LETTER TO EDITOR

JUDICIAL ACTIVISM FOR MAKING OPERATIONAL ALL ANGANWADI CENTRES IN INDIA

Sir,

In a laudable and a landmark judgement1 the Supreme Court of India has directed the Central and State Governments of India to make all anganwadi centres in the country operational by the end of August 2004. The anganwadi centres are run under the Integrated Child Development Scheme (ICDS) which aims to improve the nutritional and health status of pre-school children, pregnant women and nursing mothers through a package of services including supplementary nutrition, pre-school education, immunisation, health check-up, referral services and nutrition and health education. In addition, the scheme envisages effective convergence of inter-sectoral services at the anganwadi centres.2 More than 500,000 anganwadi centres have been established in India. This decision is an important step in the implementation of the concept of health and universal literacy as a fundamental right of all citizens in India. It needs to be stated that Right to health has been declared to be a fundamental right in CERC Case (1995 AIR SCW 759). The Supreme Court of India had reinterpreted Article 21 of the Constitution and reinforced “right to life” as a fundamental right, side-stepping the issue whether the Directive Principles of State Policy are legally enforceable.3 The decision reinforces Article 45, which mandates that the State shall endeavour to provide free and compulsory education for all children until they complete the age of 14 years. As on date, many million of children are employed and lack elementary education, health and access to nutrient food. The malnutrition in children and women in the poor in India is a well-established fact by now.

The services provided under the auspices of ICDS will help vulnerable population in their quest for a healthy life. Therefore, this judgement is a landmark in enforcing social justice in India, which is seeped with extremes of inequality, opportunity, literacy and poverty. This judgement will improve the attendance at schools and enhance the nutritional status of mothers and children. But, can the Supreme Court enforce it and thereby cherish the Constitution, which mandates the State to accord justice, including right to social justice and right to health, to all the society in all facets of human activity. The judgement reflects the Statement by Mr. Narayana, the President of India on the eve of the golden jubilee of our Republic Day in 2000 who stated, as a society, we are becoming increasingly insensitive and callous. Our thoughts go back to the Father of the Nation who lived and died for the freedom and unity of our nation, and countless men and women who followed him to the Father of the Nation who lived and died for the freedom and unity of our nation, and countless men and women who followed him and faced immense hardships and sufferings in the heroic struggle for Independence. Also the founding fathers of our Constitution gave us a Constitution, which enshrined the traditional concepts of liberty, equality and fraternity adding to them the concept of justice. Fifty years into our life in the Republic we find that justice yet remains an unrealized dream for millions. The benefits of our economic growth are yet to reach them. We have the largest number of children below the poverty line, and the largest number of children suffering from malnutrition. There is a need to move towards ’equality of status and opportunity’. However, the judgement also questions the existence of democratic governance in the world’s largest democracy, where public interest litigations are the rule of the day. Justice Verma of the Supreme Court had emphasised the judiciary to ensure that we are an inclusive democracy. This is possible if our population is able to make informed choices and take informed decisions, for which health and education are pre-requisites, more so with coalition governments.

Amartya Sen has famously argued that India has prevented famine since independence in 1947, however, he did also accept failure in tackling acute poverty and chronic malnutrition. Testing Sen, Dan Banik, in his Doctoral thesis at Oslo, had concluded that judicial interventions attract media attention but lack teeth, inadequate administration, politicians concern only while in opposition and weak panchayat system. He had concluded that over 200 million men, women and children suffer from chronic malnutrition and severe undernutrition, and more than 2.5 million <5 children die every year. Let us pray that this judgement works.

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