

LAWFOYER INTERNATIONAL
JOURNAL OF DOCTRINAL LEGAL
RESEARCH

Volume 1 | Issue 1

2023

© 2023 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com
Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of **any suggestions or complaints**, kindly contact info.lijdlr@gmail.com

To submit your Manuscript for Publication in the **LawFoyer International Journal of Doctrinal Legal Research**, To submit your Manuscript [Click here](#)

STATUS OF MID-DAY MEAL SCHEME IN BIHAR

PURNIMA SINGH¹ & SWEETY KUMARI²

ABSTRACT

The PM Poshan Programme was introduced by the Government of India in the year 1995 with the objective to provide cooked mid-day meal to school going children and improve their nutritional level. This scheme was introduced in the state of Bihar in the same year. But it seems that the aim of this programme is far to achieve in the state.

In this article we will analyse why this scheme has not become a success in Bihar and how this is prejudicially affecting the nutritional status of the children. The article further articulate that what rights were promised to the school going children through this scheme and how these promises remain unfulfilled.

Further we will also look whether this scheme stood the test of time during the Covid 19 pandemic.

KEYWORDS: Mid-Day Meal Scheme, PM Poshan Programme, Bihar, Implementation, Nutrition, School Going Children.

¹ Law student at The ICFAI University, dehradun

² Law student at The ICFAI University, dehradun

INTRODUCTION

On August 15, 1995, the Government of India sponsored a new scheme as National Program of Nutritional Support to Primary Education (NP-NSPE). The purpose of this scheme was to upgrade enrollment, maintenance, participation and at the same time progressing nutritional level among children. NP-NSPE also known as PM Poshan was introduced in 1995 initially in 2408 blocks and till 1997-98 it was implemented in all the blocks nationwide. The aim of this program was to provide all children cooked mid-day meals in Government, Government aided and local schools at primary level. The mid-day meal program was implemented nationwide from 2008-09. At upper primary stage the mid-day meal must have at least 700 calories and 20 grams proteins by giving 150 grams of food grains (rice/wheat) per child/school day.

This program was implemented nationwide from 2008-09. At upper primary stage the mid-day meal must have at least 700 calories and 20 grams proteins by giving 150 grams of food grains (rice/wheat) per child/school day.

MID-DAY MEAL PROGRAM IN BIHAR

PM Poshan³ Program was implemented in Bihar in 1995 where 3kg dry ration was given to each child per month. From the year 2005 hot cooked meal was provided in all primary level schools across the state. The scheme was extended to upper primary level schools in the year 2008. The details of the ingredients and the quantity of the food to be given under the PM Poshan is annexed here with marked as **ANNEXURE-1** forming part of this petition.

In the State of Bihar child malnutrition is a severe problem. It tops the list of states where children are badly affected due to malnutrition. According to the National Family and Health Survey (NHFS-5) Report around 41% of children in Bihar are underweight and cases of malnutrition and anemia have risen in the State. Around 63.5% of children who are below 5 years of age are suffering from anemia. The acute

³Prashant K. Nanda, *Mid-Day Meal scheme renamed PM Poshan*, MINT, (Sept 29, 2021, 06:04 PM) <https://www.livemint.com/news/india/midday-meal-scheme-renamed-pm-poshan-11632918162591.html>

cause of malnutrition is due to reduced food intake. The percentage of children who are malnourished under the age of 5 years is 48.3% which is highest in the country and also 10% more than the national average which is 38.4%.⁴ Mid-day meal help to curb the situation but due to corruption and low quality of food provided by the authorities the true beneficiary of the scheme which is mentioned above couldn't get the benefit of the same and this violates the Article 3 of the Universal Declaration of Human Rights.

*Article 3 of UDHR: Everyone has the right to life, liberty, and security of person.*⁵

The report related to this is annexed here with marked as **ANNEXURE-2** forming part of this petition.

Due to negligence on the part of authorities and untrained workers the quality of food is compromised, and this caused the children suffer health issues. Hygiene is barely maintained while preparation of the meal putting the lives of hundreds of children at stake. In the last decade there are many parents who became eyewitness of the death of their own children just because of consumption of poisonous mid-day meal. The related case is shown in **ANNEXURE - 3**.

