

Report of Jansunwai on PDS

Background:

Government of India spends Rs 26,000 crores annually on food subsidy. Through its Public Distribution System, it attempts to provide subsidized grains to about 6.5 crore people identified as living below poverty line. However, the leakages are so enormous that it has rendered the entire program meaningless and deserves urgent attention. A survey done by Parivartan in a colony in East Delhi revealed that more than 90% of the grains are being siphoned off. NDTV News Channel recently showed how the trucks meant to carry rations from FCI godowns to ration shops carry the grains to private mills rather than ration shops.

Parivartan, along with a number of people living in slum areas in Delhi have been seeking, and in some cases have been successful in obtaining, records of ration shopkeepers in various parts of Delhi. These records were obtained under Delhi Right to Information Act. When these records were physically verified, the findings are nothing less than shocking. Almost everywhere, the rations are being siphoned off by the shopkeepers by making false signatures of the cardholders in records. In most areas, the people have been given to believe that the government has stopped sending rations. People living in Ravidas Camp have not received even a single grain for the last so many years. But when the records came out, people were shocked to see how ration was, in fact, being siphoned off month after month by the shopkeeper. In some areas, some shopkeepers did improve their conduct when the records became public.

This clearly brings out that there is an absolute lack of enforcement. What are the officials charged with the responsibility of running PDS doing? In some areas, very strong evidence has come to light, which indicates a direct and active collusion between the officials and the shopkeepers. It is learnt that this collusion is widespread and not limited to areas where the records have been obtained.

Some people suggest that the leakages in PDS are a result of systemic failure. The Finance Minister suggested introduction of Food Coupons in this budget. However, we differ from the diagnosis and prescription. It is NOT a systemic failure. It is a GOVERNANCE FAILURE. Though there could be some systemic deficiencies, which need to be addressed. However, it is an absolute lack of accountability of the officials, who were given the responsibility of running the system. Whatever systems we bring in, they are bound to fail, if those in charge of protecting it themselves start plundering it.

The objective of holding this public hearing was to present these findings before the public. The idea was to get all the stakeholders on the same platform and try to arrive at some solution.

The Jansunwai:

The public hearing or jansunwai was organized on 31st July at Gandhi Peace Foundation at ITO from 10.30 am to 3.00 pm. It was attended by about 300 people from various localities in Delhi like Kalyanpuri, Seelampur, Seemapuri, Sundernagari, R K Puram, Ravidas Camp, Sonia Camp, Indira Camp, Malviya Nagar etc. It was also attended by representatives of a number of NGOs.

The jansunwai was conducted by a panel of eminent citizens. The panel was chaired by Dr N C Saxena, who is former Secretary of Planning Commission and is presently the Commissioner of Supreme Court in the case of PUCL vs UOI. The other members of the panel consisted of Mr Shekhar Singh, Mrs Aruna Roy, Mr Jean Dreze, Mr Collin Gonsalves, Mrs Madhu Bhaduri, Mr Ajit Bhattacharya and Mr Bharat Dogra. Mr Ajay Kumar, Deputy Commissioner of Police (Crime), represented Delhi Police. It was attended by three Assistant Commissioners and one Food & Supply Officer of the Food & Supply Department. It was also attended by an Assistant Director of Delhi Government.

The following issues were discussed:

1. How to initiate criminal proceedings for violations of various provisions of Essential Commodities Act?

Issue:

Large scale theft of rations is taking place. The Essential Commodities Act prescribes a punishment ranging from a minimum of three months to a maximum of 7 years of imprisonment for such offences. However, the stands taken by the Delhi Police and the Food Department of Delhi have created a situation that the provisions of Essential Commodities Act cannot be implemented in Delhi. The police refuse to register an FIR on a complaint from the public. The police say that they can register an FIR only on a complaint from the Food Department. The Food Department refuses to approach police saying that they do not treat such offences grave enough to file FIR. Obviously, the Food Department officials would never approach police as they themselves are involved in most of these offences. Hence, hardly any cases are being registered for theft of rations, though these are cognizable offences. Rations continue to be siphoned off with impunity. The shopkeepers know that nothing would happen to them.

The following cases were discussed:

a) Triveni is a very poor woman. She holds an antyodaya card, which is given by the government to the poorest of the poor. She narrated how her ration was being siphoned off by the shopkeeper by making false thumb impressions in her name on the cash memos, whereas actually she had not taken any rations for the past so many months. She discovered this when she obtained copies of cash memos under Right to Information Act.

She complained to the Food Commissioner in August 2003 and demanded strict action against the shopkeeper. On 29th July 2004, almost a year after she had made the complaint, the Assistant Commissioner informed her that her complaint had been closed after imposing some fine on the shopkeeper. When she demanded that a criminal case should be booked against the shopkeeper, the AC said that the Department did not consider the matter grave enough to approach police or to file a criminal case. This case was discussed by Parivartan representatives with the Food Commissioner on 30th July 2004. The Food Commissioner said that it was upto the respective AC to weigh the gravity of offence and decide whether the case demanded criminal action or not. The Food Commissioner further said that he was not in favour of sending people to jail by invoking the provisions of Essential Commodities Act, which according to him, are very draconian.

b) Records of M/s Brahmswaroop were obtained by local people under the Right to Information Act. The records related to distribution of rations in the month of June 2003 by this shopkeeper. A house-to-house survey of 73 families, who take rations from this shop, indicated large-scale discrepancies.

