

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

I.A. NO. \_\_\_\_\_ OF 2013

IN

WRIT PETITION (CIVIL) NO.196 OF 2001

In the matter of:

People's Union for Civil Liberties ...Petitioner

Versus

Union of India & Ors. ... Respondents

AND IN THE MATTER OF :

All India Fair Price Shop Dealers Federation

Regd. No. District East (Society)

273-2011 of Govt. of NCT of Delhi

Registered Office at:

S-562, School Block

`Akhand Hindustan Bhawan'

Shakarpur,

Delhi – 110092

Through its General Secretary

Biswambhar Basu

...Applicant

APPLICATION FOR INTERVENTION

To,

The Hon'ble Chief Justice of India and his companion Judges of the  
Hon'ble Supreme Court of India.

The humble application of the applicant abovenamed.

MOST RESPECTFULLY SHOWETH:

1. That the Applicant is filing the present application seeking intervention for the redressal of grievances of All India Fair Price Shop Dealers Federation against the final report submitted by Justice (Retd.) D.P. Wadhwa dated 29.12.2012 before this Hon'ble Court in Writ Petition No.196 of 2001.

2. That pursuant to the order dated 12.07.2006 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.196 of 2001 in the People's Union for Civil Liberties Versus Union of India & Others, a central vigilance committee of public distribution system was constituted under the Chairmanship of Hon'ble Mr. Justice (Retd.) D.P. Wadhwa, a former judge of the Hon'ble Supreme Court assisted by Dr. N.C. Saxena.

The committee was formed in order to look into the malafides, which was affecting the public distribution system and also suggest remedial measures for controlling such illegalities.

3. That in terms of the direction of this Hon'ble Court, the committee had issue a public notice inviting members of the public and organizations to share their views on the problems facing the public distribution system.

4. That pursuant thereto the federation and some associations of Fair Price Shop Dealers were informed about the said public notice and persons who were desires of personal hearing before the committee were requested

to intimate to that effect and further suggestions and representations addressed to the Chairman or Secretary of the committee.

5. That pursuant to the order dated 17.09.2012 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.196 of 2001, the Hon'ble Supreme Court directed the Central Vigilance Committee (CVC) to sum up its final accommodation in two stream (i) those it could be dealt at the national level so as to be applicable to all the States in the country and (ii) those would be specific in any reason and state. The committee had submitted the report on 29.12.2012 before the Hon'ble Supreme Court and suggested various measures to improve the working of the public distribution system.

6. That the committee has, therefore, bifurcated recommendation into long term and short term so that these could be implemented in a proper manner. As to long term objectives the committee had recommended inter alia constitution of a civil supply corporation in every State/Union Territory, viability of fair price shop, allotment of fair price shop, functioning of fair price shop and abolition of APL category.

7. That public distribution system evolved as a system of management of scarcity and for distribution of food grains at affordable prices. Over the years PDS has become an important part of the Government policy for management of food economy in the country there are over 5 lacs fair price shops which distribute food grains under the PDS currently allocation of food grains under targeted PDS is made by the Government of India to States/Union Territories for APL, BPL including Antyodaya Anna Yojana (AAY) families.

8. The CVC recommendations with regard to allotment and operation of Fair Price Shops (FPS) is that wherever FPS is operated by private individuals, they should be phased out gradually and FPS should be run by civil supply corporations. Till the corporation is established, FPS may be allotted to cooperatives, women self help groups, Upbhokta Bhandar etc. FPS not to be run by private individuals.

It is submitted that FPS is in operation since 1964 and it has served the public cause for almost 50 years. Public distribution system is operated under the joint responsibility of the Central and State Government. The Central Government has taken the responsibility for procurement, storage, transportation and bulk allocation of food grains etc. The responsibility for distributing the same to the consumer through the network of Fair Price Shop rest with the State Government. The only removal of the FPS and entrusting the work to the civil supply corporations, cooperatives, women self help groups, Upbhokta Bhandar etc. consisting of the same set of government employees will not serve the purpose.