The quality of food grains supplied by Food Corporation of India (FCI) are not checked by the officials on regular basis and so the quality is not up to the standard. Also, when the food grains are stored not much care is taken and so alien material contaminates the food grains. Storage facilities are not good in the schools also. The officials do not inspect the facilities on a regular basis, so the system is stagnant as before.

The officials who are responsible for supervision lapses in monitoring the mid-day meal scheme. There is a lack of competency and capacity for executing, implementing and supervision of the scheme. Monitoring and inspection need to be done with utmost responsibility and honesty but the officials are corrupt. If any discrepancy is

⁴ Niti Kiran, *The Sorry State of Bihar's nutritional status of children*, BUSINESS TODAY, (Mar 21, 2023, 9:21 PM IST, <https://www.businesstoday.in/latest/story/135-and-counting-the-sorry-state-of-bihar-nutritional-status-of-children-209316-2019-06-21>)

⁵ Universal Declaration of Human Rights, 1948, Article 3

found in the implementation of mid-day meal scheme, then the school authorities resort to unethical means like bribes, giving expensive gifts to the inspection officers to bury the matter under the carpet. (*State and year wise details of complaints regarding corruption under MDM scheme from year 2017 to 2019 is mentioned in ANNEXURE 4*). Neither there is a proper manner to enlist the officers specially to supervise the mid-day meal on daily basis nor there is a senior supervisor, to whom the inspection officer will submit the report regarding the quality and safety of food which is served to the children as a mid-day meal.

In many schools the infrastructure is also not good where the meal is cooked and due to this some times children found lizards or a spider in their food and sometime, they have to eat concrete mixed meal. And all this type of food become hazardous to their life. There is recent incident has happened in March 2022, in Chhapra district of Bihar, where about 20 students fell ill from food poison after consuming the mid-day meal in which a dead lizard was found in their vegetable. This type of cases found regularly but no improvement has been found over the years.

LAXITY IN IMPLEMENTATION OF THE SCHEME

*India Spend*⁶ conducted a survey after an incident happened in Chhapra, Bihar in 2013 where 23 children died after eating mid-day meals cooked at their school. In this survey the truth of Bihar disclosed as 31% schools in India are yet to build kitchen-cum stores for mid-day meals but the shortage in Bihar is 30%. 7% schools in India are yet to procure kitchen devices like burners and cooking utensils as against 19% in Bihar. Only 22% schools in India follow gas-based cooking; not a single school in Bihar has gas cooking facility. The report also reveal that the cooking oil was stored in a container which was contaminated by pesticides. Bihar become worst performing state under mid-day meal coverage. Graph related to this is annexed here with marked as **ANNEXURE-5** forming part of this petition.

⁶Jyothi Shankaran, *What's Not Cooking in India's Mid-Day Meal Programme*, *INDIASPEND* (Mar 21, 2023, 10:07 PM) <https://www.indiaspend.com/whats-not-cooking-in-indias-mid-day-meal-programme-83316/>

The improper implementation of the mid-day meal scheme pushes the children who usually come from lower section of the society towards starvation and lack of nutrition. Mid-day meal helps to ensure that Right to food guaranteed by the Constitution is provided to the children. The Right to food of the children gets infringed if they are not given proper meals. MDM is not just a scheme, but an entitlement of all school- going children in primary and upper primary classes, through the *National Food Security Act (NFSA), 2013*. In the tragic incident on 16th July 2013, 23 students had died and many students fell ill in the Saran District of Bihar after consuming contaminated mid-day meal at a primary school. The food became contaminated by an organophosphate, a chemical which is found in insecticides. The cooking oil was placed in a jar which was formerly used to store insecticides. The children complained of stomach pain, and then were taken ill with vomiting and diarrhea. The headmistress had brought the cooking oil from her husband's grocery store. The forensic reports showed that the cooking oil contained toxic levels of monocrotophons, an agricultural pesticide. The additional district judge II of Saran court Vijay Anand Tiwari sentenced the Headmistress Mina Devi to imprisonment of 10 years under Section 304 IPC (Culpable homicide not amounting to murder) and seven years under Section 308(Criminal negligence).The case was declared as rarest of the rare by the High Court and said that she should be awarded maximum punishment for culpable homicide not amounting to murder and criminal negligence.⁷This was a case of severe negligence shown by the school authorities due to which 23 students had to lose their life.

