

Role of Local Self Government in Implementation of National Food Security Act 2013

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Introduction

The constitution of India guarantees Right to Life and Personal Liberty³ to every citizen of the Country. The Indian state has the responsibility of raising the level of nutrition of food and Standard of living and to improve the public health⁴ under Directive principle of State policy. In spite of these provisions under the Constitution and policies and programme by the Government

India's performance in ensuring dignified life by eradicating hunger and malnutrition is quite dismal compared to other developing nation.

Further “food Security as a national objective was placed on the policy agenda with the Green revolution Technology. Even though self-sufficiency in food production has been achieved the population still lacks access to balanced food. Through Public distribution system (PDS). Efforts have been made to provide food grains at affordable prices to population living in most vulnerable areas. In spite of mounting food subsidies evaluations studies indicate that the supply of subsidized food given thorough PDS has not resulted in improvement in household level of food Security. Apart from this, the Government has introduced many programme like mid day meal scheme, Integrated child development scheme, maternity benefits, village grain banks scheme, Anthyodaya Anna Yojana programme, work for wages etc. In spite of various legislation, policies and programme evaluating static's revealed that India Stand 100 rank in malnutrition.⁵

The apex court of India in various cases recognized right to life includes right to food. In *Chameli Singh vs State of UP*⁶ a three bench Judge of Supreme court held “In any organized society , right to live as a human being is not ensured by meeting only the animal needs of man. Right to live guaranteed in any civilized Society implied the right to food, water, decent environment, education, medical care and shelter. These are the basic human rights known to any civilized society”.⁷ In 2001, 47 tribal's and dalits were starved to death in south eastern Rajasthan

³ Article 21 of Indian Constitution

⁴ Article 47 of Indian Constitution

⁵ <https://www.hindustantimes.com/india-news/india-worse-than-nepal-bangladesh-in-tackling-hunger-down-3ranks-at-global-level-report/story-a2SyCOUEiNwRgMMI4cqZYN.html>

⁶ 1995 SUPP(6) SCR 827

⁷ <https://www.casemine.com/judgement/in/5609acc5e4b014971140fb22>

despite India's food stocks having an excess of around 40 million tones of food grains. The Supreme Court *In Right to food case People's Union for Civil liberties vs Union of India*. Observed that plenty of food available, but distribution of the same amongst the very poor and the destitutes is scarce and non-existent leading to malnourishment, starvation and other related problems". Further Supreme court had ruled that it was the duty of the Government to ensure no one went hungry, subsequently the apex court issued a series of interim order, defining rights and entitlements over food and related services all keeping the poorest as their focus." The court had also appointed commissioner to monitor implementation of its order. The results of this Judgment lead to the passing of National Food Security Act 2013.⁸

The National Food Security Act was enacted with the objective to provide for food and nutritional security in human life cycle approach by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity, was envisaged to cover about 2/3 of the population. *In Swaraj Abhiyan vs Union of India (2016)* the Supreme Court was held that Government it is high time that the machinery under National Food Security Act is put in place by all concerned the enforcement of social justice legislation will have no meaning at all". Therefore the governments after enacting legislations cannot run away from their obligations towards the marginalized.⁹

In the right to privacy case¹⁰ 2017 Dr. Justice DY Chandrachud main judgment held as follows "capture of social welfare benefits can be obviated only when political systems are transparent and when there is a free flow of information opportunity ensures to the benefit of those who monopolize scarce economic resource. Now the main issue with regard to ensuring food security is effective implementation of N.F.S Act. In this article authors make an attempt to discuss the role of local self government in the effective implementation of National Food Security Act.

Salient Features of National Food Security Act

1. Legal entitlement to subsidized food grains to be extended to at least 67% of the population with 75% in rural areas and 50% in urban areas.
2. 5 kg of food grains per month at Rs.3, Rs.2, and Re.1 per kg. for rice, wheat and coarse grains respectively
3. Poorest of the poor household, under the Antodaya Anna Yojana will continue to get 35 kg per month
4. The minimum coverage, entitlement and price to remain unchanged until the end of the XII five year plan. The prices of the grains may be revised after a period of 3 years.

