

Report on Lok Adalat held on 7.2.09 at Latehar District in Jharkhand submitted by Sri Niten Chandra, IAS and Shri Satyendra Kumar Singh, IRS.

1 Preliminary

Information was received on 17.1.09 in the Ministry through email by Joint Secretary (NREGA) from Prof. Jean Dreze and Dr. Mihir Shah that Lok Adalat is being organized on 7.2.09 at Latehar, Jharkhand District. It was decided that Central Observers would be sent from the Ministry to the Lok Adalat. We were requested to attend the Lok Adalat as Central Observers. Accordingly, we drew up the programme for the visit of Jharkhand. We arrived a few days earlier (4.02.09) and visited Ranchi, Lohardagga and Latehar districts to review and assess the general status of the implementation of the National Rural Employment Guarantee Act, 2005. We held discussions with officials of Jharkhand Legal Services Authority (Executive Chairman, Member-Secretary of JHALSA), Latehar Civil Court, State Government, Districts and Blocks, the NREGS workers, Prof Jean Dreze and Ms Ritika Khera. There are no Gram Panchayats in Jharkhand as no elections have been held due to litigation pending in the Supreme Court. On 6.2.09 we reached Latehar.

2 Background of Lok Adalat

On 2.10.08, a National Seminar was organized by the National Legal Services Authority for interactions on providing the support of Judiciary in the implementation of NREGA. In his address the Hon. Prime Minister had suggested using the Legal Services Authority and the Bar Associations to provide legal aid to the rural households to enable enjoyment of their rights under NREGA. Accordingly, Justice M.Y. Eqbal, Executive Chairman of Jharkhand Legal Services Authority (JHALSA) took this pioneering initiative in holding Lok Adalat-cum-Workshop at Latehar. Instructions were issued to the District Legal Services Authority (DLSA) to make necessary preparations.

3 Events

3.1 Preparations

3.1.1 Preparations began from 16.1.09. District Judge is the Chairman and Deputy Commissioner is the Vice-Chairman of DLSA. For the organization of the Lok Adalat both the civil court and the district administration pooled their resources. Advertisement was issued on 22.1.09 in the newspaper to invite complaints on the implementation of NREGA from the public and submit them to DLSA by 31.1.09. Loudspeaker announcements in bazaars and hats were also held. Vehicles were deployed and drum-beating was

done for dissemination of information on the Lok Adalat. Nearly, 20,000 applications were received till 31.1.09. Most of the applications contained the same complaint in the same language. A photocopy of the job card was attached. It was stated that the applicant had received the job card but has not been provided any work. It was requested that since no work had been provided to him, he should be paid the unemployment allowance.

3.1.2 The self same nature of nearly 17,000 applications for demanding unemployment allowance on the basis of having possession of a job card revealed that certain vested interest groups were active in spreading rumours with an ulterior motive. Gullible rural workers were being induced by these vested interest groups to submit applications on payment of Rs 100 to receive Rs. 10,000 as unemployment allowance. The promise of unemployment allowance had generated intense excitement in the villages. Every applicant hoped for the payment of unemployment allowance on the Lok Adalat day. Many people including the judicial officers and lawyers were unaware of the provisions of NREGA, it being a new law which had never led to any court case in the local courts. Even many of the government officials did not know the provisions clearly. There was hardly any one in the district to quell the rumour over unemployment allowance.

3.1.3 The staff strength in both the Civil court and the District Administration was inadequate to handle the large number of applications. For every application a case record was opened, the application and the photocopy of the job card was stitched in the case record along with the order sheet. The staff in both the offices worked night and day to ensure full publicity, collection and processing of applications. Arrangements were made in the local stadium to hold the Lok Adalat. Dais, lamps, counter for benches and banks, drinking water, chairs for the participants and barricades were organized. For the district this was a major event and its organization had brought every other activity to a halt.