Children's fundamental rights are infringed if they are not provided with the mid-day meal which also violates Right to life under Article 21 which is guaranteed to all persons by the Constitution of India. *Article 21 reads that no person shall be deprived of his life or personal liberty except according to procedure established by law.* The meaning of Right to life has been interpreted by the Supreme Court as right to live with dignity which also includes the right to food.

⁷Meena Devi v. State of Bihar, CrI No. 42336 of 2013, Patna HC

Article 21A of the Indian Constitution mandates the state to provide the children who are in the age group of 6 to 14 with free and compulsory education. *Article 21A: The new Article 21A, which was inserted into the Indian Constitution by means of the 86th Constitutional Amendment, states that “the state shall provide free and compulsory education to all children between the ages of 6 and 14 through a law that it may determine.*The mid-day meal scheme mainly target two things, first to eradicate malnourishment and second to increase the enrollment rates of children in schools by luring the children towards school as a result of which they get education. With this the scheme also helps to avoid classroom hunger, to improve socialization among castes, empower women through employment (under Employment Guarantee Act 2005). But because of poisonous and unhygienic food served to the children as a meal at school the parents/ guardian hesitates to send their children for education. And this causes a decrease in enrolment of students at school. Because the parents /guardian believes that the life of a child is more important than the education. Instead of all this, student get enrolled in primary school but they did not get meal and this violates their education right which is under article 21A and also hamper their legal entitlement under National Food Security Act 2013. Data related is annexed here with marked as **ANNEXURE-6** forming part of this petition.

COVID-19 AND THE MID-DAY MEAL

During the Covid-19 pandemic midday meals have not been served ever since Government primary schools and anganwadis centers had closed. The Supreme Court took *Suo motu* cognizance of MDMs suspension across India due to the pandemic and issued a directive to all states and union territory governments to provide dry rations to children. In response, many started providing meals in the form of dry ration but the reports from Bihar shows that children from the families who fall in Below Poverty Line (BPL), categories were forced to sell scraps, beg to arrange food which they used to get in mid-day meals. In March 2021, Rs. 114.21 had been deposited in the accounts of every child or their parents studying from class 1 to 5 and Rs. 171.17 to the students who were in class 6 to 8. Further on Bihar Education Department has instructed senior district education officers to provide Rs 358 to children studying in class 1 to 5 and Rs

536 to students of class 6 to 8 under mid-day meal scheme for May June and July. A close look at the breakup of these numbers shows, the DBT of Rs 358 for class 1-5 translates to Rs 4.48 per meal per child, and DBT of Rs 536 means Rs 6.70 per meal per meal per child. And the 80 days calculation by the state government is a sum of 24 working days in the May month, 30 days of summer vacation in June, and 26 working days in July.⁸

The fund allotted to the states for MDM scheme by the central government is also not utilized properly. This fund will be utilized properly if the state government pay complete attention towards this scheme rather than engaging themselves in power politics. The major issue here is leakages of funds and lack of financial discipline. The details regarding non utilization of funds is annexed here with marked as **ANNEXURE-7** forming part of this petition.

Due to non utilization and misappropriation of funds there is low coverage of the scheme among the students. 38% of the children enrolled in primary and 68% in upper primary classes could not get meals due to shortage of food grains. A survey conducted by Ronald Abraham and Andrew Fraker which is published in their article at Ideas for India⁹ revealed that among 200 anganwadis across three districts of Bihar 24% of them were closed during times when they should have been open, and meals were only served on 59% of the days they should have been served. When meals were served by anganwadis only 22 students on average out of 40 were present. The meal served had only one three quarters of the specified nutritional ingredients used. Among the funds allocated for MDMS, 71% of the funds are not being utilized. Closed anganwadis and poor child attendance together account for two-thirds of the missing expenditure.

