

SUPREME COURT HEARING

'No' to Salwa Judum

[Following is a slightly shortened version of a press release issued by Nandini Sundar, Ram Guha, EAS Sarma, Manish Kunjam and others on January 18, 2011.]

- * SCHOOLS TO BE VACATED BY SECURITY FORCES WITHIN FOUR MONTHS
- * GOVERNMENT ASKED TO SHOW TIME BOUND PLAN TO DISBAND SALWA JUDUM CAMPS AND RESTORE PEOPLE TO THEIR VILLAGES
- * STATE RELIEF AND REHABILITATION COMMITTEE TO SHOW ACTION ON COMPENSATION TO ALL VICTIMS OF VIOLENCE, WHETHER BY SALWA JUDUM, SECURITY FORCES OR NAXALITE.

The Salwa Judum matter was heard in Court 9 of the Supreme Court on January 18, 2011 by Justice Sudershan Reddy and Justice S S Nijjar. The petitioners were represented by Senior Counsel, Mr Ashok Desai, the Centre by the Solicitor General, Mr Gopal Subramaniam and the State of Chhattisgarh by Mr Harish Salve and Mr Manish Singhvi. Arguments lasted all day.

The Court ordered the Chhattis-garh government to vacate security forces from all educational institutions within four months. The Court also recorded the consensus on the need for Salwa Judum camps to be disbanded and their inhabitants to be sent back to their villages. The state government is required to submit a plan for this within two weeks. The Court recorded the Chhattisgarh government's statement that the State Relief and Rehabilitation Committee had compensated all victims of violence regardless of perpetrator, as well as the submission of the counsel for the petitioners that only victims of Naxalite violence were compensated. The State Committee is to give a report within two weeks as to who has been compensated, how much etc.

Right at the beginning of the proceedings, Justice Sudershan Reddy said he had received a small chit saying that since he was a member of the PUCL, and PUCL had impleaded in the case, he should not be hearing the matter. He asked ail counsel if they had any objection to his hearing the matter. Mr Subramaniam, Solicitor General, replied that he too had been giving donations to the PUCL. Nobody had any objections. In any case, it was pointed out that this was not a case filed by the PUCL and the PUCL impleadment filed by KG Kannabiran (specifically on the biases of the NHRC investigation team) had not yet been formally admitted. The Judge has formally recorded in his order that none of the counsel raised any objections. Mr Desai began by going through the written submissions of the petitioners addressing the five points raised by the court in its directions of August 2010, to which the Chhattisgarh government had been asked to respond:

1. Disbanding of Salwa Judum,
2. By when schools and ashrams would be vacated by security forces,
3. Report on the FIRs registered and prosecution undertaken,
4. Status of rehabilitation and compensation to all victims regardless of perpetrator,
5. Constitution of a High Level Committee to oversee rehabilitation and registration of FIRs.

He pointed out that there was a serious conflict of interest in having a monitoring committee headed by the Chief Minister and comprising the DGP and Mr Mahendra Karma all of whom had been vociferous supporters of Salwa Judum and also referred to a newspaper report that textbooks in Chhattisgarh had a chapter praising Salwa Judum. Mr Harish Salve denied the existence of any such textbook. The Court, while noting the state government's support

for Salwa Judum, sought to know from the Counsel for the state whether the Chief Minister could be set aside when it came to overseeing rehabilitation.

Mr Desai pointed out that nobody was challenging the power of the Chief Minister, and that the petitioners were explicitly requesting state support for a high level monitoring committee. However, the specific task of rehabilitation was different from the development core group presided over by the Chief Minister, quite apart from the conflict of interest. Mr Desai also argued that the draft affidavit submitted by the Union Government on 7.1.11 in court referred to an Integrated Action Plan proposed by the Planning Commission, which however, has been publicly repudiated by the Planning Commission itself. Finally, he presented a tentative list of names for an independent committee which included four independent persons, four representatives of the union, four representatives of the Government of Chhattisgarh and Andhra Pradesh and two of the petitioners.

Mr Harish Salve arguing for the state of Chhattisgarh insisted on referring to the NHRC report, which he claimed did not show the Salwa Judum in a bad light and said that all the petitioners' allegations about it had been found invalid. However, in the course of his reading of the report, it clearly emerged that the Salwa Judum had been violent. Justice Nijjar remarked that the situation showed a lot of violence all through and asked how the state could support such a movement. Mr Salve then said 'such things happen when people become hotheaded, but now the movement is over'. (According to this view all rapes, murders, arson and looting would be forgotten and consigned to the past because 'such things happen'. No justice would ever get done.) He also again raised the bogey about the petitioners being Naxalite supporters saying they were 'intellectually robust' and that Naxalites had intellectual backing, to which the Court again asked him not to accuse everyone of being Naxalite supporters.

Mr Desai pointed to the shortcomings in the NHRC investigation, since they sent sixteen police officers who were accompanied by SPOs and went about in armoured tanks. Mr Salve claimed that the petitioners had never objected to the NHRC investigation whereas the petitioners affidavit in response to the NHRC report clearly points to a number of problems with it, including letters sent to the NHRC investigation team during the investigations itself about witnesses being threatened etc. There was some discussion between the counsel and the bench on whether this could even be considered an NHRC report since none of the members had themselves heard the petitioners and had merely forwarded the report of the police investigation team. Mr Desai conceded that whatever the problems with the report, this should be taken as the view of the NHRC. He pointed to the recommendations of the NHRC, all of which supported the petitioners, and showed how even these had not been followed by the government of Chhattisgarh, despite claiming that the report was in their favour. Hence, he reiterated, there was a need for an independent monitoring committee.

In the course of Mr Salve's reading of the NHRC report, the Judges remarked that all the fundamental rights of the Salwa Judum camp residents appeared to have been suspended and they were virtually imprisoned. Mr Salve said they were all now supporters of the Salwa Judum and SPOs and if they were sent back to the villages, they would be killed, though he later admitted that living in camps was *unnatural*. He said there were only 18,000 people left in camp. Mr Salve also claimed that the State Human Rights Commission could be strengthened to deal with the issue of complaints. (The SP, Mr Manhar, who started Salwa Judum and is recorded as saying kill all journalists if they come here, was posted to the State Human Rights Commission).

The Court concluded the day's hearing by recording the consensus that Salwa Judum camps should be shut down and people enabled to return home and asked the state of Chhattisgarh to provide a time bound action plan for this. They also asked for a report on the

status of compensation paid to all victims of violence. Finally, they directed that all schools should be vacated within four months. □□□