3.2 Negotiation Benches

3.2.1 District Judge constituted twenty Benches comprising lawyers, social activists and government servants not related to implementation of NREGS. There was a shortage of judicial officers in the district. Notices were issued to the BDOs and the complainants to appear before the Negotiation Benches from 2.2.09. The BDOs sent their subordinate staff to attend to the Benches. The Benches were set up to enable settlement of the matter by negotiation and conciliation. However, this role was not understood by the parties as the officers had never seen the Legal Services Authority Act. The BDOs were given guidelines informally for action. They agreed to provide job cards if the complainant wanted job cards, and to provide work if the complainant wanted work. In cases of under payment of wages, some BDOs sought for

time to verify the records and some agreed to make payment as per the direction given to them. In many cases they were being pressed to agree to the payment of unemployment allowance. There were also cases of entries in the job cards that did not match the statements of the complainants These were deferred for verification by the Programme Officers.

3.2.2 In the meantime the DPC received an order dt 4.2.09 from the State Government in Department of Rural Development to pay unemployment allowance in two cases covering 78 households of Manika Block. The BDO, Manika was a young woman officer who was said to have not been able to provide work. State Government had also imposed a penalty on the BDO, Manika of Rs 1000 under section 25 of the Act.

3.2.3 In the Negotiation Benches nearly 3000 cases were put up wherein parties appeared and "settlement" was arrived at. The Benches closed on 5.2.09.

3.3 Lok Adalat-cum-Workshop

3.3.1 Invitation Cards were printed and distributed among officials and other important persons to attend the Lok Adalat-cum-Workshop. It was organized in the local stadium. Large dais to accommodate around twenty five persons was made. Stalls were made to open the Lok Adalat benches and one bank counter. Provision for drinking water was made. There were heavy security arrangements as the district is known to be worst affected by left wing extremism. The function began at around 10:30 AM with the lighting of the lamp by the Chief Guest (Executive Chairman of JHALSA). Following dignitaries were on the dais:-

(a) Justice M.Y. Eqbal, Judge Jharkhand High Court-cum-Executive Chairman, JHALSA

(b) Justice Amareshwar Sahay, Judge Jharkhand High Court-cum-Chairman, High Court Legal Services Committee

(c) Justice Ajit Kumar Sinha, Judge Jharkhand High Court-cum-Zonal Judge, Latehar Judgeship

(d) Sri S.K. Satpathy, IAS, Secretary, Department of Rural Development, Government of Jharkhand.

(e) Sri Satyendra Kumar Singh, IAS, NREGA Commissioner, Governemnt of Jharkhand

(f) Sri Sarwendu Tathagat, IAS, Deputy Commissioner, Latehar

(g) Sri R.K.Dubey, District and Sessions Judge, Latehar

(h) Sri D.S. Prasad, President, District Bar Association, Latehar

(i) Mr. Jean Dreze

3.3.2 (j) Ms. Ritika Khera

The dignitaries explained the rights of the workers and exhorted for

improvement in the implementation of NREGA. Cheques were distributed by the dignitaries to the workers for payment of unemployment allowance. Mr Jean Dreze and Ms Ritika Khara left the dais in the midst of the proceedings.

3.3.3

There was an interactive session. Workers were unanimous in their demand for 100 days of work. A few women workers raised questions regarding allocation of work and payment of wages. The dignitaries explained the modalities to the workers for enjoyment of their rights.

3.4 Massive Turnout

3.4.1 There was a massive turnout of rural workers, lawyers and media. There were twenty benches comprising a lawyer, a social worker and a government servant not related to implementation of NREGA. The venue was full to its capacity. It was reported that 20,000 people attended the Lok Adalat-cum-Workshop. Women workers carried slips of paper, moving in small herds to locate the right bench. Most of them looked terribly lost. Many were accompanied by local brokers. As the crowd increased, the pressure on the Benches increased who sat on chairs with heaps of case records containing applications on their tables and protected from the surging crowd by wooden barricades. There was no order and hordes of applicants leaned against each other and swarmed on the barricades to draw the attention of the benches who were busy rummaging the records and trying to understand the noises of the parties. Many curious onlookers and bystanders joined the crowd to catch a glimpse of the proceedings. The swirling crowd under the covered pandal made the venue hot and dusty. There was a sole counter of State Bank of India whose officers worked hard to encash the cheques received by the workers and also open their accounts. Large number of cases got disposed. It was found that Lok Adalat day had added nearly 2000 cases to the disposal figure. The BDOs and their officers sat with the Benches and provided job cards and work on the spot to the workers. The District was well prepared with its shelf of works. The dignitaries moved around different benches and observed the proceedings. The police cleared the crowd to make way for their unhindered movement. The vast multitude of humanity gratified all as the huge turn out was deemed to be historic amongst all the Lok Adalats held so far.