⁸Rohin Kumar, In the absence of mid-day meals, children in Bihar survive on roti-onion, bhaat-achar, GaonConnection (Mar. 22, 2023, 3:08 PM), <https://en.gaonconnection.com/in-the-absence-of-mid-day-meals-children-in-bihar-survive-on-roti-onion-bhaat-achar-almost-half-the-under-5-kids-in-the-state-are-stunted-or-underweight/>

⁹Ronald Abraham and Andrew Fraker, *Bihar's malnutrition crisis and potential solutions*, IDEAS FOR INDIA, (May24,2013), <https://www.ideasforindia.in/topics/governance/bihars-malnutrition-crisis-and-potential-solutions.html>

Approximately 38% of the funds are missing from Take Home Rations (THR) which provides rice and lentils for the children and mothers. Although 84% of beneficiaries reported receiving some rice and lentils, two thirds of the missing expenditure under the THR component is due to low volumes of rice and dal. The records shows that 2 kilos of lentils are given to the beneficiaries but, they get only a handful of lentils. Data related to this is annexed here with marked as **ANNEXURE-8** forming part of this petition.

Among the states, Bihar failed to provide free meals. The data on the coverage of students in states and UTs under this scheme were disclosed in a meeting of the Program Approval Board- Pradhan Mantri Poshan Shakti Nirman (PAB - PM POSHAN) held on May 9 2022.¹⁰ The data is provided in **ANNEXURE 9**.

Due to the laxity of the Bihar Government and unscrupulous officials, this scheme has not attained its objective in comparison to the other states like Kerala, Assam, West Bengal, etc.

CONCLUSION

The Government introduced the mid-day meal scheme with the objective to remove hunger among the children. But a systematic approach must be taken by the State so that the beneficiaries be benefitted for real, The Centre should also look into the matter because it also has some duty and accountability along with the state to reduce hunger among the school going children. The current system of implementation is poor and have many loopholes. A practicable approach should be taken regarding this issue so that children should not have to suffer soon and their rights are not violated. When the needs of the people are fulfilled, then only our State can head towards development and achieve it in true sense.

ANNEXURE 1

¹⁰ Nallinaksh Pant, *Bihar, Delhi Fared Worst in Mid-Day Meal Scheme Coverage in 2021-22*, NEWSCLICK, (June 08, 2022), <https://www.newsclick.in/Bihar-Delhi-Fared-Worst-Mid-Day-Meal-Scheme-Coverage-2021-22>

The ingredients and quantity to be supplied in PM Poshan is as under:

Sl. No.	Ingredients	Every Day Amount	
		Primary	Upper Primary
1.	Rice	100gm	150gm
2.	Pulse	20gm	30gm
3.	Vegetable	50gm	75gm
4.	Oil	5gm	7.5gm
5.	Salt/Spices	As per requirement	