9. It is reported in the Wadhwa Committee report that public distribution system has not yielded benefits to the extent intended. This is on account of various reasons viz. collusion between persons involved in the PDS supply chain resulting in leakage and large scale diversion of food grains, flawed system of appointment of fair price shop dealers, errors of inclusion and exclusion which deny targeted beneficiaries of their entitlement and resulting in faulty identification of target groups.

10. That the committee has recommended two important steps to revamp the system one is constitution of civil supply corporation in every State/Union Territories and computerization of whole PDS operation.

11. It is stated that shifting of other institution by removing FPS will not serve any purpose as it cannot be assured that the same set of officials will not indulged in the same things when the public distribution system is run by the same government agency. It is also stated that some restrictions and control may be put the fair price shop owners as well as the government officials so as to streamline the functioning of the fair price shops.

12. It is submitted that there are allegation through out the country regarding corruptions at Panchayat level in the schemes like Mahatma Gandhi National Rural Employment Guarantee Agency (MNREGA) and others scheme meant for the poor and weaker sections of the society. There are also allegations that money has been siphoned out from these scheme that does not mean that other agencies may be taken over by the Government to stop corruptions.

13. That All India Fair Price Shop Dealers Federation is filing the intervention application in the pending writ petition for filing the objection on the report of the Wadhwa Committee regarding suggestion of constitution of a civil supply corporation in every States/Union Territories in place of individually owned fair price shops.

14. It is recommended in the Wadhwa Committee that civil supply corporation in the State is constituted to work as an independent body to

distribute PDS food grain at fair price shop level and take over existing fair price shop on the ground that Fair Price Shop is Epicentre of corruption where FPS owner, transporter, corrupt officials and politicians are hand in gloves to cheat the public. It is observed by the Wadhwa Committee in its reports that stand alone FPS is not viable.

It is respectfully submitted that the purpose for All India Fair Price Shops Dealers Federation for filing the present application is to safeguard the interest of five (5) lacs fair price shops whose families are totally dependable for their livelihood on this shops earning. These fair price shops owners had invested money in the fair price shop and also employed several peoples in those shops who are also earning their livelihood from these fair price shops. As such if the recommendation of the Wadhwa Committee is accepted in such event many people will become jobless and therefore it would go against interest of all those people and the nation at large, who are fully dependent of their livelihood through these fair price shops if such shops are to be phased out gradually.

15. There might some allegations against some fair price shop owners out of those 5 lacs FPS, that will not be a correct scale to measure or judge or come out to a conclusion that fair price shop were not working in all these years, specially when it has served crores and crores people through out the country for last 50 years. It is respectfully submitted if the fair price shops are closed, the persons who are running these shops and are fully dependent will be uprooted and will have no source of income to serve their family at these stage. It is submitted that by controlling, supervising and monitoring and/or by adopting other methods the working of the fair price

shops may be streamline. It is also not certain or can be granted that by replacing those fair price shops to other agencies will remove the source of corruption and thereby benefit the society at large.

16. That the committee had recommended that civil supply corporation should be made self sufficient and corporation should be able to absorb the loss if any suffered by FPS run by it from its other activities. It is recommended that any loss in the operation of the corporation should be compensated by the State by making budgetary provisions. It is also recommended that no infrastructure like shops and godowns exists for operating FPS it should be built by state/corporation on the lines of Mother dairy outlets or ATM or Post office. It is submitted that same facilities recommended by the Wadha committee should also be offered to the individual FPS owner.

17. That the committee has recommended that FPS run by the corporation can sell other grocery items in addition to the PDS items and can run as a departmental store instead of FPS. This will help in cutting down in losses which are incurred by the FPS while selling only PDS item it at all FPS incurred loss that loss will be of the corporation and the direct responsibility of the State. Salesman appointed by the corporation will be paid uniform salary and will be under the rules and regulations of the corporation.

18. It is submitted by the federation through its objection of the Wadhwa Committee report that the same facilities may also provided to the existing FPS like running of the departmental stores, uniform salary of the salesman under the rules and regulations of the corporation.