Wheat issued to these families in records: 1825 Kgs
Actually received, as informed by people: 135 Kgs

Diversion: 93%

Rice issued to these families in records: 730 Kgs
Actually received, as informed by people: 30 Kgs
Diversion: 96%

The shopkeeper had siphoned off supplies by making false entries in his books and by fudging the records. A formal complaint was made to the Food Commissioner in March 2004. The shop was placed under suspension by the Food Department. However, no criminal case has been registered with the police.

c) Records of M/s Rattan KOD, relating to distribution of kerosene in the month of June 2003, were also obtained under the Right to Information Act. A house-to-house survey of about 70 families, who take oil from this shop indicated large-scale discrepancies.

Kerosene issued in records to these families: 739 litres
Actually received, as informed by the people: 345 litres
Diversion: 55%.

The shopkeeper had siphoned off these supplies by making false entries in his books and by fudging the records. A formal complaint was made to the Food Commissioner in March 2004. It was demanded that the shop should be cancelled in accordance with Supreme Court orders and an FIR should be registered with the police under various provisions of IPC and Essential Commodities Act. However, the Food Department has just suspended the license of this shop temporarily. Neither the license has been cancelled nor any criminal case has been registered.

A complaint was made against M/s Rattan KOD at the Welcome police station. However, the police refused to file an FIR saying that they could register an FIR only on a complaint from the Food Department and not on a complaint from the public. The Food Commissioner says that he is not in favour of sending people to jail and will not approach police for an FIR.

d) Two complaints were made by people at Kalyanpuri police station in July 2004 alleging that their ration shopkeeper had made false entries in his books and siphoned off their rations. But the police has not filed any FIR so far.

The stand of the police:

The Deputy Commissioner of Police was asked what should the public do. The DCP reiterated the position taken by his colleagues. According to him, the PDS Control Order does not give any powers to the police to search and seize. These powers have been given to the Food Inspector. Hence, according to him, the police do not have the powers to make initial enquiries and investigate. Hence, they register an FIR only after the Food Department has done enquiries. Then, according to him, the police register an FIR and file a case before appropriate Magistrate.

Views of the panel:

This position was contested by Dr Saxena and Mr Collin Gonsalves. According to Dr Saxena, the police are required to file an FIR for any cognizable offence and has sufficient powers to investigate a cognizable offence. In the alternate, siphoning off rations by making false signatures is a case of fraud and cheating and is also a crime under various provisions of IPC. Hence, the police should register an FIR under IPC, if not under Essential Commodities Act. Mr Collin added that when the police register such a case under IPC, they could add relevant provisions of EC Act in the FIR.

However, the DCP refused to commit whether the police would be willing to register FIR under IPC, if anyone approached the police with such a request.

Legal position according to Parivartan:

It was also clarified that this position of the Food Department was not legally correct that they would first weigh the gravity of every offence and file an FIR only when they feel that the crime is grave enough. The offences for which an FIR should be registered, are mentioned in the Essential Commodities Act read with PDS Control Order 2001. If anyone commits any of these offences, it is the duty of the Food Department to lodge an FIR without any delay. It is for the magistrate, and not for the Food Department, to enquire into the gravity of crime including whether the crime was committed at all. It is for the magistrate to impose punishment accordingly. Food Department does not have the powers to decide whether the crime was committed or not and whether it was grave enough or not.

2. Several stay orders passed by Delhi High Court:

Issue :

Feeling scared that their misdeeds would be exposed if their records become public, a large number of shopkeepers from all over Delhi have obtained a stay on their records being made public. Delhi High Court has directed the Delhi Government in 133 cases that the records of petitioner shopkeepers should not be provided to any third party till the disposal of these cases. The contention of the shopkeepers is that these records are their private property and are not covered under the Right to Information Act. Interestingly, the cases have been filed by the shopkeepers against Delhi Government. The people, who have sought information, have not been made a party to these cases.

Citing these stay orders, the Food Department officials are now denying any kind of records or information related to these shopkeepers, to the public.

Presentations of cases:

Vineetha from Rasta, an NGO, informed that the people of Rajiv Camp applied to obtain copies of records of ration shopkeepers. The ration shopkeepers immediately approached Delhi High Court and obtained a stay order. These people then applied under the right to information act to know the quantity of grains issued in their names in the last few months as per records. This time, they did not demand copies of any records.

45 such people applied before the AC (East). Citing stay orders, the AC refused to provide such basic information also. This has created a situation that the people are not getting rations, and they are not even being told how much rations have officially been lifted in their names in records.

What does the stay order say?

The operative part of one such stay order (Order dated 26.9.03 in CM No 10955/2003) was read out during jansunwai:

“Notice for the date fixed. In the meanwhile, the respondents are directed not to pass on any other document pertaining to FPS/KOD owners of Circle 45, Sundernagari area to any third party /individual applicants till the next date of hearing.”

Views of the panel:

Dr N C Saxena clarified that the stay was only against providing records of shopkeepers to the public, and not against providing information. The SC had clearly ordered that information related to distribution of grains under PDS should be made public. Dr Saxena even offered that if the AC had any doubts, the AC could send all that information to Dr Saxena and Dr Saxena would, in turn, provide it to the public. Mr Collin said that the officials would be committing contempt of SC, if they refuse to provide information.