⁸ https://www.right2info.org/cases/plomino_documents/r2i-people2019s-union-for-civil-liberties-pucl-andanother-v.-union-of-india/getfile?filename=peoples-union-of-civil-liberties-v.union-of-india.pdf

⁹ <https://indiankanoon.org/doc/19199787/>

¹⁰ Justice K.S.Puttaswamy(Retd) ... vs Union Of India And Ors. on 24 August, 2017

5. Identification of Eligible Households: There are no specified criteria for the identification of eligible households. The Centre will decide on a state wise coverage of the public distribution system based on the rural and urban population of the state. The State governments shall then identify the eligible households
6. Legal entitlements for children: Between the age group of 6 months to 6 years: an age appropriate meal, free of charge, through the local anganwadi. For children between 6 to 14 years: one free mid-day meal every day (except on school holidays) in all government and government aided schools, up to Class VIII. For children below six months, “exclusive breastfeeding shall be promoted”. For children who suffer from malnutrition, meals will be provided to them free of charge “through the local anganwadi”.
7. Nutritional Support to women and children
 - Pregnant women and lactating mother and children in the age groups of six months to 14 years will be entitle to measure as per prescribed nutritional norms under integrated child development services and mid day meal schemes. Higher nutritional norm all been prescribed for mall nutrition children up to six years of age.
 - Maternity benefit: - pregnant women lactating mothers will also be entitle to receive maternity benefit of not less than Rs 6000 thousand.
 - Eldest women of the house hold age 18 years above to the head of the household for the purpose of issuing the ration card, cost of interstate transportation and handing of food grains and FDS dealers’ margin. Central government will provide assistants to states in meeting the expenditure incurred by them on transportation of food grains within the state.
8. Distribution will be done through existing Public Distribution System.
9. Reform of the Public Distribution System: Chapter V of the Bill states that central and state governments “shall endeavor to progressively undertake” various PDS reforms, including: doorstep delivery of food grains; end-to-end computerization; leveraging “aadhaar” (UID) for unique identification of entitled beneficiaries; full transparency of records; preference to public institutions or bodies in licensing of fair price shops; management of fair price shops by women or their collectives; diversification of commodities distributed under the PDS; full transparency of records; and “introducing schemes such as cash transfer, food coupons or other schemes to the targeted beneficiaries in order to ensure their food grain entitlements” as prescribed by the central government.
10. The central government will provide funds to states in case of short supplies of food grains;
11. Food Security Allowance in case of non-supply of food grains.
12. There will be state- and district-level redressal mechanisms.

13. State Food Commissions will be formed for implementation and monitoring of the provisions of the Act.
14. Transparency and Accountability Provisions have been made for disclosure of records relating to FDS, social audits and setting up of vigilance committees in order to ensure transparency and Accountability.
15. Food security allowance: - provision for food security allowance to entitled beneficiaries in case of non supply of entitled food grains or meals.
16. Penalty: - provision for penalty on public security or authority to be imposed by the state. State commission in case of failure to comply with the relief recommended by the District Grievance Redressal Officer.¹¹

When the bill was introduced many criticized that it is half baked passed with political motives and that the country's declining economy was not fit to handle the large scale welfare scheme and that it was not well thought out. Still the act is an great initiative to eradicate the problems of hunger and malnourishment and government should make all effort for proper implementation.

One of the major challenge before the government is effective implementation of the Act. The apex court observed that almost four years have gone by since the act was enacted, but the authorities and bodies mandated to be setup under it have not been made functional. The apex court pointed out and directed the government to take proper measure to implement the Act effectively.¹¹

Role of Local self Government in effective implementation of NFSA

Local self government means local or regional government. It is a part of the state or national government. It is not always possible for the central and the state governments to look after the main and urgent necessities and requirements of the different localities under their administration. So, corporations, municipalities, District and local boards are established for the maintenance and improvement of cities, towns, districts and sub-divisions. These are conducted by the local people and so this system is known as "Local self Government".

The institution of local self government includes both rural and urban local bodies. The panchayat raj institutions (Rural) and the municipal bodies (urban) provide institutional frame works for democratic decentralization. The 73rd and 74th constitutional amendments Act 1992 enjoin upon the states to establish a three-tier system of panchayats at the village, intermediate and district levels and municipalities in the urban areas respectively. States are expected to devolve adequate powers responsibilities and finances upon these bodies so as to enable them to prepare plans and implement schemes for economic development and social justice.¹²

¹¹ <http://express.in/law-development/right-to-food-an-analysis-on-the-food-security-bill> as on 8/6/2018 ¹¹ Swaraj abhiyan vs union of India 2016

¹² Ibid 3 p 5-6

Functions of Local Self Government

Article 243G and 243H lay down the provisions wherein the state legislature shall confer on the panchayat the powers and authorities that will enable them to function as institutions of self government and will be entrusted with the responsibility of:-

