

FEW CASES DEALT WITH BY THE COMMISSION RELATING TO ADEQUATE HOUSING

CASE NO. 7212/30/9/2015

The Commission has come across a distressing news report captioned "Child dies after railway officials demolish 500 shanties in late-night drive in Delhi" published in the Times of India on 13.12.2015. It is reported that one child died hours after her family, along with nearly 500 others, was evicted from their slums in a late-night demolition drive by railway authorities in New Delhi's Shakur Basti area. With their shanties razed to the ground, hundreds of women and children had to spend the cold night in the open. The Commission observed that if the news report, if true, raises a serious issue of violation of the right to life, right to shelter and right to dignity of the persons, including women and children, who have been rendered homeless after the demolition drive.

The Commission issued notice to Chief Secretary, Govt. of NCT of Delhi and Chairman, Railway Board, New Delhi calling for a report in the matter within two weeks. Further, it also directed that a team comprising officers of the Law Division and the Investigation Division shall visit the place of incident, conduct an on the spot inquiry and submit a report to the Commission within one week.

The High Court of Delhi had also taken cognizance of the matter and vide its order dated 16.12.2015 passed in the above mentioned matter has, inter alia, requested the National Human Rights Commission ('NHRC') to depute one senior official to visit the site and submit a report to the Court on the extent of relief and rehabilitation that is being provided to the dwellers and to give suggestions as to how this can be further improved. Accordingly the Commission deputed a three member team to visit the site and based on its report submitted a report to the High Court of Delhi a copy of which is at Annexure-II. The suggestions made by the Commission for improvement of relief and rehabilitation measures was appreciated by the Hon'ble Court and were incorporated in its order and directed to be complied with by the authorities.

CASE NO. 1161/30/0/2011

Shri Miloon Kothari, Executive Director, Housing and Land Rights Network (HLRN), New Delhi has forwarded a fact-finding report on alleged forced evictions carried out in Delhi for the 2010 Commonwealth Games. The report entitled "Planned Dispossession: Forced Evictions and the 2010 Commonwealth Games" highlights the human rights violations and continued sufferings of individuals and families who lost their homes and livelihoods because of the Commonwealth Games. As per the report, HLRN undertook a detailed fact-finding mission across 19 sites in Delhi from where the government forcibly evicted families because of the Commonwealth Games, for reasons ranging from construction of infrastructure to 'security' and 'city beautification'. The Commission while considering the matter on 5.5.2014 inter alia observed and directed as under:- "Pursuant to the directions of the Commission dated 09.12.2013, Dy. Director (SUR), Delhi Urban Shelter Improvement Board, New Delhi vide communication dated 20.01.2014 has forwarded the status report. The Commission is also in receipt of a report dated 04.3.2014 from Director (Works), PWD HQrs., Govt. of NCT of Delhi informing that no forced eviction/demolition have been carried out by PWD in Delhi during Commonwealth Games, 2010. Let these reports be sent to the complainant, Shri Miloon Kothari, Executive Director, Housing & Land Rights Network (HLRN), New Delhi for his comments, if any within four weeks. He may also be asked to give the details of evictions, if any, allegedly made by the authorities. The Commission would also like to know from the Secretary, Ministry of Urban Development, Govt. of India and Secretary, Urban Development Department, Govt. of NCT of Delhi to submit within four weeks the status of the directions issued by the High Court of Delhi on 11.2.2012 while disposing the WP No.8904/2009, 7735/2007, 9246/2009 and 7317/2009."

In response, the Under Secretary to the Government of India, Ministry of Urban Development (Delhi Division), Government of India, New Delhi has submitted a communication dated 27.6.2012 stating therein that they have no role to play in the relocation of Jhuggi clusters in question.

However, it is reported (Case No.914/30/0/2014) that Writ Petition (C) No.524/2010 has been filed by the Peoples' Union for Democratic Rights before the Delhi High Court and the High Court of Delhi has set up a Monitoring Committee on this issue. The report of the Monitoring Committee is submitted and it is under consideration. Hence, the case is closed.