Views of the Food Department:

All the ACs present at the jansunwai said that they were not aware of the SC orders. This was quite shocking because if the field functionaries in Delhi were not aware of the SC orders, how could one expect that these orders were being implemented in Delhi?

Role of Delhi Government before Delhi High Court:

The role of Delhi Government in representing these cases before the High Court came in for criticism. The Delhi Government was un-represented on the first day of the first case in July 2003, hence an ex-parte stay was granted in that case. This case then became a precedent. Stay was granted by the High Court in the other cases on the basis of that one case.

Besides, senior advocate representing Delhi High Court is not arguing at all in the Court. The affidavits filed by the Delhi Government were presented to the public. The affidavits show that the Delhi Government has not opposed any of the contentions of the shopkeepers. The Government did not even bring it to the notice of the High Court that Supreme Court has issued explicit directions in PUCL vs UOI that public have a right to access these records and conduct social audit. It is only after the personal intervention of the Commissioners of Supreme Court that the Supreme Court's orders were brought to the notice of Delhi High Court in April 2004.

Because of the mishandling of the entire case by the Delhi Government, it has created a situation that Delhi High Court is passing orders, which are in conflict with the orders of Supreme Court.

3. How is the ration siphoned off – Presentation of Records and testimonies:

1. Gurmeet from Kalyanpuri was not present at the public hearing. However, her records were presented. The columns corresponding to Feb and Mar 2004 are empty in her ration card, which means that she did not take any rations for these two months. However, according to the Daily Sales Register, she has been issued 50 Kgs of wheat and 10 Kgs of rice in the month of February and 50 Kgs of wheat and 20 Kgs of rice in the month of March 2004. Besides, how could she have been issued 50 Kgs of wheat and 20 Kgs of rice when officially, every family is entitled to only 25 Kgs of wheat and 10 Kgs of rice per month. The Food Inspector is required to inspect the records of past month before allowing the sales to start for the next month. How did the inspector not notice such a glaring mistake? This only means that either the inspector is directly involved or it is a case of criminal dereliction of duty.
2. Laxmi Devi from Welcome Colony informed that she started getting rations only in the last few months after the records of the shopkeepers in her area were obtained under Right to Information Act. The columns corresponding to June 2003 are empty in her ration card, which means that she did not take any rations for this month. However, in records, she has been issued 25 Kgs of wheat and 10 Kgs of rice in June.
3. Nannu from Welcome informed that he lost his antyodaya card. He was issued a duplicate card on 22.6.04 but entries for the months of March, April and May 2004 already existed in the card when he got it.
4. Laxman's wife from Welcome colony informed that she has not received her ration card till now. Her card is lying with the shopkeeper since beginning. Earlier, the shopkeeper used to demand Rs 1000 to give the card. But when the records of Welcome area were obtained and when she made a compliant, now the shopkeeper is willing to give her card without any money. But how did the card reach the shopkeeper? It indicates malafide action on the part of some Food official.
5. Babli from Kalyanpuri did not come. However, her records were presented to the public. She has not got her ration card till now. However, in records, she has been issued 50 Kgs of wheat and 10 Kgs of rice in the month of February and 25 Kgs of wheat and 10 Kgs of rice in the month of March 2004. Actually, she did not get any grain in both these months. Again, how could she be issued 50 Kgs of wheat against official entitlement of 25 Kgs. How did the inspector not notice such a glaring mistake?
6. Nannu from Sundernagari informed that according to the Card Register of FPS No 4534, his card was made long back, but he hasn't received it yet. He has even made a complaint in this regard to the Food Department but no action has been taken. The FSO, Mr Attar Singh, said that he would look into the matter and ensure that the card reaches the beneficiary.
7. Bilkish from Welcome area was not present. However, her records were presented to the public. Two kerosene cards exist in her name. However, till about a month back, she was not in possession of even a single card. About a month back, she has been handed over one of these cards. The card already contains false entries for all earlier months. Records of June 2003 show that she has been issued 22 litres of kerosene on each of the cards, whereas actually she did not receive any kerosene. This means that 44 litres of kerosene has been siphoned off in her name in the month of June 2003.