Conversion Cost -

Financial Year	Primary	Upper Primary
2012-13	3.14	4.65
2013-14	3.37	5.00

Calories -

Primary	Upper Primary
450kcal	700kcal

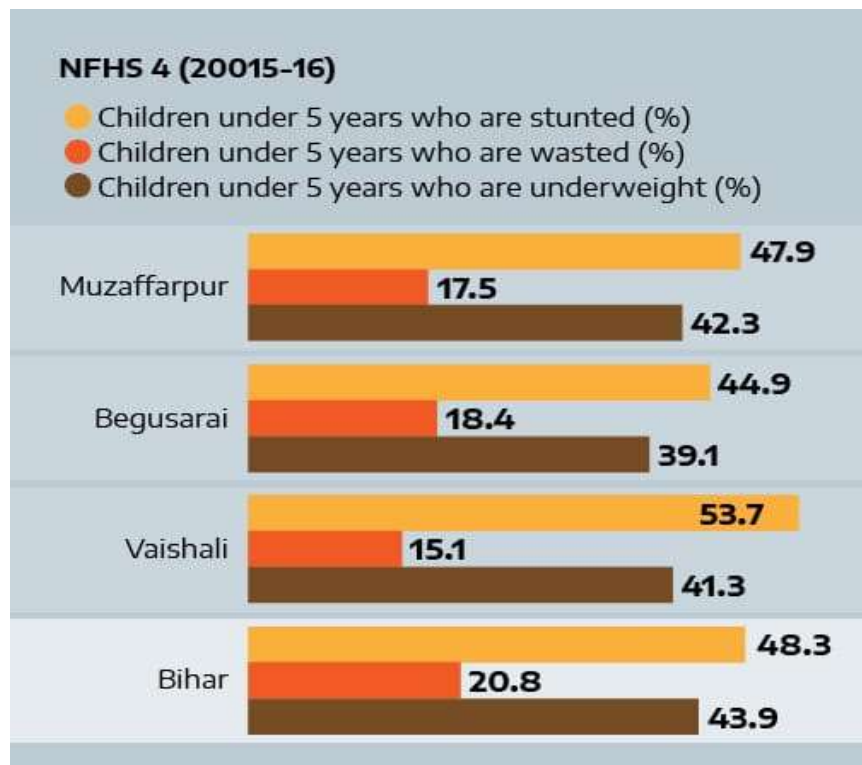
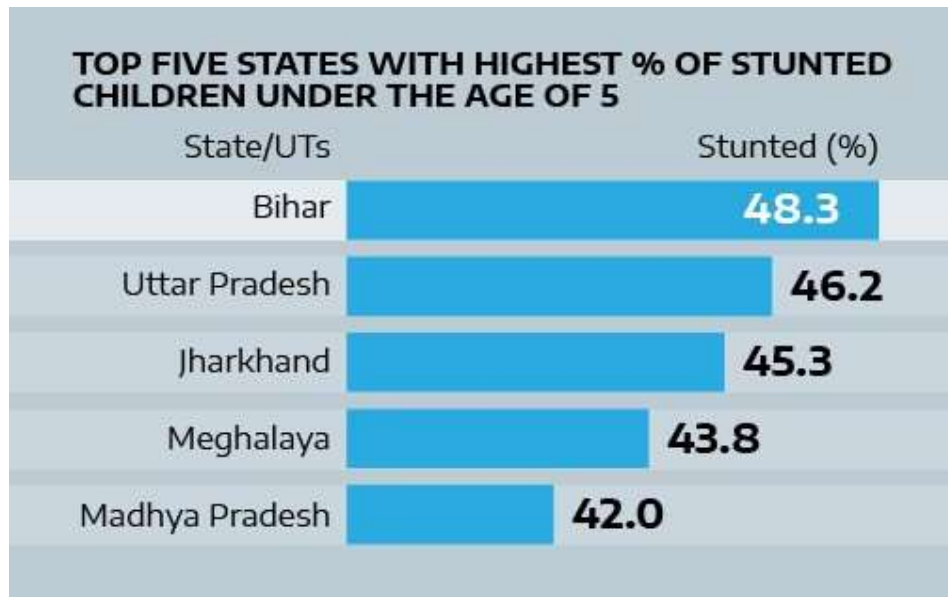
Protein -

Primary	Upper Primary
12gm	20gm

Source: Bihar Government – DOPA HAR- PM POSHAN

ANNEXURE 2

Nutritional Status of children in Bihar:



Source: *BusinessToday.in*

ANNEXURE 4

(a) State and year wise details of complaints regarding corruption under MDMS during last three years

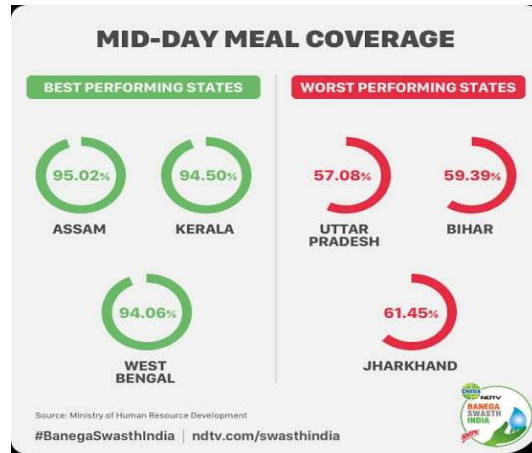
Sl. No.	State/UT	2017	2018	2019	Total
1	Assam	1		1	2
2	Bihar	2	7	2	11
3	Chhattisgarh	-	1	-	1
4	Delhi	2	-	-	2
5	Haryana	-	2	-	2
6	Jharkhand	1	-	-	1
7	Maharashtra	1	3	1	5
8	Odisha	1	-	-	1
9	Punjab	-	-	1	1
10	Rajasthan	2	-	2	4
11	Tripura	1	-		1
12	Uttarakhand	-	-	1	1
13	Uttar Pradesh	7	3	4	14
14	West Bengal	3	3	-	6
	Total	21	19	12	52

