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मानव अधिकार भवन, सी-ब्लॉक,  
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**NATIONAL HUMAN RIGHTS COMMISSION**  
Manav Adhikar Bhawan, C-Block,  
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File No. R-18/8/2021-PRPP(RU-1)

6<sup>th</sup> October, 2021

**Subject: Advisory on Right to Food Security and Nutrition**

The National Human Rights Commission is mandated by the Protection of Human Rights Act, 1993, to promote and protect the human rights of all people in the country. The Commission is committed to protect the basic human rights of the people, inter-alia, the right to food security and nutrition.

2. The 'Right to Food' having implications for 'Right to Life' is a fundamental right enshrined in Article 21 of the Constitution. Therefore, the Commission issues this Advisory (copy enclosed) to achieve the food and nutritional security of the people, particularly the vulnerable and marginalised sections of the society.

3. All concerned authorities of the Union/ State Government(s)/ UTs are advised to implement the recommendations given in this advisory and to send an 'Action Taken Report' (ATR) on the same within three months for information of the Commission.

26/10/21  
(Bimbadhar Pradhan)  
Secretary General

Encl: As above

To:

The Secretary,  
Department of Food and Public Distribution  
Ministry of Consumer Affairs, Food and Public Distribution  
Krishi Bhawan, New Delhi- 110001

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The Secretary,  
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The Secretary,  
Department of School Education and Literacy  
Ministry of Education  
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The Secretary  
Ministry of Health & Family Welfare  
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Chief Secretaries & Administrators (all States/UTs)



# National Human Rights Commission



## Advisory on Right to Food Security and Nutrition

Right to Food has been recognized as a basic human right in both international instruments and domestic laws. It is enshrined in the Universal Declaration of Human Rights of 1948 (Article 25), International Covenant on Economic, Social and Cultural Rights of 1966 (Article 11) and other international covenants. It can be read into both chapters 3 & 4 of the Indian Constitution, being Fundamental Rights and Directive Principles, respectively. Being a fundamental right, it is enforceable through the constitutional remedies under Articles 32 and 226 of the Constitution. The Directive Principles having statutory expression or in policies are also enforceable. Further, various judgements of the Supreme Court have also upheld this to be a fundamental right.

Right to Food is interdependent with other Human Rights. Its components include availability, stability of supply, accessibility, sustainability and adequacy of food. It incorporates the right to freedom from hunger and starvation and access to nutritious food. Its equitable application entails suitably tailored schemes for different segments of society depending on their need, including women and children. It is also an integral part of the Sustainable Development Goals.

The National Food Security Act 2013 (NFS Act) has shifted the right to food from the domain of benevolence of the State to that of the right of citizens. It seeks to ensure food and nutritional security to the targeted needy people. It combines and expands the scope of some existing food-based welfare schemes like Targeted Public Distribution System (TPDS), Supplementary Nutrition Programme (SNP) of Integrated Child Development Services (ICDS), Mid-day Meal (MDM) and a conditional cash transfer scheme called the Maternity Benefit Programme. The Mid Day Meal scheme and a part of ICDS, related to pre-school children, are now subsumed in the PM Poshan Shakti Nirman or PM POSHAN scheme.

India has the largest nutritional programmes across the world with the coverage of around 81.35 crores beneficiaries under Public Distribution System and 20 crore beneficiaries under Integrated Child Development Services (ICDS) and Mid Day Meal Scheme (MDMS). These schemes are an important support system for many households in our country. Historically, there is no doubt that these schemes have helped in improving the levels of the nutritional indicators.

The National Human Rights Commission, being deeply concerned about the 'Right to Food', has intervened at regular intervals to supplement the country's nutritional and food security situation. Through this Advisory, the Commission brings another set of recommendations for the Government(s) and other stakeholders.



**Recommendations related to NFS Act, 2013**

1. As per the NFS Act, the provision of PDS entitlement extends upto seventy five percent of the rural population and upto fifty percent of the urban population. As the Census 2021 may take some time, during the interregnum period, the Central Government may determine the total number of persons to be covered under the NFS Act, based on official population estimates for 2021.
2. **State Food Commissions:** State Food Commissions should regularly monitor and evaluate the implementation of the NFS Act, including the nutritional programmes.
3. **Vacancies:** States/UTs to ensure the filling up of all the vacant positions in the State Food Commissions and posts of District Grievance Redressal Officers (DGROs).
4. **Social Audits:** Social audits of all the schemes should be conducted in accordance with provisions of the NFS Act.