3.5 Rumours and Protests

Rumour was rife about payment of unemployment allowance to everyone who had a job card. Led by this rumour, many applicants submitted their applications in the Lok Adalat. It is not clear as to what was the cause of the misconception, but it appears that some vested interest groups tried to take advantage of the innocence of the applicants and induced them to submit the applications to obtain undue pecuniary gain. At the end of the day when the

expectations of the applicants were not met, the group instigated agitation against the Deputy Commissioner and the District Judge to save their own skin and make the officials appear responsible for not paying the unemployment allowance. It was also demanded that copies of the awards should be made available to the applicant instantly. The vehicles of both senior officials were blocked.

3.6 Role of NGO - Gram Swaraj Abhiyan

This NGO was closely involved in the mobilization of the people. Local Officials seriously suspect the bona fide of this organization.

3.7 Role of local Advocates

Some sections of the local advocates are said to have also played some role in spreading the rumour about the payment of unemployment allowance. They are stated to have induced the workers to give them money for submitting applications. Many of them, however, worked very sedulously in the Benches to settle the cases. Without the involvement of the local Bar Association the event could not have been so successful.

3.8 Role of Banks

State Bank of India set up a counter and deployed some staff. They received the cheques and paid cash to the workers. They also opened accounts of the workers.

3.9 Role of Media

The event attracted intense interest of the media. Press and television news persons gathered in large numbers and covered the event. Next day several newspapers carried the news of Lok Adalat and hailed it as a "huge hit". Some of the prominent headlines of 8.2.09 may be seen below:

- (a) **Hindustan Times** : *India's first NREGA Lok Adalat held*
- (b) **Times of India** : *Latehar Lok Adalat ends successfully*
- (c) **The Telegraph**: *NREGA Lok Adalat a huge hit*
- (d) **Dainik Jagran**: *Judiciary takes over the reins of NREGA – Lok Adalat at Latehar, 20,000 cases disposed*
- (e) **Hindustan** : *Country's first Lok Adalat held at Latehar, officials exposed – wrongdoers will be taken to task.*

3.10 Discussion with JHALSA

3.10.1 JHALSA now plans to extend the process to other districts. Next Lok Adalat may be held in Koderma District in March, 2009. It is likely that the Executive Chairman of NALSA may also attend the Lok Adalat. Justice M.Y Eqbal, the Executive Chairman suggested that volunteers from local law colleges will also be used as para-

legal force to assist in the organization of Lok Adalats.

3.10.2 JHALSA intends to deliver justice to the doorstep of the people by starting mobile courts. Justice Eqbal requested for providing a specially designed bus fitted with court room facilities, including a photocopier and generator to settle Lok Adalat cases at the Block and Gram Panchayat levels. He has requested for one such bus for the whole State to begin with. JHALSA will submit a proposal to the Ministry in this regard.

3.11 Discussion with State Government

3.11.1 State Government is reorganizing the Block Administration to make the implementation of NREGA more effective. More than sixty low-performing BDOs who were on deputation from Agriculture Department have been identified. They will be replaced by young State Administrative Officers. Professionals in the domain of Horticulture, Watershed, Soil Conservation, Engineering, Social Audit, Monitoring & Evaluation, Programme Management will be inducted at the State level to strengthen implementation of the Act. The State Government is sending a team of officials to Rajasthan to study the system of mates so that their engagement may also be done in Jharkhand in a proper manner.