Source: National Herald, by NH Web Desk

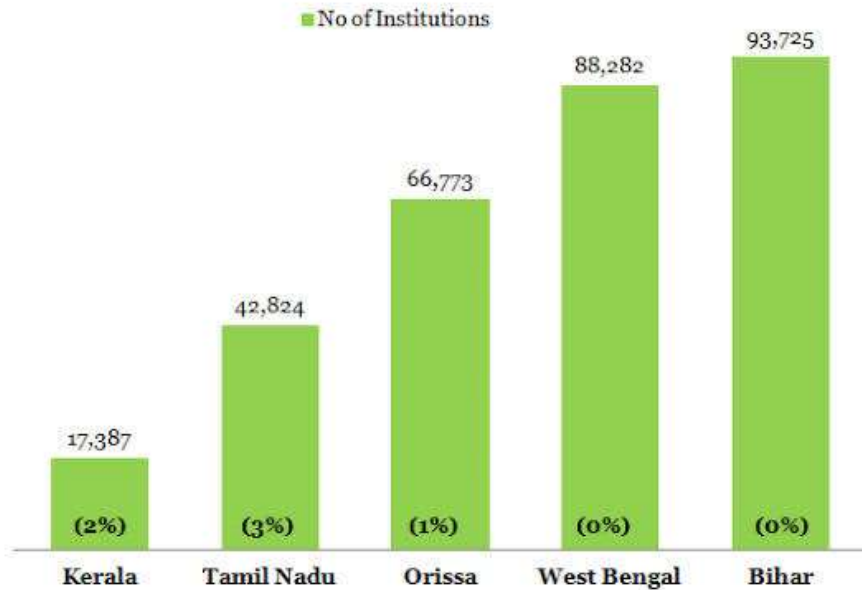
Published on 27th November 2019

ANNEXURE 5

PERFORMANCE OF BIHAR:



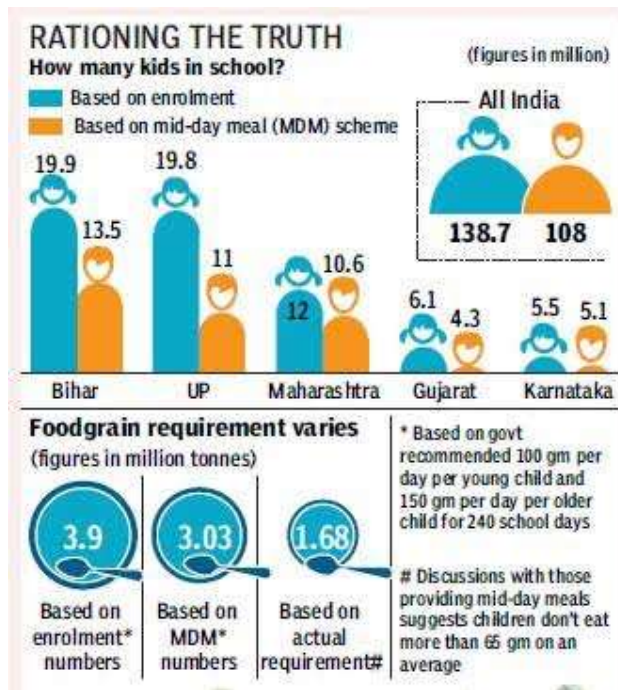
Worst States In Terms Of Using Gas Based Cooking For Mid-Day Meal



Figures in brackets are percentage of institutions using Gas-based cooking (in %)
Source: Mid-Day Meal

ANNEXURE 6

ENROLMENT VS. CONSUMPTION OF MEAL:



Source: The Financial Express

8 October Friday 25 August 2011

INTERNATIONAL

The Morning Express

Millions of Bihar schoolkids go without midday meal

IN BIHAR, 25.7% OF 100 million school children, nearly the entire population of Bihar, are not receiving their midday meal. The government is not providing the midday meal to 13.5 million children, leaving 19.9 million children without the meal. The government is not providing the midday meal to 13.5 million children, leaving 19.9 million children without the meal. The government is not providing the midday meal to 13.5 million children, leaving 19.9 million children without the meal.

In Madhya Pradesh, meal testing order goes to dogs

IN MADHYA PRADESH, the government is testing the quality of midday meals by feeding them to dogs. The government is testing the quality of midday meals by feeding them to dogs. The government is testing the quality of midday meals by feeding them to dogs.

Teachers should teach, not supervise cooking of meals: Allahabad HC

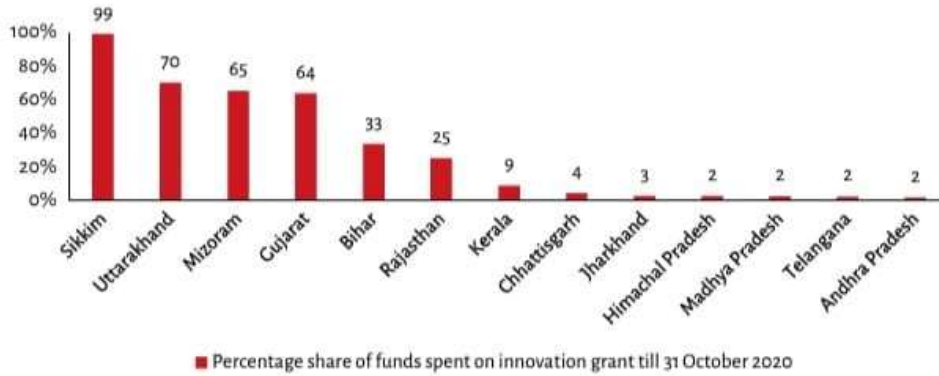
IN ALLAHABAD, the High Court has ruled that teachers should teach and not supervise the cooking of midday meals. The court has ruled that teachers should teach and not supervise the cooking of midday meals. The court has ruled that teachers should teach and not supervise the cooking of midday meals.

Source: The Morning Express

ANNEXURE 7

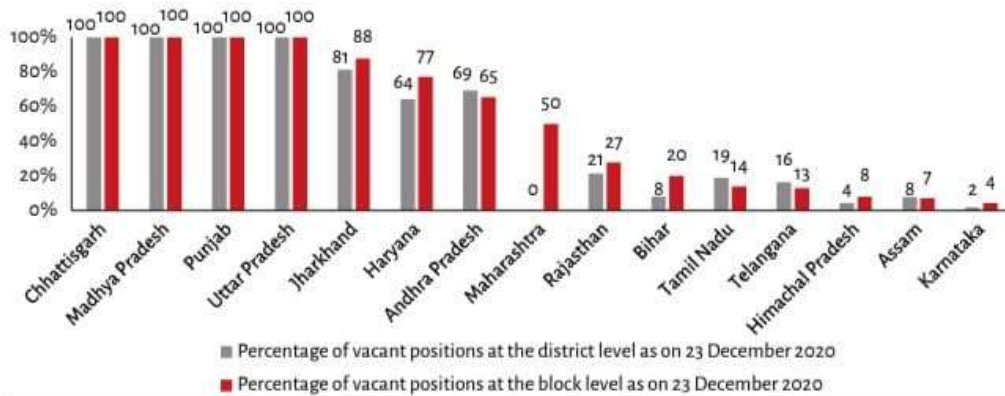
NONUTILIZATION OF FUNDS:

14 OUT OF 35 STATES AND UTs DID NOT UTILISE ANY INNOVATION FUNDS TILL 31 OCTOBER 2020



Source: RTI response by MWCD dated 1 December 2020.