1. Preparing plans for economic development and social justice.
2. Implementation of schemes for economic development and social justice.
3. With regard to the subjects that are mentioned in the 11th schedule of the constitution which are as follows.
 - Agricultural, including Agricultural extension.
 - Land improvement, implementation of land reforms, land consolidation and soil conservation.
 - Minor irrigation, water management and watershed development.
 - Animal husbandry, dairying and poultry.
 - Fisheries
 - Social forestry and farm forestry
 - Minor forest produce
 - Small scale industries, including food processing industries
 - Rural housing
 - Drinking water
 - Fuel and fodder
 - Roads, culverts, bridges, ferries, water ways and other means of communication
 - Rural electrification, including distribution of electricity
 - Non conventional energy resources
 - Poverty alleviation programmes
 - Education, including primary and secondary school
 - Technical training and vocational education
 - Libraries
 - Cultural activities
 - Health and sanitation including hospitals, primary health centers and dispensaries
 - Family welfare
 - Women and child development
 - Social welfare, including the welfare of the handicapped and mentally retarded
 - Welfare of the weaker sections and in particular of the scheduled castes and the scheduled tribes
 - Public distribution system
 - Maintenance of community asset¹³

¹³ <http://thelegiteye.in/2017/03/06/functions-responsibilities-local-bodies-india/> as on 6/6/2018

One of the major functions of Local authorities is to ensure social justice through implementing the various welfare schemes and policies and programmes of the government. It includes poverty a alleviation programmes, agricultural production, health and family welfare, public distribution system. Etc.

Public distribution system

Like many other countries, with an objective to ensure availability of the food grains and other essential commodities at the subsidized prices to the needy people in the society. India has adopted public distribution system (PDS) which finds its root in the British regime during second world war as a means of rationing. This practice continued after independence with timely revisions and modifications. Public distribution system is a government created system intended to ensure food security and provision of essentials to rural poor through “Fair price shops”. Over the years several breakthrough decisions were taken by government of India like formation of Food Corporation of India (FCI) agriculture price commission (commission for agricultural costs and prices) starting of chain of retail outlets known as Fair price Shops, targeted PDS and many other welfare schemes.

Today with chain over a half million FPS serving to more than sixty five million poor household.

India has the largest PDS of its kind in the world. The national food security act gives statutory backing to the TPDS. The act classified the population into 3 categories Excluded (i.e no entitlement) Priority (entitlement) and Antyodya anna yojana (AAY: higher entitlement).¹⁴ The central government procure the required food grains and allocate it to the states, and states distribute it to the consumers through FPS and through local bodies at rural areas.¹⁵

The National Food security Act has prescribed role of local authority in the implementation of the entire scheme under the Act including the TPDS for ensuring that the subsidized food grains reach the targeted beneficiary. The act makes the local authorities responsible for the proper implementation of the act in their respective areas. State government can assign additional responsibilities for implementation of TPDS to the local authority.¹⁶ The act provides that in implementing different schemes of the ministries or departments of the central government and the state government prepared to implement provisions of the Act. The local authorities shall be responsible for discharging such duties and responsibilities as may be assigned to them, by notification, by the respective state Government.¹⁷

NFSA provides that every local authority or any other authorities or body, as many be authorized by the state government, shall conduct or cause to be conducted, periodic social audits on the functioning of FPS's, TPDS and other welfare schemes and cause to publicize its finding and take necessary action, in such manner as may be

¹⁴ WWW.prsindis.org/administrator/TPDS

¹⁵ <https://www.researchgate.net/276884397>

¹⁶ Sec.25 National Food Security Act 2013

¹⁷ Sec 26 National Food Security Act 2013

prescribed by the state government.¹⁸ The Act also provides that Central Government, State Government, local authorities shall for the purpose of advancing food and nutritional security, strive to progressively realize the objectives specified.¹⁹

Targeted public distribution system (control) order 2015 provides for comprehensive provision elaborating on the specific role the local authorities including PRIS may be required to play at ground level in the states. So that the system can become transparent and responsive to the needs of the beneficiaries. The various provisions of the order involving PRIS in implementation of TPDS are as follows

1. Identification of eligible households:

Clauses 3(8), 3(12) & 4(17) provides that the State Government shall get the provisional list final list of eligible households and the list of ration card holders displayed in the public domain including the office of the local authority and on the State web portal, showing the category-wise lists of eligible households and their members.

Clause 3(10) provides that the State Government shall prescribe the detailed procedure for finalization of the list of eligible households covering, inter-alia, aspects like the process of drawing up of draft list, putting the draft list in the public domain including reading out of the list in meetings of the Gram Sabha or equivalent body in urban areas, inviting objections, disposal of objections, appeals and so on.

Clause 3(11) provides that the head of the local authority and the designated authority shall jointly verify and certify the final list of eligible households and the local authority shall pass a resolution adopting the final list of the eligible households.

2. Lifting of foodgrains:

Clause 7(4) provides that the designated authority shall ensure that one copy of the allocation order made to the FPS is delivered to the local authority, vigilance committees, and any other body nominated by the State Government for monitoring the functioning of the FPS.