8. Two kerosene cards have been issued in the name of Iklak Fatima. Actually, she is in possession of only one card. Then, how was the other card made? Who applied for it? How did the card reach the shopkeeper? This indicates direct involvement of Food officials. Records of June 2003 show that she has been issued 44 litres of kerosene on both the cards put together, whereas actually she received only 22 litres.
9. Similarly, card register of FPS No 3829 shows that two cards have been issued in the names of Deepchand and Ram Bharat each and rations are being issued on both the cards. How have two cards been issued in the name of the same person? Who applied for the second card? The inspector is required to verify before issuance of any card and while he goes to deliver the card? What did the inspector do? It indicates direct involvement of Food officials.
10. Janki from R K Puram said that the people in her area never used to receive any rations earlier. It is only when the records of shopkeepers were obtained that they started receiving rations. For the first time, they received rations last month. 25 Kgs of wheat and 10 Kgs of rice are shown to have been issued to her for each of the months of January, February, March and April 2004. She said that she did not receive any rations during these four months. Cash memos, bearing signatures of someone supposedly known to her, were presented. Four cash memos were shown to her for these four months. However, she emphatically denied that anyone known to her had signed on these receipts. According to her, she had not even heard those names, whose signatures exist on the receipts. This means that the ration shopkeeper had made false signatures and siphoned off rations.
11. Similarly, Kirpal Singh from R K Puram said that he did not receive any rations during the months of January, February, March and April 2004. However, 25 Kgs of wheat and 10 Kgs of rice are shown to have been issued to him during each of these months. He was shown the cash memos issued in his name for these four months. He denied that the signatures on the cash memos were either made by him or any one known or authorized by him. According to him, he did not know any person by those names, who had signed on the receipts. This means that the ration shopkeeper had made siphoned off rations by making false signatures.
12. Ram Moorti Devi from R K Puram also did not receive any rations for the months of January, February, March and April 2004. However, 25 Kgs of wheat and 10 Kgs of rice are shown to have been issued to her each of these months. She was shown the cash memos issued in her name for these four months. She denied that the signatures on the cash memos were either made by her or any one known or authorized by her. According to her, she did not know any person by those names who had signed on the receipts. This means that the ration shopkeeper had made siphoned off rations by making false signatures.
13. Sadaullah from Welcome area informed that the people in Welcome area rarely used to get rations earlier. They were not even aware of their entitlements and the price at which they should be getting rations. They would get 10-15 Kgs of grains once in three or four months. However, they started getting correct rations only after the records of the shopkeepers were obtained. According to him, he did not receive any rations during the month of June 2003. However, the ration card shows that he has been issued 25 Kgs of wheat and 10 Kgs of rice. How did the card contain these

entries when he did not take rations? He said that the ration shopkeeper makes false entries. The people are illiterate and do not realize that they have been cheated.

14. Rahisa from Welcome Colony confirmed Sadaullah that earlier they used to get just 10 to 15 Kgs of grains and that too once in three or four months. Wheat was given at Rs 5 per Kg and rice at Rs 8 per Kg on BPL card (against the prescribed rates of Rs 4.65 per Kg of wheat and Rs 6.15 per Kg of rice). It is only after the records were obtained that the shopkeepers started giving correct rations. According to her ration card, she has taken all rations during the month of June 2003, which she says is false.
15. Gulshan from Welcome colony said that she used to get just 7 litres of kerosene earlier. After the records came out a few months back, they started getting 10 litres. Gulshan's card shows that she took kerosene on 5.6.03 and 20.6.03 in June 2003. However, according to the DSR, she has taken kerosene on 13.6.03 and 26.6.03. This shows that the DSR is fabricated. It has been filled by the shopkeeper by sitting at home without any reference to reality. The DSR shows that she has taken 20 litres of kerosene during the month of June whereas actually, she got just 14 litres.

Most of the cases pertaining to Welcome colony were brought to the notice of the Food Commissioner through letter dated 18.3.04 but no criminal case has been registered by the Food Department so far.

Strong action demanded in these cases:

There was a strong demand that in each of these cases, strictest punishment should be imposed on the shopkeepers and the guilty officials. These shops should not only be cancelled but separate criminal proceedings should also be initiated in each case.

Response of Food Department:

At this, one of the ACs responded that both departmental action and criminal action cannot be taken in the same case as that would amount to double jeopardy.

Panel's views:

This evoked strong reactions from everyone including panelists. Dr Saxena said such an interpretation of law was absolutely wrong. These two actions can be simultaneously taken in each case. Mr Collin demanded that the Food Department should register FIRs in each of these cases without any delay.

4. Ration cards distributed by shopkeepers:

Issue:

Who should deliver a new card to its owner? One of the Food Department officials informed that it was the duty of the Food Inspector to distribute and ensure that the cards reach their rightful owners. However, in practice, a Food Inspector hands over all the cards to the shopkeepers, who then delivers them at a price. The shopkeepers demand and have been able to extract money from people ranging from Rs 50 to Rs 1000 for handing over each card to its respective owner. Besides, the cards of a number of people are still lying with the shopkeepers and have not yet been delivered to their rightful owners. The shopkeepers are siphoning off rations on them by making false entries every month.

Reactions from the people:

The people were asked whether anyone in the gathering received his/her card from the inspector. Everyone said that they received the cards from the shopkeepers. Not even a single person has received card from the Food Inspector. The people also informed how they had to pay money to get their cards from the shopkeepers.

Demand:

Inspectors are directly responsible in delivering cards to the shopkeepers. There was a strong demand from the public that criminal cases should be lodged against all such inspectors.

5. State of records maintained by shopkeepers:

Issue:

The shopkeepers are required to maintain card register, stock register, daily sales register, inspection book and cash memos. An inspector visits every shop in his area every month, when the stock for that month arrives in that shop. The Inspector is required to inspect the records of the past month, check stock position and make appropriate entries in Inspection Book. It is only after this exercise that a shopkeeper is allowed to sell rations for the current month. Enforcement teams visit each shop at least once a month for an intensive inspection of the records of last six months. An FSO, Assistant Commissioner and Additional Commissioner are required to visit a particular number of shops every month for an intensive inspection.

Records of several shops have been obtained using right to information. The pathetic state of these records makes one wonder whether any kind of inspection ever took place. Some of the mistakes are so glaring that one cannot miss them as soon as one takes a cursory look at these records. The stocks are not tallying, rations are officially shown to have been sold to unauthorized people, rations are shown to have been sold to people much in excess of their official entitlements etc. The brazenness with which these records have been maintained and the nature of mistakes made in records indicates that the shopkeepers had absolutely no fear of any kind of inspection.