Case No. 308/30/4/2014

The Commission came across a news item captioned "6 homeless die of cold on rainy night. All bodies were found at places around Kashmere Gate in North Delhi" which appeared in local news paper 'Times of India, Delhi' on 19th January, 2014. The press report alleged that six homeless persons lost their lives to the chill and rain on the intervening night of 17/18 January, 2014 in the Kashmere Gate area of Delhi. It has been further reported that the State Government has failed to make a shelter plan and a policy for the homeless persons despite directives from the High Court and the Apex Court. According to the news paper 17 homeless persons have died in the recent past in six weeks in the North District alone. In another news item published by 'Dainik Jagran' Delhi on 19th January, 2014, it has been reported that 12 homeless persons have died in Delhi due to cold in last 24 hours in the absence of night shelters in various areas of Delhi. Taking cognizance of the matter, the Commission obtained reports from the concerned authorities and also had discussions with them and sought a detailed report regarding the functioning of night shelters. Pursuant to the directions of the Commission, Addl. Commissioner of Police, Delhi vide communication dated has forwarded a copy of the report dated 27.3.2015 of DCP (HQ), Delhi. It has been submitted that the Delhi Urban Shelter Improvement Board (DUSIB) is the nodal agency for management of the night shelters on behalf of the Government of NCT of Delhi. He has submitted that in order to streamline the management of night shelters and coordination with various agencies, an Empowered Committee has been constituted. The Joint Commissioner of Police, Central Range New Delhi has been nominated as a member representative from Delhi Police for the said Empowered Committee. It is further submitted that directions have already been issued from time to time to DCPs of all Districts and PCR to direct/brief their Beat, Patrolling Staff and I/C PCR vans to remain in touch with night shelters and if any homeless person is found under the fly-overs or foot paths and near

temples, sleeping on the streets, they should immediately be sent to nearest night shelters. Besides, W/constables have also been directed to inspect the nearby night shelters which have been designated for women. Director (Night Shelter) DUSIB vide communication dated 15.4.2015 has sent a status report on the functioning of night shelters by DUSIB after 2.2.2015 on the following points:- 1. Setting up of night shelters 2. Implementation of cluster management approach 3. Rigorous inspection of night shelters by officers of DUSIB. All these steps have ensured that no deaths of homeless people have taken place this year and rigors of winter faced by the homeless of Delhi have reduced to a very large extent. The reports are taken on record and the case is closed.

CASE NO.3815/30/0/2012

Shri Avinash Rai Khanna, a Member of Parliament (Rajya Sabha) of the BJP, forwarded to the Commission copy of a news clipping on the reduction of night shelters in Delhi. As per the news report, the Master Plan-2021 provides for one night shelter for population of one lakh and as per the order of the High Court, Government of Delhi is maintaining 150 night shelters for some time. Now the DDA has proposed one night shelter for population of five lakhs. This proposal is to be sent to Urban Development Department of the Central Government. Pursuant to the directions of the Commission, an Under Secretary to the Government of India, Ministry of Urban Development (Delhi Division), has forwarded reports dated 29.11.2012 and 06.02.2013 of the Deputy Director (Planning), MP, of the DDA. There being some discrepancy regarding norms for night shelter in MPD-2021, the DDA has proposed amendment / modification of para 4.3 relating to night shelters and it was proposed that one night shelter would be provided for five lakhs population. However, in the Advisory Group Meeting held on 06.12.2012 under the Chairmanship of the LG, Delhi, the Advisory Group approved the following amendment / modification with respect to night shelters : ".....one night shelter shall be provided for one lac population. The actual location and need of night shelter is to be decided by the Local Authorities / GNCTD based on practical demand / assessment. However, in this regard for the geographical distribution of night shelters a minimum of atleast one night shelter per administrative Unit such as Revenue Sub-Division or a Police Station should also be a criteria for planning purposes". In view of the

decision of the Advisory Group taken on 06.12.2012, the norms for night shelters as to population remains almost the same. A copy of the report be sent to the complainant seeking his comments within four weeks.

These proceedings shall be read in continuation of the earlier proceedings of the Commission dated 22.05.2013, vide which the Commission had directed that a copy of the report submitted by the Under Secretary to the Government of India, Ministry of Urban Development (Delhi Division), be sent to the complainant seeking his comments within four weeks. Pursuant to the directions of the Commission, the complainant has submitted his comments dated 18.06.2013, in which it is stated as under : "With your kind intervention the matter has been solved, so in view of the report case be closed". The Commission has perused and considered the comments of the complainant. As the complainant has stated that the matter has been solved and in view of the report case be closed, no further intervention of the Commission in the matter is required and the case is closed.

