

ITEM NO.3 Court 5 (Video Conferencing) SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s).135/2010

BUDHADEV KARMASKAR

Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ORS.

Respondent(s)

(Mr. Jayant Bhushan, Sr. Adv.(A.C.)Mr.Pijush K. Roy, Adv.
(A.C.)/Appellant may be shown as Amicus curiaeMob. 9810158653 ONLY
I.A NO. 80140/2020 APPROPRIATE ORDERS/DIRECTIONS TO BE LISTED)

Date : 10-01-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE B.R. GAVAI

For Amicus Curie Mr. Jayant Bhushan, Sr. Adv
Mr. Pijush K. Roy, Adv
Ms. Kakali Roy, Adv
Mr. Abhishek Kaushik, Adv

For Appellant(s) Mr Anand Grover, Sr Adv
Ms Tripti Tandon, Adv
Ms Savita Singh, AOR
Mr Ashok Kumar Singh, Adv
Jail Petition, AOR
Mr. D. Mahesh Babu, AOR
Mr. Ketan Paul, Adv
Ms. Tushar Bhushan, Adv
Mr. Amartya Bhushan, Adv
Ms. Kakali Roy, Adv.
Ms. Taruna Ardhendumauli Prasad, AOR
Mr. Parth Awasthi, Adv
Ms. Deepika Gupta, Adv

For Respondent(s) Mr. R.S. Suri, ASG
Mr. Mohd. Akhil, Adv.
Ms. Sunita Sharma, Adv.
Mr. Digvijay Dam, Adv.
Mr. Vikas Bansal, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. B. V. Balaram Das, AOR
Mr. Gurmeet Singh Makker, AOR

Mr. Raj Bahadur Yadav, AOR
Mrs. Anil Katiyar, AOR

Mr Anand Grover, Sr. Adv.
Ms Tripti Tandon, Adv.
Ms Savita Singh, AOR
Mr. Ashok Kumar Singh, Adv.

Mr. K.M.Nataraj, ASG
Mr. Sanjay Kr.Tyagi, Adv
Mr. Raj Bahadur Yadav, Adv
Ms. Shradha Deshmukh, Adv
Mr. Merusagar Samantaray, Adv
Mr. Sharath Nambiar, Adv
Mr. Raghav Sharma, Adv

Mr. Jayant K.Sud, Asg
Mohd. Akhil, Adv
Mr. Sanjay Kr.Tyagi, Adv
Mr. Sunita Sharma, Adv
Mr. O.P.Shukla, Adv

Mr. K. M. NATARAJ, ASG
Mr. Sanjay Jain, ASG
Mr. Raj Bahadur Yadav, AOR
Mr. Merusagar Samantaray, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Ms. Shradha Deshmukh, Adv.
Mr. Sharath Narayan Nambiar, Adv.
Mr. Raghav Sharma, Adv.

Mr. Jayant K. Sud, ASG
Mr. Gurmeet Singh Makker, AOR
Mohd. Akhil, Adv
Mr. Sanjay Kr. Tyagi, Adv
Ms. Sunita Sharma, Adv
Ms. Sakshi Kakkar, Adv
Mr. Vikas Bansal, Adv
Mr. Digvijay Dam, Adv
Mr. B.K.Satija, Adv
Mr. Amit Sharma, Adv
Ms. Swarupama Chatu, Adv
Mr. Saurabh Trivedi, AOR
Mr. D. Mahesh Babu, AOR
Dr. Joseph Aristotle S., AOR
M/S. Corporate Law Group, AOR
Mrs. Anil Katiyar, AOR
Mr. Sunil Fernandes, AOR
Ms. