there can be no doubt that it will alleviate to a great extent the miseries of the people of Kalahandi. Such measures are also being taken in respect of the district of Koraput. The Natural Calamities Committee shall also keep a watch over the working of the social welfare measures which are being taken and may be taken in future. Shri Pattnayak also does not dispute that if such measures are continued to be taken, it will be a great relief to the people of Kalahandi and Koraput. We hope and trust that in view of the prompt action that has been taken by the Government, soon the miseries of the people of these two districts will be over.

As prayed for by Shri Pattnayak, the petitioners are granted liberty to mention before this Court, if necessary. The Writ Petitions are disposed of as above. There will be no order as to costs.

T.N.A.

Petitions disposed of.