3.11.2 The State has provided job cards to 32.68 lakhs households and jobs to 12.15 lakhs households. It was agreed that there is a need to open up many more works to cover all habitations so that work can be provided to all the registered households living in the habitations. This will require engaging more engineers. The State Government is considering deploying one Junior Engineer in every Gram Panchayat. The State has already placed two Programme Officers in every Block and one Gram Rozgar Sahayak in every Gram Panchayat. Two computers have been provided in every Block. The State will increase this number to at least three in every Block.

3.11.3 State Government was also advised to ensure disposal of the pending enquiries in regard to some of the Lok Adalat cases. Other issues such as expanding programme outreach, flow of funds, works planning and execution, maintenance of records, organization of gram sabhas and social audit, disposal of complaints, media management, monitoring, evaluation and reward for good performers, helpline and grievance redressal system, schedule of rates, staffing and training, submission of MPRs were also discussed.

4.1 NREGA brought to the center stage of the consciousness of the local community

The “new” law of employment was little known in the local community. The event has brought the law to the center stage of societal discourse. The awareness level has greatly increased with the continuous campaign of over three weeks that preceded the Lok Adalat. As every officer and staff of the District Administration and Civil Court worked day and night for the organization of the event and as the local bar association and the traders got involved in the event, the talk of NREGA spread to every nook and corner of the District. The massive bandobast and presence of senior officials from the State and the Police to ensure proper arrangements for the visit of the High Court Judges made the event memorable for the locals.

4.2 Expectations about getting work and wages increased

The event had a great impact on the psyche of the rural households. The promises of work and wages made from the dais have heightened expectations. Many workers were allotted work in the Lok Adalat itself. This has also raised hopes of better delivery of the services stipulated in the Act.

4.3 Gap in provision of employment to rural households revealed

In the State 32.68 lakhs rural households have been provided job cards, whereas only 12.15 lakhs households have been provided work. There is a huge gap of more than 20 lakhs. In Latehar district 50,288 households have been provided jobs whereas cards have been distributed to 94,603 families. In the campaign for Lok Adalat more than 17,000 applications were received from families having job cards who wanted work but did not know the way of getting work. These applications arose from those households that constitute the “gap”. The large number of households in the “gap” shows that there is a huge demand for work which does not surface because of the lack of awareness among the people about the modalities of seeking work. These households are not covered as works are not planned in every habitation because of shortage of human (engineers) and financial (inadequate plan allocation) resources

4.4 NREGA enters the realm of judicial action

Judiciary has taken a serious note of the gaps in the implementation of NREGA. Justice M.Y. Eqbal stated that this is a noble law which provides for the income for the poorest of the poor as well as ensures development of backward areas. This law has to be implemented in its true letter and spirit to fructify the legislative intent. The provision of 100 days of work to all who apply for work

was held to be mandatory.

Local District Courts were hardly aware of the provisions of NREGA. The event has increased the awareness among them also. Now members of the bar and the benches have also got involved in the implementation of the law.

4.5 Pressure on local functionaries increase

All cases brought up in the Lok Adalat call for expeditious action by the Programme Officers and the Gram Rozgar Sahayaks. They need to dispose the cases and submit a report to the Lok Adalat. This has increased the pressure on the officials in the Blocks and the Gram Panchayats.

4.6 Despair and demoralization at the lower level

The structure and climate of the Blocks and Gram Panchayats is not conducive to expeditious action. There are not enough engineers in the Blocks. The system of mates has not been properly grounded. The Gram Rozgar Sahayaks are newly appointed and are not well trained. BDOs who are the Chief Programme Officers in Jharkhand are overworked and have to deal with all the development programmes. In some places they are also in charge of revenue tahasils and ICDS. Extremism is at its height which makes movement of officers difficult. There are not enough branches of post offices and banks to ensure timely payment of wages. The increased work pressure and adverse office structure and external environment have led to fears of failure and consequent despair and demoralization among many at the lower level.

5 **Comments and Recommendations**

5.1 Strategic Redirection

5.1.1 The exposure of the cases of households provided job cards and not provided work in such large numbers in Latehar Lok Adalat gives rise to a need for strategic redirection. There is a need to plan for providing work to all households who have been issued job cards by conducting door-to-door verification to ascertain the work preference of those issued job cards.

5.1.2 The provision of at least 100 days of employment to job-seeking rural households has been determined as the hallmark of the law by the Judiciary. The planning for implementation of the Act must reckon with these “new” considerations that have emerged from the Latehar Lok Adalat.

5.2 Plugging structural gaps

5.2.1 Structural weaknesses at the Center, State, District, Block and Gram Panchayat levels need to be plugged. The Secretarial mode of functioning of NREGA Programme Division in the Ministry of Rural Development must cease as it circumscribes the pace of decision making, particularly, those in regard to flow of funds. A National Authority for NREGA at New Delhi needs to be set up with its own independent bank account, finances, staff, monitoring and audit system. Similar structure needs to be developed at the State level for which adequate funds may be provided.

5.2.2 Funds should flow directly to the States. Adequate and skilled personnel needs to be provided at every level (right from the Center to the Gram Panchayats).

5.2.3 One Junior Engineer must be provided in every Gram Panchayat and one Assistant Engineer in every Block to ensure that work is regularly carried on in every habitation of job card holders. Proper systems of appraisal, training, reward and compensation for the staff needs to be developed. This should be reinforced by introduction of a robust system of mates, compatible systems of measurement and Schedule of Rates that fit the requirement of NREGA. This will ensure providing work and proper wages to every genuine job seeker and guarantee full outreach in the rural areas.

5.2.4 Social audit teams must be put in place in the State, District and Block levels to ensure proper verification of records and works to minimize flow of complaints to the Lok Adalats.

5.2.5 Every Gram Panchayat must be provided with suitable staff, spacious building, modern office equipment (photocopier, telephone, camera, tables, chairs, almirah, generators, etc.), display boards and conferencing facilities so that it has the capacity to discharge its legal obligations.

5.2.6 In order to re-engineer the organizational architecture and work methods financial support may be provided to the States. SIRDs may be professionalized and used to facilitate the re-engineering process and make the implementation of the Act more effective.

5.3 Removing gaps in understanding of Law

There exist serious gaps in the understanding of NREGA as well as the Legal Services Authority Act among the local officials. These officials must acquaint themselves thoroughly.

5.4 Revamping Policies and Procedures

5.4.1 The procedure in respect of formulation of labour budget, project planning and flow of funds need to be simplified to ensure quick,

fair and easy flow of funds to the States, Districts, Blocks and Gram Panchayats. In order to estimate annual fund requirement to provide employment to the rural households, historical figures of costs may be used along with the figures for number of households provided job cards and certified as job-seekers, and the entitlement of 100 days per household. The project planning should be decoupled from financial planning component of labour budget to enhance flexibility in opening of works according to the local feasibility and demand. Adequate budget provision should be made to ensure release of the entire annual fund requirement in not more than two installments. Inter-district transfer of funds to overcome bottlenecks in flow of funds and optimize regional allocation of funds should be made easy. Arrangements with Banks should be made to ensure flow of funds through a system of Letter of Credit (LoC) and facilitate feedback on recipient wise use of funds.

- 5.4.2 States need to review their Schedule of Rates to ensure that work outturn is commensurate with workdays contributed by the workers. This is critical to avoid mismatch between workdays verbally reported by the workers and workdays recorded in the muster rolls, job cards, etc.
- 5.4.3 Detailed guidelines for payment of unemployment allowance should be laid down by the States to avoid legal liability when provision of work may be impossible.
- 5.4.4 Awards may be given by the States to the good performing Gram Panchayats, Blocks and Districts to encourage active involvement of NREGA functionaries in the implementation of NREGA and facilitate identification, documentation of best practices.
- 5.4.5 Sizes of Blocks and Gram Panchayats should be rationalized so that the quality of delivery of public service and programme reach-out improve.
- 5.4.6 Simple monitoring tools should be developed to focus on critical deliverables.
- 5.4.7 All households who have been issued job cards must be deemed to have demanded job, unless proved otherwise by door-to-door survey. All such households must be contacted and their work preference ascertained to ensure complete saturation of demand for work.
- 5.4.8 Essential administrative costs of Programme Officers, Engineers, Mates and MIS (up to Gram Panchayats) must be met upfront on actual basis and must be freed from the limit of administrative expenditure to guarantee full and complete reach out to all job card holders.
- 5.4.9 Every Gram Panchayat must have at least one engineer and every

Block must have at least one Assistant Engineer, with adequate powers of technical sanction, to ensure that sufficient works are opened in every habitation of the Gram Panchayat and all households who are issued job cards are offered employment.