Presentations:

The records obtained under Right to Information reveal several deficiencies:

1. The stocks in the books of the ration shopkeeper at Ravidas Camp do not tally. 125 Kgs of wheat and 40 Kgs of rice remained unsold during January 2004. Logically, this stock should appear as opening stock in February. There is no mention of any opening stock in February. Similarly, the unsold stock of February and March is unaccounted. During the three months from January 2004 to March 2004, 425 Kgs of wheat and 160 Kgs of rice are unaccounted. Where did all this grain go?
2. The records of one ration shopkeeper from Kalyanpuri show that he has made unauthorized and illegal sales. His records show that he has sold rations to the people who are not registered with him as cardholders. His records further show that he has sold more grains than the prescribed entitlements. Each family should get 25 Kgs of wheat and 10 Kgs of rice. However, he has sold almost 50 Kgs of wheat and 20 Kgs of rice to most of the families during the month of February 2004.
3. When a person goes to take any ration, the shopkeeper writes the date and quantity of sale on the ration card and the daily sales register. Naturally, the dates in ration card and daily sales register should be same for the same sale. However,

in the case of this shopkeeper from Welcome Colony, the dates in ration card and DSR are different. This means that the DSR has been manufactured and does not reflect true statement of his sales.

4. Records of this shopkeeper from Malviya Nagar were obtained by Satark Nagrik Sangthan (SNS). This shopkeeper has officially shown to have made unauthorized and illegal sales. He has sold rations to people who are not registered as cardholders with him. According to his DSR, he has not made even a single sale to his registered cardholders. A jansunwai was organized by SNS on 25th July. These discrepancies were presented to the public. It was demanded from the AC of that area, who was present in that jansunwai, that the shop should be cancelled forthwith. These discrepancies have also been repeatedly brought to the notice of the officials of Food Department including the FSO and AC in the last one month. However, they have always requested SNS to forgive the shopkeeper. It is strange how the officials, rather than take action against guilty shopkeepers, are tendering apologies on behalf of the shopkeepers. On 31st July also, the AC sounded apologetic and tried to offer an undertaking on behalf of the shopkeeper that there would certainly be an improvement in the conduct of that shopkeeper in future. When there was a strong demand for cancellation of the shop, the AC said that it was not within his jurisdiction to do that. At this point, it was demanded that the AC should suspend the license of this shop on Monday at 10.00 am, as soon as the office opened. With great reluctance, the AC agreed to do that. However, the AC had not suspended the shop till the finalisation of this report.

Demands:

The people demanded following action in each of the above cases:

1. Suitable action should be taken against the shopkeepers, including criminal action as prescribed in section 7 of the Essential Commodities Act. FIR should be filed by the Department against the shopkeepers under various provisions of the Essential Commodities Act. The facts and the evidence in these cases are already available and do not require any elaborate enquiries. FIR should be registered by the Department with the police immediately.
2. Criminal proceedings should be initiated against the Food Inspectors, who allowed the sales to take place month after month despite such glaring discrepancies. Criminal proceedings should also be initiated against the concerned officials of Enforcement Wing and senior officials of these areas including FSO, Assistant Commissioners and Additional Commissioners, who were supposed to inspect shops in that area from time to time and ensure proper implementation and enforcement of EC Act. The proceedings should be initiated against all these officials under relevant provisions of IPC, EC Act and anti-corruption laws. Departmental proceedings for imposition of major penalties should also be initiated against these officials. As mentioned above, the evidence and facts are already available in these cases, hence the cases should be registered against these officials immediately.

Views of Food Department:

The Food Department refuses to file any criminal cases in all such cases saying that they do not feel that the gravity of these crimes do not demand action under criminal law.

Parivartan's interpretation of law in such cases:

The Essential Commodities Act or the PDS Control Order does not provide any discretion to the Food Department to decide on the "gravity" of the case. It also does not give any discretion to the Department to decide whether the crime was actually committed or not. The Food Department is statutorily duty bound to report any violation of the EC Act or PDS Control Order, which is brought to its notice, either to the police or to the magistrate. It is for the Magistrate to decide whether the crime took place and what was the gravity of the crime. The Magistrate accordingly imposes punishment. These Magisterial powers have NOT been conferred on the officials of the Food Department. The Food Department officials are only required to see whether a case is made out prima facie or not. If there exists a prima facie case, the Food Department is duty bound to report the matter to the Magistrate.

6. Supplies do not reach ration shops in time:

Issue:

The supplies often reach ration shops in the last week of the month and sometimes on the last day. For instance, rice for the current month of July 2004 had not yet arrived in the shops, though it was the last day of the month. How is it possible for 38 lakh cardholders in Delhi to take off from their work and purchase rations in one day? Hence, most of the people are unable to purchase their share of rations. This gives an opportunity to the shopkeepers to sell their shares in the black market. Most of the poor people do not have money readily available to purchase their share for the entire month at such a short notice in one go.

This also renders the entire food security program of the government redundant as what does the government expect the people to eat during the entire month. According to the PDS Control Order, the supplies should reach the shops latest by the end of the first week of every month.