IN THE HIGH COURT OF DELHI AT NEW DELHI

WRIT PETITION (C) NO.11616 OF 2015-12-21

IN THE MATTER OF :

Ajay Maken

:

Petitioner

Versus

Union of India & Ors.

:

Respondents

REPORT OF THE NATIONAL HUMAN RIGHTS COMMISSION

The Hon'ble Court vide its order dated 16.12.2015 passed in the above mentioned matter has, inter alia, directed as under:

"23. The Court requests the National Human Rights Commission ('NHRC') to depute one senior official to visit the site and submit a report to the Court on the extent of relief and rehabilitation that is being provided to the dwellers and to give suggestions as to how this can be further improved. The officer may take the assistance of the DUSIB in carrying out this task. This is essentially with a view to having an independent assessment of the relief and rehabilitation measures since a grievance has been expressed by learned counsel for the Petitioner that the measures taken at present are inadequate. The NHRC official will let the officers of the DUSIB know in advance of his visit so that information can be passed on to the other agencies who will depute responsible officers to remain at the site during his visit. It will be open to learned counsel for the parties to also remain present during such visit. The officer of the NHRC is requested to place before the Court his report on the next date."

2. In compliance with the above directions of the Hon'ble Court this report is being submitted for kind perusal.
3. The Commission has, on 15.12.2015, also taken suo motu cognizance of the news item of 'The Times of India' dated 13.12.2015, captioned 'Child dies after railway officials demolish 500 shanties in late-night drive in Delhi' which reveals that one child died hours after her family, along with nearly 500 others, was evicted from their slums in a late night demolition drive by railway authorities carried out in the area of Shakur Basti, New Delhi on 12.12.2015. With their shanties razed to the ground, hundreds of women and children had to spend the cold night in the open.
4. The Commission taking serious view of the matter, issued notices to the Chief Secretary, Government of NCT of Delhi and Chairman, Railway Board, New Delhi calling for reports within two weeks. The Commission also directed that a team comprising officers of the Law Division and the Investigation Division shall visit the place of incident, conduct an on the spot inquiry and submit a report to the Commission.
5. Accordingly, the NHRC team comprising Sh. A.K.Parashar, Joint Registrar (Law), Sh. Srinivasa Kammath R, Dy. Registrar (Law) and Sh. Bimal Jit Uppal, Inspector conducted a spot visit at Shakur Basti on 17.12.2015.
6. In pursuance of the directions of the Hon'ble High Court communicated to the Commission on 18.12.2015, a meeting was held on 19.12.2015 by the NHRC team with Shri S.K. Mahajan and Shri N.H. Sharma, Superintending Engineers of the Delhi Urban Shelter Improvement Board (DUSIB). Various issues of relief measures were

discussed and they were informed about the proposed visit of the NHRC team on 20.12.2015.

7. Accordingly, the NHRC team again visited the demolition site on Sunday, the 20th December, 2015. Representatives of Railways, Delhi Jal Board, District Administration and DUSIB were present at the site and the team was briefed about the relief and rehabilitation measures.

8. The team will submit its report to the Commission in due course. The present report is confined to the task entrusted by the Hon'ble Court, to independently assess the extent of relief and rehabilitation that is being provided to the dwellers and to give suggestions as to how this can be further improved.

9. Following relief measures have been noticed by the NHRC team:-

I. Food Distribution

It is noted that from 20.12.2015, the Railways have taken up the responsibility of food distribution. The team noted that on 20.12.2015 railway authorities brought about 1600 food packets as the first lot at around 1230 hrs in 9-10 cartons. The food packet was containing six pooris, potatoes curry and pickle. In one of the distribution sites, the team found some of the food packets to be containing stale food. The distribution of the said food was stopped forthwith and the Sub-Divisional Magistrate was directed to seal the same and send for examination through Food & Supply Department. Railway authorities were asked to make immediate arrangements for alternative food packets for the dwellers. About 100 food packets were found to be unfit for consumption.

Observations:-

- Quality of the food was not upto the mark.
- No specific places for food distribution were earmarked.
- People were clueless about the timing and from where to collect the food.
- The entire food distribution was done in an unsystematic manner, resulting in unequal distribution and denial of food to some people cannot be ruled out.

Suggestions for Improvement:-

- ✓ Places for food distribution should be earmarked, timing of distribution specified, displayed and people should be apprised about the same through public announcement system, whistle etc.
- ✓ There needs to be better coordination among the agencies involved in the food distribution, i.e. between the Railways and the DUSIB.
- ✓ The authorities should clearly identify the jhuggi dwellers in need of relief and provide them with some identity document so that the food packets reaches to the genuine dwellers.