3. Distribution of foodgrains by States:

Clause 8(5) provides that the monthly certificate shall be given by the FPS owner and two or more persons as may be authorised by the State Government such as head of the local authority, Executive Officer, Secretary of the local authority, members from the vigilance committees, women's self help group among others

4. Operation of FPSs:

Clause 10(4)(vi) provides that the license issued by the State Government to the FPS owner shall lay down the duties and responsibilities of the FPS owner, which shall include, inter alia,- that the accounts of the actual

¹⁸ Sec 28 National Food Security Act 2013

¹⁹ Sec 31 National Food Security Act 2013 and Scheduled III of the National Food Security Act 2013

distribution of foodgrains and the balance stock at the end of the month, at the FPS, shall be sent to the designated authority of the State Government with a copy to the local authority.

5. Transparency and accountability:

Clause 12(2) provides that every local authority, or any other authority or body, as may be authorised by the State Government, shall conduct or cause to be conducted, periodic social audits on the functioning of TPDS, and cause to publicise its findings and take necessary action, in such manner as may be prescribed by the State Government.

6. FPS owner to include Gram Panchayat/ PRIs:

Clause 2 (j) defines the "fair price shop owner" as a person and includes a cooperative society or a body corporate or a company of a State Government or a Gram Panchayat or any other body in whose name a shop has been licensed to distribute essential commodities under the Targeted Public Distribution System.

7. Preference in FPS licensing:

Clause 9 (4) provides that the State Government shall accord preference to public institutions or public bodies such as panchayats, self help groups, cooperative societies in FPS licensing and management of FPSs by women or their collectives.²⁰

Women and local self Government

The women members work in rural society are under the double burden of domestic responsibilities that include care-needs of the family, and simultaneously work on family farm. But their work is still neither recognised nor valued. As elected representatives to the panchayats, They got opportunities to become representatives in panchayats under the reservation provisions. The various researches show that in many places women sarpanches are able to deliver basic services such as water, electricity and other basic needs by being a part of the women's collective or being guided by the civil society organisations or even being helped by the family members.

Similarly in all India Studies conducted in 2007 showed that elected women deliver basic services including nutrition related services for children efficiently look after the programme immunization, including administering polio drops yet according to study the villages don't think of them as being capable leaders due to their gender bias .

It is also known that women in panchayats along with other women of the village can look after the storage of foodgrains in a cost-effective manner. Rural women have been doing this kind of work for ages. Women are the reservoir of the traditional knowledge of food production. Besides, they transmit the message of minimising wastage of foodgrains from generation to generation through socialisation of children.

²⁰ <http://dfpd.nic.in/involvement-of-panchayati-raj.htm>

While nobody is against the scientific storage facilities organised or to be organised at the level of the State or Districts or Blocks, it needs to be borne in mind that there are many remote areas where it is difficult to reach adequate ration during the rainy season. For such areas it would be beneficial for local people if the storage facilities of foodgrains could be set up at the gram panchayat level and managed by the women representatives of the panchayats. At the same time it has to be stressed that sustainable food security means that we not only produce more but also minimise the wastage of food as well.²¹

Conclusions

National food security Act 2013 is a unique step taken by the Indian Government to eradicate hunger and protect right of the people for food. The Act within peculiarities like life cycle approach women empowerment consideration of vulnerable sections in public distribution systems (PDS). The Act has some innovative features in terms of implementation, such as extended coverage of the population in respect of access to food at a subsidised rate, minimising the leakage of foodgrains from the storage to the distribution point and making the oldest woman of the household as the holder of the ration card for the family etc. But such provisions, as centralised storage and distribution through the existing schemes of the PDS, ICDS and MDM etc., still remain intact along with the army of existing functionaries who had been managing those schemes. The most glaring weakness of the Act is to give a marginal role to the gram sabhas as well as panchayats. It is a well-known fact that the peasant community guided by 'peasant rationality' knows how to minimise the hazards of the uncertain weather conditions by adopting various strategies for crop production. But in the present case the gram sabhas have been reduced to being mere beneficiaries and not as planners of food production. Similarly, the panchayats have been reduced to monitoring agencies only. In the context of the growing phenomenon of feminisation of agriculture, it is important that women's contribution to unpaid work in the family farm should be acknowledged and their right to land ensured. No attention has been given in the Act to address these unfinished agenda.

Women members of panchayats may be involved more closely in the discharge of various tasks concerning the food security of the villagers and members of panchayath must be trained by Capacity building programmes in order to enable them to contribute effectively towards food security. Further the Warehouses may be built in as many panchayats as possible, giving preference to those situated in the remote areas, and low cost traditional methods of storage of foodgrains may be used for such panchayat level warehouses. These warehouses may serve the double purpose of restricting the cost of storage and distribution and also minimising wastage of foodgrains at the Central or State warehouses caused by delay in the movement of stock and other factors.

²¹ <http://www.mainstreamweekly.net/article5241.html>