Views of the Food Department:

They cannot do anything about it as the Delhi Government receives supplies quite late from FCI. But whenever such a situation occurs, the government allows sale for the previous month to take place for a few days into the next month.

People's reaction and demands:

This creates lot of uncertainty for the people. They have to visit the shops every day to enquire whether the rations have come. Besides, the people were surprised to hear that dates for receipt of rations had ever been extended when rations arrived late. The dates might have been extended only in papers, but the people never came to know about it.

It is the legal duty of the government to ensure that rations arrive in the shops by the end of the first week of every month. The people demanded that if the supplies do not arrive by the end of first week of any month, the people should be compensated at the rate of each day of delay. The government may like to recover this amount from the salaries of the officials found responsible for the delay.

7. Commission of ration shopkeepers:

Issue :

The shopkeepers get very low commission for selling rations from the government. The commission is 35 paise for every Kg of wheat or rice sold. It is 7 paise for every litre of kerosene sold. If the quota of a shopkeeper is 15,000 litres of kerosene in a month, his gross receipts for a month come to just Rs 1050, out of which he has to pay for administrative costs like rent, phone, electricity stationery etc. According to the shopkeepers, it is impossible for any shopkeeper to be able to run the establishment honestly.

Presentation by Ration Dealers' Association:

Mr Tyagi, President of Delhi Ration Union, presented that an average shopkeeper would make a loss of Rs 3000, if he ran his shop honestly. He presented detailed calculations. He cited low commission as the biggest reason for the rampant corruption. According to him, if the commission was increased to 80 paise per Kg of wheat or rice sold, it would make the operations economically viable.

Views of the panel:

Mr Collin Gonsalves and Mr Shekhar Singh emphatically said that nothing can be cited as a reason for indulging in dishonesty and for fraudulent diversion of rations meant for the poor people. They said that though they agree that the commissions were low, however, they also said that the shopkeepers cannot be allowed to indulge in diversion of supplies till their commissions are raised. Theft of supplies will never be tolerated by the society.

8. Making of new BPL or antyodaya ration cards:

Issues:

1. Central Government has fixed a quota for every state government for the maximum number of BPL cards that can be issued by the State Government. This quota is based on the percentage of people living below poverty line. However, this is causing great hardships to the people. A large number of people are left out of the PDS network due to this quota. Delhi has a quota of 4,06,000 BPL cards. According to various statistics of Delhi Government, about 6 lakh families stay in jhuggis. A large number of people stay in resettlement colonies. Their number would also be in the same range. Most of the families living in jhuggis and resettlement colonies live in abysmal conditions. They stay there because of their poor economic conditions. The number of families who deserve BPL cards in Delhi would be around 12 lakhs. The PDS Control Order clearly says that no person, who is eligible for a ration card shall be denied one. Due to the quota fixed by the Central Government, the State governments cannot issue cards to every eligible family.
2. Supreme Court recently ordered that certain categories of poor people like widows, handicapped people, etc should be provided with antyodaya cards. However, the cards are being issued only to those people who own a BPL card and fall in one of the prescribed categories. The Food Department refuses to issue any new card saying that the overall number of cards issued by the state government cannot exceed the quota fixed by the Central Government. Hence there is confusion on this issue because of which a large number of bonafide people are being denied cards.

Presentations and testimonies:

- One widow informed that she has three children. She cannot work because of her ill health. She gets fits very often. She has no sources of income. But she does not have a card and she would like to have one. Under the extended Antyodaya scheme also, she will not get a card because the Food Department says that no new cards will be made under this scheme and only existing BPL cardholders can apply under it.
- Another woman from Sundernagari said that she was physically disabled and very poor. People from her area said that she was also mentally deranged. She has no sources of income. She really deserves a card but cannot get one under the present policies of Delhi Government and Central Government.
- One widow from Sundernagari said that her own children had died and she had three grand children to look after. She does not have any sources of income. Again, she cannot get a card under the present policies of the government.

Demands:

People demanded that the artificial quota fixed by the Central Government should be withdrawn. The issue of cards and identification of families should not be a one time affair in every one or two years. It should be a continuous process. Every person who approaches the Food Department for a card at any time of the year should be issued one after due verifications.

In the meanwhile, the people falling in the categories mentioned by the Supreme Court should be issued cards, irrespective of the quota limits.

Some people narrated how they face problems in obtaining forms for new cards from Food Department. It was demanded that photocopies of the forms should be accepted.

Appellate procedure under PDS:

The PDS Control Order says that if anyone applies for a ration card and he is refused one, then the Department will pass a speaking order of rejection. The applicant has a right to appeal within one month of rejection order. However, till date, according to the Department statistics, not even a single rejection order has been passed, though the Department has rejected requests for new cards in more than 3 lakh cases in the last three years. Rejection orders aside, the Department has not even informed the people through ordinary letter that their requests have been rejected. Besides, in Delhi, Food Commissioner has been designated as the appellate authority.

It was demanded that henceforth, a proper speaking order should be passed in every case of rejection as prescribed by law. Everyone also felt that the appellate authority should not be an officer of the same Department. An independent body like Public Grievance Commission or Lokayukta should be designated as the appellate authority under the PDS Control Order.