II. Medical Assistance

The team observed that there were three different medical teams were available at the site. One was from the railways, one from District Administration and one from the nearby Govt. Hospital named Mahavir Hospital. Doctors are usually available from 0900 hrs to 1800 hrs on every day. During night, ambulances with paramedical staff were stated to be present for any emergency. On scrutiny of the registers maintained by the doctors, it was found that 2-3 days after the demolition, more than 300 people approached the medical teams most of them with complaints of cough, cold and dysentery. In 2-3 cases, patient were referred to Mahavir

Hospital for better treatment. During the visit of the NHRC team on 20.12.2015, it was found that there were less than 10 patients reported to the medical site. Basic medicines were being supplied to the patients.

Observations:-

- Overall medical arrangements appeared to be satisfactory and jhuggi dwellers were availing the medical facilities.
- However, the team came to know about the death of a woman namely Mrs Beeru w/o Bam Kotwal died on 18.12.2015 during treatment at the Mahavir Hospital, allegedly due to exposure to extreme cold in the open after the demolition. Similarly, an eleven years old girl namely Muskan d/o Md. Israel sustained injury on her forehead in the commotion on the date of demolition due to falling on her own. These incidents were brought to the notice of the District administration, who had no information about this, for their necessary action.

III. Lighting Arrangements

The team observed that after the demolition, entire site is in the dark. However, there were some common high mast lights in different spots, which belongs to railways and District administration. The team was informed that these are being energized. In the mean time, some temporary lighting arrangements have been made by the District Administration.

Observations:-

- The existing lighting arrangements are grossly inadequate.

Suggestions for Improvement:-

- ✓ The area in question may be adequately illuminated by flood lights to ward off any untoward security hazards especially, in the context of safety of women and children.
- i. **Water supply:-** The team found that there were 1-2 water tankers of Delhi Jal Board stationed at different spots in each cluster. The team was also apprised that already existing hydrants have been reconnected.

Observations:-

- The existing water arrangements are seems to be adequate and satisfactory. However, utmost care must be maintained to ensure quality of drinking water.
- ii. **Blankets distribution:-** Most of the dwellers responded in affirmation about receipt of blankets. But there were a few who complained that they did not receive them probably because they were not present at the time of distribution. There were also complaints about discrimination in the distribution of the blankets. The team came across a family of nine members who received only two blankets.

Observations:-

- The uneven distribution of blankets have been reported which has also been brought to the notice of District Administration by the NHRC Team.

Suggestions for Improvement:-

- ✓ The District administration should be asked to immediately identify those who have not received adequate blankets and supply the same.

- iii. **Toilets:-** There were around 70-80 mobile toilets seats available at the site at different spots which seems to be adequate. No complaint in this regard was made by the dwellers.

Further, during interaction with affected people, many of them expressed their satisfaction about the relief they are getting. But some of them were not happy about distribution of food and water supply mainly because of the commotion.

10. **General observations:-**

- i. There was no authentic figure available with any of the authority as to how many jhuggies were demolished and how many inhabitants were displaced needing relief. However, during spot visit, it appears that there would be around 3500-4000 inhabitants including men, women and children in these five clusters. The team found that DUSIB has already started the survey by constituting several teams who are carrying out the survey on a war footing.
- ii. The make of the jhuggies cannot grant any protection to the dwellers from the severe cold. Additional material in the form of plastic sheets etc. May be supplied to cover their jhuggies from all sides.
- iii. It was reported that some of the school bags of the children got buried in the debris during the demolition. The District administration should identify such cases and immediate steps should be taken to provide school books etc. so that their studies are not affected.
- iv. Likewise some of the dwellers have reportedly loss their utensil and other belongings during the demolition and they are facing difficulties for day to day living. The District administration should identify such cases and take immediate steps to address the issue.

- v. The team found that most of the dwellers have re-erected their jhuggies, though not to its previous position. They have also started their work and earning livelihood as they were, before the demolition.
- vi. As mentioned above, since the normalcy has almost returned, it may be considered option of supplying raw food articles so that the dwellers can have it prepared themselves as per their wishes and have warm food.

This report has the approval of the Commission.

(A.K. Parashar)
Joint Registrar (Law)

Dated : 21.12.2015