19. That the committee had reported that in 13 States there are Civil Supply Corporations which are not necessarily dealing wholly or partially in PDS. The federation submitted before this Hon'ble Court that on the ground which Wadhwa Committee has recommended for taking away of the existing FPS by the State Civil Supply Corporations. There is wide spread corruptions in the Government Department also.

20. That the recommendation of the Wadhwa Committee to do away in the individually own fair price shops will put around 5 lacs shops, their employees and the respective members of their family numbering around at least 75 lacs in dire distress and imminent starvation owing to the forced unemployment of individual FPS owners and their employees. This also violates the fundamental right as enshrined in the constitution as fundamental right to life and trade for the individual FPS owners and their employees. (To elucidate, the Fair Price Shops are bread – earners for the family of the Fair Price Shop Owner and his two employees and taking into account the number of family member it comes to 3x5x5 Lacs totaling 75 Lakh)

21. That around 5 lacs fair price shops run their business from privately owned or rented shops spread out all over the country in a time tested network and it is difficulty for the State Civil Supply Corporations to ensure a similar network if the fair price shops are run by them or by women self help groups sponsored by them.

22. That the running of the fair price shops by individual has a long and time tested system and dealers have attend adequate experience through



the wear and tear of time and it will be impossible for the women self groups to take over night without having necessary infrastructures, finance, expertise and experience. The individual fair price shop owners have neither the age nor adequate qualification or expertise to engage themselves in any other occupation afresh. The age bar also remains a measure factor in this regard.

23. That the individual fair price shop owners had running the fair price shops in a great difficulties they are paying the advance payment for lifting the food grains from the godown and the margin is also very low. Most of the FPS dealers procure such huge amount of money for payment by way of borrowing money from banks and/or financial institutions which put tremendous pressure on the budgetary provisions. It is relevant to mention here that monies are blocked for months in the Government for lifting the PDS food grains and it is not possible for voluntary organization like women run self help group to sustain such financial compulsions.

24. That the Wadhwa Committee has recommended various measures like total computerization, greater involvement and supervision rigorous monitoring and setting up of vigilance committee at the various stages of the targeted PDS. If such recommendation are rigorously followed, it will definitely yields satisfactory measures and there will be no scope whatsoever for the fair price shops to indulging alleged malpractices as alleged in the Wadhwa Committee report and there is no need to put the individual owned fair price shops out of business curtailing their fundamental right to life and trade as granted by the constitution of India.

25. That in paragraph No.6 of the report, it had made caustic observations against the error of inclusion and exclusion which denied targeted beneficiary of their entitlement and of virtually non-existent vigilance machineries and the problems of too many functionaries involved resulting in dilution of accountability, lack of adequate supervision of PDS operation, undue political interference and lastly a corrupt implementing machinery, thus the fair price shop owner should not be made the lone scapegoats.

26. That the committee of its short term recommendations in Para 6 of its report has made some positive recommendations for ensuring the viability of fair price shops run by the States Civil Supply Corporation like allowing them to run as departmental stores by selling other grocery items in addition to the PDS items and the salesman appointed by the corporation should be paid uniform salary and benefits under the rules and regulations of the corporation. Why should not such realistic recommendations be applicable to individual fair price shop who are running the business with their own funds and infrastructure without any government supports.

27. That the committee in short term recommendations has suggested that APL category should be abolished while in an advertisement published by the Ministry of Consumer Affairs, Food and Public Distribution, Government of India in all leading newspapers on 13.02.2013 has gloriously highlighted its programme "food for all and right to food" under the National Food Security Bill, 2011 which has been claimed to be dream project of the UPA Government.

28. That the committee in para `m' has suggested that in order to check diversions of PDS wheat fortified wheat flour be supplied under the PDS system instead of wheat. It is submitted that preference of the consumer has not at all been taken while making such recommendation since most of the consumer preferred to have wheat since they can check the quality and satisfied themselves while there is no such choice available to the consumer in so far wheat flour is concerned. Moreover, wheat flours deteriorates much quicker than wheat due to long storage, weather related hazards etc. and become infested.