9. Compliance of Supreme Court Orders:

In PUCL vs UOI, Supreme Court has said that the license of any shopkeeper found to be indulging in any of the following activities should be cancelled:

1. If the shopkeeper keeps his shop closed during working hours
2. If he indulges in black marketing
3. If he keeps the cards of the people with himself
4. If he makes false entries in the card
- 5.

A large number of cases, where these offences have been committed, have been presented above. In a number of these cases, formal complaints were also made to the Food Department. But the licenses of shops have not been cancelled in any case, so far. In two cases, the licenses have been temporarily suspended.

Presentation:

Parivartan applied under the Right to Information Act and asked for a list of complaints received in North East District during the period from October 2003 to June 2004 against any shop that the shop was closed during working hours and what action was taken on each of these complaints. The Department replied that 26 complaints were received. The offence was established in each one of them. Fines ranging from Rs 300 to Rs 2500 were imposed on each one of them.

The fines seem to have been imposed in totally arbitrary fashion. For instance, five offences were detected against M/s Mayank Prabha in Circle 47, namely, the shop was found closed during working hours, stock board not found filled, address and signature of cardholders were not mentioned on most of the cash memos, some cash memos were found not to have been signed by the FPS holder and the stock was found short (wheat by 5 kg and rice by 4 kg). For all these offences put together, the Assistant Commissioner imposed a fine of Rs 300 only. However, several others like M/s Har Lal, M/s Randhir Store etc committed only one offence i.e. their shops were found closed during working hours. However, the Assistant Commissioner imposed a penalty of Rs 2500 on each one of them.

What was the basis of deciding the amount of penalty? According to the Food Department, these are quasi-judicial powers of the Assistant Commissioner and cannot be questioned.

However, two important issues arise:

- Supreme Court has clearly stated that any shop found closed during working hours should be cancelled. The above action of the Assistant Commissioner violates the orders of Supreme Court and amount to contempt of Court.

- The Essential Commodities Act read with PDS Control Orders treats this as a criminal offence. The Assistant Commissioner was under legal obligation to register criminal cases against all the above shopkeepers. But the Assistant Commissioner chose to let the shopkeepers off by imposing a penalty of inconsequential amount.

Food Department officials ignorant of SC orders and EC Act:

The most shocking thing during the jansunwai was the admission of all the three ACs and the FSO that they were ignorant about these Supreme Court orders. If the field officials of the Food Department are ignorant of these orders, the level of their implementation could well be imagined.

The officials present were equally ignorant of the provisions of EC Act and the PDS Control Order, which they are expected to be enforcing.

10. Grievance redressal machinery and complaint handling and investigation systems within Food Department of Delhi:

Issue:

The Food Department does not have a well laid out procedure on how to deal with public grievances, in how much time should different types of grievances be settled, what should be the procedure for inquiring into different types of complaints, etc. In the absence of such guidelines, the field officials deal with complaints and grievances in their own manner. This leaves a lot of scope for corruption and no responsibility can be fixed.

Parivartan filed 16 applications under Right to Information. Each application dealt with one type of an offence or grievance like shops found closed during working hours, higher rates charged by the shopkeeper, issue of rations less than entitlements, making false entries in the cards, not giving cash memos, making false signatures on cash memos etc. For each of these offences/grievances, information was sought on grievance/complaint handling system that existed in the Department to deal with that type of grievance/complaint like who should a cardholder complain for that type of grievance, who is responsible for dealing with such a grievance, within how much time is that official supposed to react, what kind of enquiries are to be made, in how much time should the enquiries be completed etc. However, the Department replied back that there were no time limits for redressal of any type of grievance or for holding any types of enquiries. When the matter went upto Public Grievance Commission, the Additional Commissioner from the Food Department admitted that there was no fixed procedure laid down for handling any type of grievance.

Presentations:

- Neelam from Sundernagari made a complaint in March 2003 to the FSO of her area that she was getting only 5 litres of kerosene against her entitlement of 7 litres. In April 2004, she made a compliant to the Assistant Commissioner of her area. Last month, almost after a year after she made her first complaint, when she asked under Right to Information as to what happened to her complaint, the Food Department replied that her compliant was marked to the area inspector, who was later transferred. Hence, the complaint could not be looked into.
- Triveni made a complaint to the Food Commissioner that rations had been siphoned off in her name by making false thumb impressions. After a year, she has still not received any response from the Department.

Demands:

It was felt by everyone present at jansunwai that a committee should be formed under the Chairpersonship of an independent authority like Public Grievance Commission (PGC). The committee should consist of officials of Food Department, representatives of NGOs and representatives of SC Commissioners, if they agree to that. This Committee should

recommend within a month how and in how much time should each type of grievance or complaint from the public would be handled. It was also felt that the committee should also prescribe the penalties that would be imposed on the officials who do not follow the procedure and time limits prescribed. Unless the officials are held personally responsible, the guidelines would remain only on paper.

11. Transparency in PDS:

1. When people from Kalyanpuri applied for the records of ration shopkeepers of their area, a number of them started submitting letters stating that they have lost their records. Some of them said that records had been stolen whereas others said that they had been damaged due to various reasons. The concerned Assistant Commissioner expressed helplessness.

This means that the shopkeepers first indulge in theft of rations and then they even wipe out the evidence. The state government keeps watching all this with sheer helplessness. PDS Control Order clearly states that the ration shopkeepers are required to submit their records to the state government. The Commissioners of Supreme Court wrote a letter to the Chief Secretary of Delhi requiring them that this provision of law should be implemented in Delhi. However, the Delhi Government is yet to implement it.