**Public Distribution System (PDS) and One Nation One Ration Card scheme (ONORC)**

1. It has been observed that the allocated number of ration cards are not being issued in some of the States/UTs, whereas issuing of ration cards should be a continuous process.
2. Unfair practices at the level of Fair Price Shops and during transportation be addressed effectively by using advanced technology.
3. The Public Distribution System is presently based on cereals. It is necessary to include pulses, millets and edible oils to improve the nutritional level.
4. Considering the fallout of the pandemic, for the next one year or such time as the Government considers it necessary, PDS must include all those who are needy, notwithstanding their non-inclusion in the beneficiary list under the NFS Act.
5. The portability issues of inter-state migrant workers under the ONORC need to be addressed comprehensively.
6. Given biometric and network difficulties in remote areas and otherwise, appropriate alternatives should be explored in place of Aadhaar-based Point of Sale (PoS) system, such as manual distribution of PDS items.

**Integrated Child Development Services (ICDS) and Maternity Entitlements**

1. State Government/UTs need to consider opening of Schools and Anganwadi centres factoring in local situation of Covid-19 and its protocols.
2. ICDS functioning including supplementary nutrition, growth monitoring, health and referral services be strengthened.
3. The vacancies in all posts under the ICDS be filled up on priority.
4. Supplementary nutritional standards under the ICDS need to be adhered to by the State Government(s)/UTs.
5. Entitlement under the prevailing schemes and programmes earmarked for pregnant women and lactating mothers to be enforced by the States/UTs.





6. Necessary coordination and appropriate monitoring mechanisms at Anganwadi level to be in place for effective monitoring of the programme. Wherever possible, best practices, such as Mothers' Committee, may be replicated.

### **PM POSHAN (Erstwhile Mid-Day Meal scheme - MDMS)**

1. The mid-day meal must include food items of high nutritional value, e.g., eggs, milk products, fruits, etc. The nutritional standards should be strictly enforced.
2. Ensure adequate number of recognised and accredited laboratories with the objective of speedy testing of all food samples, according to the Food Safety and Standards Act, Rules and Regulations. It would ensure the requisite nutritional standard.
3. The preparation and supply of food in mid-day meals must be at local level in conformity with the Scheme.
4. The honorarium to mid-day meal cooks (wherever employed) may be periodically reviewed by the States/UTs.
5. Social Audit and evaluation by third parties should be conducted at regular intervals.
6. Social Audit reports should be published at State portals/ websites and the action taken reports be widely disseminated.

### **Health and Micronutrient Supplementation**

1. Continuity of routine immunisation and other essential child health services should be ensured even during the pandemic.
2. Ensure health and nutrition requirements of adolescent girls through regular supply of iron supplements, Reproductive and Child Health (RCH) services and menstrual hygiene items.
3. State Department of Education, State Commission for Protection of Child Rights, State Food Commission, State Monitoring Committees and Village Vigilance Committees at various levels, as per NFS Act, should proactively monitor the uninterrupted delivery of such services on the ground.

### **Children in need of care**

1. There is a need to trace, track and register all children living in extremely vulnerable conditions to ensure that their nutrition, healthcare and protection needs are being fully met.
2. Children with Severe Acute Malnutrition (SAM) should be identified to provide additional nutrition and energy dense food along with regular monitoring. Further, they need to be adequately rehabilitated.
3. Best practices for management of children with SAM should be replicated.

### **Drinking Water, Sanitation and Hygiene**

1. States/UTs to ensure access to potable water, sanitation and hygiene (WASH) at the household and community level to prevent mortality and improve nutritional levels.





### **Data Compilation and Management**

1. Comprehensive data on calorie consumption, food expenditure, ration card ownership, etc, particularly for migrants and other weaker sections of the society to be collected, compiled and analysed for monitoring, evaluation and inclusion and exclusion of the targeted groups.

### **Best Practices**

1. Nutrition Gardens (Poshan Vatika) envisaged under PM POSHAN (erstwhile MDM), enables children first-hand experience with nature and gardening and also uses the harvest for providing additional micronutrients to them.
2. The concept of 'Tithi Bhojan' being implemented since 2018 in some of the States/UTs has provided supplementation of the nutritional value of the mid day meal and inculcated a sense of belonging within the community.

The Government of India and all the States/UTs are advised to follow the schemes to provide food security and nutrition to the targeted population and to implement the above recommendations to achieve the objectives of the scheme.

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