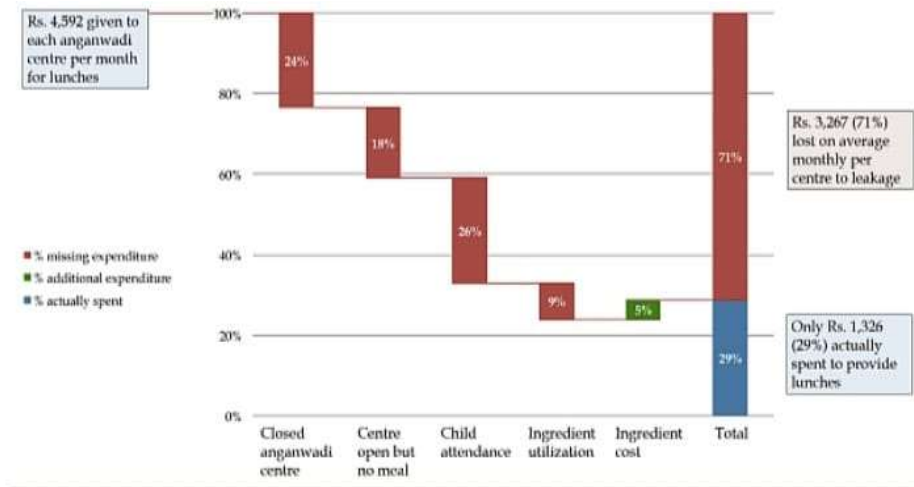
8 OUT OF 27 STATES HAD 100% VACANCIES AT THE DISTRICT AND BLOCK LEVELS



Source: RTI response by MWCD dated 23 December 2020.

ANNEXURE 8

MISSING EXPENDITURE ON HOT COOKED MEALS:



Source: Ideas for India

ANNEXURE 9

MID-DAY MEAL COVERAGE IN DIFFERENT STATES

STATES & UTs	Enrolment (Lakh)		Coverage (Lakh) Percentage of Coverage			
	Primary	Upper Primary	Primary	Upper Primary	Primary	Upper Primary
Andhra Pradesh	22.22	13.29	20.12	11.85	91%	89%
Arunachal Pradesh	1.14	0.59	1.1	0.57	97%	97%
Bihar	117	61.9	73.61	38.84	62%	37%
Chhattisgarh	19.08	11.24	17.52	9.99	91%	89%
Gujarat	33.76	18.76	32.16	18.48	95%	98%
Goa	0.94	0.65	0.94	0.65	100%	100%
Haryana	11.47	6.19	10.64	5.88	93%	95%
Jharkhand	27.05	14.73	22.63	10.76	84%	73%
Karnataka	30	18.2	22.4	17.51	95%	96%
Kerala	18.56	11.33	18.45	11.14	99%	98%
Meghalaya	3.96	2.02	3.85	1.71	97%	85%
Madhya Pradesh	41.45	24.78	41.25	24.58	99%	99%
Maharashtra	59.95	40.54	59.95	40.54	100%	100%
Nagaland	1.09	0.35	1.08	0.35	99%	99%
Odisha	27.3	17.33	27.06	17.13	99%	99%
Punjab	11.22	7.29	9.92	6.25	88%	86%
Rajasthan	44.19	25.02	41.62	23.02	94%	92%
Sikkim	0.28	0.21	0.27	0.2	97%	97%
Tamil Nadu	26.41	19.23	22.38	14.77	85%	77%
Telangana	11.22	6.68	8.4	4.73	75%	71%
Tripura	2.58	1.56	2.43	1.48	94%	95%
Uttar Pradesh	137.04	63.61	111.2	49.73	81%	78%
West Bengal	73.28	45.31	72.21	44.01	99%	97%
Andaman and Nicobar Islands	0.15	0.12	0.13	0.098	83.50%	79.70%
Dadra Nagar & Haveli & Daman & Diu	0.428	0.2	0.41	0.25	96%	97%
Delhi	10.21	7.87	7.44	5.75	73%	73%
Jammu & Kashmir	5.46	2.98	5.29	2.85	97%	96%
Ladakh	0.1	0.05	0.1	0.05	100%	100%
Lakshadweep	0.05	0.02	0.05	0.02	100%	100%
Puducherry	0.33	0.22	0.33	0.22	100%	100%

Data for Assam, Himachal Pradesh, Manipur, Mizoram, Chandigarh and Uttarakhand are yet to be uploaded as of June 7, 2022.