2. The fees charged from people under the Delhi Right to Information Law is very high. It is Rs 25 at the stage of application and Rs 5 per page of information provided. In addition, Rs 15 are charged for every 15 minutes of inspection. The cost for seeking records of one shop for a few months come to around Rs 3000, which is impossible for the people to bear. The Supreme Court has been emphasizing in its orders that the people should be encouraged to do social audit of food security schemes of the government. How do we expect the people to conduct social audit by paying such huge fees?

Even if a person just wants to know how much ration was issued to him last month as per records, this would cost him Rs 30. An antyodaya card holder is entitled to 15 Kgs of wheat in this amount.

It was strongly demanded that the fee charged under right to information act in Delhi should be reduced. It should be made Rs 5 as application fee, Rs 0.50 per page of information and there should be no inspection fee.

3. The people complained that they do not come to know when the rations arrive at the ration shops. Though every shopkeeper is supposed to put a board on his shop displaying stock position, however, he/she rarely does that. It was demanded that the stock arrival position for each shop in a circle should be displayed on the notice board of that circle office, as soon as the stocks arrive in that shop.

12. Resolution:

At the end of the meeting, the following resolution was passed:

Today's public hearing has clearly brought out a strong nexus between the Food Department officials and the ration shopkeepers. There is an absolute lack of accountability of the officials who have been assigned the job of running the PDS. For this, job responsibilities at each level would need to be clearly outlined. Time limits and procedures would need to be laid down on how to handle each type of grievance and complaint from the public. And most important, if the officials do not perform their duties in prescribed manner, the law should prescribe punishments against them. The procedure for proceeding against officials should also be clearly laid down.

Towards this direction, we demand the following:

Accountability:

1. The Delhi Government should set up a committee consisting of senior officials of the Delhi Government, representatives of NGOs and representatives of Supreme Court Commissioners, if they agree. The Committee would deliberate and make recommendations on the following:
 - a. Prescribe detailed procedures on how to deal with each type of grievance and complaint received from the public. Also prescribe the time limits for each stage.
 - b. Prescribe the penalties to be imposed on the officials who do not perform according to the above rules.
 - c. Prescribe procedures on how and in what time the above penalties would be imposed.
2. The ultimate objective of PDS is that every cardholder should get right quantity of ration at right prices. It is very critical for the survival of a number of families that they receive rations in time. The PDS Control Order prescribes that it is the duty of the Food Department to ensure that the rations reach ration shops by the end of first week of every month. If any cardholder approaches the FSO or the Assistant Commissioner or the Additional Commissioner of his area after the first week of any month and says that he has been denied rations for that month for whatever reasons, it should be the duty of that official to ensure that the cardholder receives ration within 48 hours (or any other time limit considered appropriate). If the cardholder does not receive rations within this time limit, the State Government should compensate that person for every day of delay beyond the above time limit. The Government should recover this amount from the officials, if the delay can be attributed to them in any manner. The State Government should make appropriate laws or rules for the implementation of this suggestion.
3. If a social audit in any area reveals diversion or theft of more than 10%, it should be treated as a case of criminal dereliction of duty on the part of area FSO and AC. Necessary orders should be passed by the state government under section 3 of Essential Commodities Act or any other law considered more appropriate.

4. The provisions of Essential Commodities Act, PDS Control Order and orders of the Supreme Court should be strictly enforced. Directions should be issued to all Assistant Commissioners of Food Department to lodge FIR with the police within 7 days of receipt of any complaint, which deals with any of the matters prescribed in the PDS Control Order. The FIR should be lodged independent of the departmental enquiries.
5. The State Government should pass appropriate orders to enable the common people to be able to approach police and register an FIR for violation of provisions of PDS Control Order or Essential Commodities Act.

Issues related to Transparency in PDS:

6. The provision of PDS Control Order requiring every shopkeeper to submit all his records every month to the State Government should be implemented forthwith.
7. The fee prescribed under the Delhi Right to Information Act is very high. It is Rs 25 as application fee, Rs 5 per page and Rs 15 for every 15 minutes of inspection of documents. It should be reduced to Rs 5 application fee and Re 0.50 per page. No inspection fee should be charged.
8. Stock position on arrival of material and date of arrival should be displayed prominently at the notice board of every circle for each shop in that area every month, as soon as material arrives in any shop.
9. The field officials should be directed to provide information sought by the people during the period when the Delhi High Court has granted stay. They may not provide copies of records, as directed by the Court.

On the specific cases discussed in today's public hearing:

10. A report of today's public hearing would be submitted to the State Government soon. Strict action should be taken against guilty ration shopkeepers and officials in each case of violation, which came to light today. Both departmental and criminal action should be initiated in each case. Enquiries should be completed in a time bound manner.

Commission of ration shopkeepers:

11. The commission paid to the FPS and KOD should be increased to a level so that they are able to earn an honorable and honest living, if they so desire.

Appeal to the Central Government:

1. Rations to APL cards should be stopped. Almost all the ration sent for them is being siphoned off.

2. The quota of BPL cards fixed by the Central Government for each state government should be done away with. Due to this limit, a large number of people are left out of the food security program. BPL card should be issued to anyone at anytime, whoever approaches the State Government for the same after due verification.