29. That the committee in para `c' in the recommendation has ascertained that induction of Global Positioning System (GPS) technology can keep a track on movement of trucks carrying food grains from FCI to fair price shops. Under such circumstances the process may be simplified by allowing the fair price shops to directly lift the stocks for the FCI godown without necessitating any tier in between moreover this will quicken in the process and eliminate unnecessary and time taking red tapes. Above all lifting in various stages which may incurred stage wise handling losses meaning wastage of food grains can also be avoided.

30. There are around five lakh fair price shops spread all over the country who cater to around 23.76 crores of ration cardholders. It would be evident from the report of Hon'ble retired Justice D.P.Wadhwa that even five percent of neither the fair price shops nor the ration cardholders were interrogated though minimum norms of any sample survey requires examination of atleast ten percent of

the subjects. Thus, the report has been more of a personal conclusion and has been an “Illicit Generalization” as per the basic principle of Inductive Logic.

#### PRAYER

It is therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to :

- a) allow the intervention of the applicant as they are effected by any order or proceedings before this Hon’ble Court; and
- b) pass such other or further order(s) as this Hon’ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHELL EVER PRAY.

Settled by:  
(Mr.Nagendra Rai)  
Sr. Advocate

Drawn and Filed by:  
(Chandra Bhushan Prasad)  
Advocate for the Applicant  
6, C.K. Daftary Block  
Supreme Court  
Lawyers Chamber  
Supreme Court of India  
New Delhi – 110001

New Delhi:  
Dated

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
I.A. NO. \_\_\_\_\_ OF 2013

IN

WRIT PETITION (CIVIL) NO.196 OF 2001

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AFFIDAVIT

I, Shri Biswambhar Basu son of Gouranga Sundar Basu, R/o G-24/3, Karunamoyee Housing Estate, Salt Lake, Sector-II, Bidhan Nagar, Kolkata-700091, West Bengal presently at AC-164, Prafulla Kanan (East), Kestopur, Kolkata- 700 101, do hereby solemnly affirm state as under:

1. That I am the General Secretary of the applicant and am competent to swear this affidavit on behalf of All India Fair Price Shop Dealers' Federation in the above mentioned matter and I am fully conversion with the facts and circumstances of the case.

2. That I have read the contents of accompanying application for intervention and understood the same, I say that the contents of thereof are true and correct.

3. That the annexures marked to the accompanying application are true copies of their respective originals.

DEPONENT

VERIFICATION:

I the above named deponent do hereby verify that the facts stated in the above affidavit are true to my knowledge and belief no part of the same is false and nothing material has been concealed there from.

Verified at                      on this                      day of March, 2013.

DEPONENT

SECTION

IN THE SUPREME COURT OF INDIA  
CIVIL/CRIMINAL APPELLATE/ORIGINAL JURISDICTION

SLP/TP/WP/SUIT/APPEAL(CIVIL) NO. OF 2013

Versus ... Petitioner(s)/Appellant(s)  
... Respondent(s)

**VAKALATNAMA**

I/We \_\_\_\_\_ in the above  
\_\_\_\_\_ do hereby appoint Chandra Bhushan Prasad, **Advocate on Record, Supreme Court of India**, to act and appear for me/us in the above Suit and on my/our behalf to conduct and prosecute (or defend) the same and all proceeding(s) that may be taken in respect of any application connected with the same or any decree or order passed therein including proceedings in taxation and application for Review, to file and obtain return of document(s), and to deposit and receive money on my/our behalf in the said Petition and in application of Review, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

I/We agree to ratify all acts done by the aforesaid Advocate in pursuant to this authority.

Dated this the \_\_\_\_\_ Day of \_\_\_\_\_, 2012.

ACCEPTED & IDENTIFIED

Chandra Bhushan Prasad  
Advocate-on-Record

The Address for Service of the said Advocate is : Put Signature(s) as below

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**MEMO OF APPEARANCE**

To,

The Registrar  
The Supreme Court of India  
New Delhi

Sir,

Please enter my appearance for the above-named Respondent in the above mentioned matter.

Yours faithfully,

Chandra Bhushan Prasad :  
Advocate-on-Record  
6, C.K. Daphtary Chamber Block  
Supreme Court of India  
New Delhi - 110001

Dated:

Code:

