

COURTS AND HUNGER (2022). By Sanjay Parikh, (Vani Book Company, 1st edition) pp.192, Price Rs. 299.

COURTS AND Hunger, is an account of a decade long, tenacious legal battle which revealed that the real cause of hunger and starvation deaths in the poverty-ridden Kalahandi, Balangir and Koraput (KBK) districts of Odisha¹ in Eastern India, was not the drought but the State's failure in discharging its legal and constitutional obligations. It established that the calamity was man-made. The book attempts not only to explain various aspects of man-made disaster in a free, modern, democratic and constitutionally governed India but also tells a story of optimism that narrates how systemic and consistent efforts by the Supreme Court of India and the National Human Rights Commission helped in resolving the complex problem of the extremely poor and downtrodden in KBK districts when the executive miserably failed in fulfilling its constitutional promises.

M. N. Venkatachaliah J., former Chief Justice of India, aptly describes in his 'Foreword' how nature's frown and insensitiveness of man can make a welfare state ineffective and completely neglect an entire segment of the population. Generously acknowledging the author's rare sensitivity towards human suffering, Venkatachaliah J., reaffirms the common Indian's faith in the Indian judiciary's crucial role in making democracy and the State work when the administrative apathy denied the rights to the poorest of the poor.

Courts and Hunger is a relatively slim volume that narrates the entire story of how KBK districts in Odisha remained backward though nearly 20% of the state's population occupy 30.59% of the geographical area in these districts. The book gives authentic facts and figures about the profile of KBK districts, poverty and famine in Odisha, famine codes, a conceptual framework of hunger, poverty and famine *etc.*, in a clear and simple language. The exposition of international laws on hunger and poverty, human rights and right to adequate food is extremely important in locating the problem of starvation deaths in the KBK districts. This narration also relates to the fundamental rights guaranteed under the Constitution of India *viz.* Right to Food, Right to Life *etc.* The discussion clearly brings out the distinction between the nature of famines during the colonial period and the nature of famines in the KBK districts in democratic India. The table of famines during nearly two hundred years under the East India Company and the British Crown and the Famine Commissions set up by the British Government show how the massive famines caused millions of deaths in the colonial India. The achievements of the free, independent India after 1947 ought to have seen as preventing such massive famines. The 39 famines between 1769 and 1878 were the monumental disasters caused by the indifferent colonial rule whose

1 KBK now includes 8 districts: Kalahandi, Balangir, Koraput, Malkangiri, Nabarangpur, Rayagada, Subarnapur and Nuapada.

sole objective was to loot the country and its resources at the cost of millions of human lives. However, the colonial British Government did set up the Indian Famine Commission (1878), which gave its report in 1889, shockingly observing that people's resistance to famine had increased. Another Commission was setup which gave its report in 1901 laying down the following warning signals to anticipate an impending famine:

- i. Contraction of private charity, indicated by the wandering of paupers;
- ii. The contraction of credit;
- iii. Feverish trading in the grain market;
- iv. Restlessness, showing an increase in crime;
- v. Unusual movements of flocks and herds in search of pasturage; and
- vi. Unusual wandering of people (*Hunger & Courts* at 37).

In spite of all these developments, the Bengal Famine of 1943 occurred. Winston Churchill during the World War II diverted the food grains meant for the poor Indian civilians to those who were fighting the war. More than 1.5 million people died in this man-made famine. It is well known what Churchill infamously said about these deaths: "*It was their fault for breeding like rabbits*". One can understand the colonial attitude towards millions of Indians who died like 'rabbits'.

Soon after the independence, the new democratic India should have taken all required measures to stop such disasters. KBK districts were already neglected for far too long. But unfortunately the general growth of economy, democratic institutions and administrative efficiency in the independent India failed to address the problems of KBK districts. Article 21 of the Constitution of India, the international laws on food security and human rights were completely violated and strangely forgotten to the grave and sensitive situation existing in the KBK districts. The constitutional courts could have *suo motu* intervened but sadly judiciary also remained a silent spectator.

The book gives a detailed account of the attempts made by some social activists initially in approaching the Supreme Court of India. The attempt made in 1985 though resulted in a judgment in 1989 by the Supreme Court but yielded no results on the ground. It is ironic that the Green Revolution had already completed its successful journey of two decades by producing surplus food – rice and wheat— that could have easily prevented starvation deaths in the KBK districts and elsewhere. The Supreme Court of India's judgment in *Kisben Pattanayak v. State of Orissa*² interestingly notes that the State Government of Odisha and the District Judge of Kalahandi informed the Supreme Court that there were no starvation deaths in the

2 1989 AIR 677 1989 .

state or in the KBK districts. In a democracy with transparency and a system of checks and balances that includes high levels of communications, media coverage and public vigil, how can the State as well as the judiciary at district level audaciously submit false reports to the Supreme Court itself?

In 1997, the author took up the cause on a writ petition filed by the Indian Council of Legal Aid and Advice and Others before the Supreme Court. The Supreme Court, after convincing itself about the truth of hunger and starvation deaths in the KBK districts, issued notice to the State of Odisha. However, the state government stuck to its earlier stand and reiterated that it responded well in tackling the drought and natural calamities, thus denying occurrence of starvation deaths due to administrative apathy. The Supreme Court asked the NHRC to look into the problem of hunger and starvation deaths in the KBK districts. The proceedings thereafter continued before the NHRC. The author, as the counsel for the petitioners, submitted a scheme to begin with, which was developed later during the decade-long proceedings. These proceedings dealt with rural water supply and sanitation, emergency feeding, primary health care, social security schemes, soil conservation, rural development programme, afforestation, land reforms, schedule caste /schedule tribe development, School Education *etc.* NHRC also very scrupulously monitored compliance of these programmes.

The meticulous work done by the petitioners while approaching the Supreme Court and the NHRC brought a perceptible change in the KBK districts. The final report and recommendations of the NHRC were accepted by the Supreme Court. The State Government of Odisha too accepted in writing to implement the recommendations of the NHRC in the matter. The hearings at NHRC were comprehensive, sensitive and path-breaking. If any other part of India or the world faces similar crisis, these hearings would help as guidelines for a pragmatic and practical action.

The final report of the NHRC summarizing the hearings and giving several recommendations was accepted by the Supreme Court by its order dated January 22, 2008:³

The final report with appropriate recommendations has been given by NHRC on 30.08.2016. These recommendations will go a long way in improving the living conditions of the KBK region. The recommendations in the final report of NHRC have been accepted by the state government. The state government has also agreed for an effective and monitoring mechanism suggested by NHRC to ensure that the suggestions made by the NHRC are implemented properly and continuously” (Hunger & Courts p.136).

3 *Id.* at 136.

The success of this legal battle conclusively proves that if there is a political will on the part of the States at the central and provincial levels, poverty and hunger can be eliminated. It also proves that if the executive fails, only the courts remain as the peoples' hope. However, courts can discharge their obligations only when the cases are presented intelligently with patience and conviction. The courts can always evolve such tools and remedies within the constitutional fold which aim to do justice. *Courts and Hunger* succeeds on both counts. It is a must read for all in the judiciary, both lawyers and judges, as well as by those who are concerned about the decline of democratic values in recent times in the functioning of the legislature, executive and the judiciary in relation to the just and fair adherence to the Constitution of India itself. The chief architect of the Constitution had said that the Constitution would remain as a piece of paper, unless the persons behind it make it work. What Ambedkar said about the Constitution is equally applicable to all the statutory institutions set up under the respective provisions provided by the law and the Constitution.

The author of this book - Sanjay Parikh - deserves due recognition. I hope judges and lawyers will take out some time to read and reflect on the issues, methods and processes recorded in this book. I am, however, quite certain that the students of law colleges and universities will benefit immensely when they read this book, not for examinations but for legal, moral and intellectual probity of their profession in itself.

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