5.4.10 States and Districts need to set up media centers to improve interaction with the media and launch aggressive media campaign by hiring professionals and preparing and publishing films, photographs and success stories for highlighting the positive outcomes of the execution of the Act.

5.5 Expanding the network of banks and post offices and enhancing the speed of wage payments

The presence of banks and post offices is inadequate in rural areas. There are still large numbers of villages where the workers have to trudge over 30 kms (maximum distance is up to 68 kms) to reach a bank or a post office. Detailed information on gaps in the network of bank and post office branches need to be compiled, examined and remedial action taken. The new extension counters of banks and post offices may be opened in the Gram Panchayat premises. A great deal of time is taken in withdrawal of cash by the workers because of difficulties in movement of cash and clearance of cheques. These need to be attended to immediately.

5.6 The Challenge of Extremism

The left wing extremist affected districts face an uphill task in delivering public services. Vacant posts in these districts need to be quickly filled up and adequate security arrangements should be made to ensure safe movement of the officials. Well equipped police outposts may be opened in the Gram Panchayat offices and Blocks. Worksites should be treated as *public service delivery centers* where the benefits of literacy, health, PDS, and the like may be delivered simultaneously. Convergence with agriculture, horticulture, forestry, water resources, rural roads, soil conservation and watershed development programmes must be promoted to maximize the positive impact of public expenditure. This will soften extremist behaviour and draw more people to the worksites to earn a living and improve their life chances lawfully.

5.7 The need for Grassroot Democracy in Jharkhand

The institutions of Panchayati Raj need to be quickly re-established in Jharkhand. This may provide a powerful tool to curb the extremist activity and also expand the outreach of the delivery of public services. The pending litigation needs to be pursued through NALSA so that early elections may be held.

5.8 Future Outlook

- 5.8.1 The organization of Lok Adalats in future should be made friendlier to the workers. Adequate number of volunteers (paralegal force) should be put in place to guide the workers to the right benches. Number of benches should also be increased to deal with the cases in an expeditious manner. Adequate arrangements should be made for preparation and delivery of awards to the parties on the spot. Para legal forces should be built up and used to assist the local administration and courts to organize the Lok Adalats. It is also notable that the expenses on Lok Adalats can be borne by the districts out of their own resources and no separate funding is required.
- 5.8.2 The pronouncement of the Judiciary in the Lok Adalat at Latehar and its wide coverage in the media imparts a new dimension to the formulation and implementation of NREGA strategy. The NREGA implementation machinery must be overhauled to ensure 100 days of employment to all who have been issued job cards. Steps need to be taken at all levels (Center to Gram Panchayats) to strengthen the organizational structure, enable easy and timely flow of funds, provide adequate and competent staff, establish a robust and simple communication and monitoring system, promote a positive organizational culture and climate that will enable the discharge of the legal obligations in a concerted manner.
- 5.8.3 The idea of mobile court set up in a specially designed bus to deliver justice in the villages propounded by Justice M.Y. Eqbal, Judge Jharkhand High Court-cum-Executive Chairman, JHALSA is commendable and should be immediately grounded. This will be a unique initiative in the country. It will not merely be a vehicle to ensure effective implementation of the law. More importantly, it will take forward the partnership between the Executive and the Judiciary further ahead on the road of development with justice.

Report on Lok Adalat held on 7.2.09

At

Latehar District in Jharkhand

By

Sri Niten Chandra, IAS

and

Shri Satyendra Kumar Singh, IRS

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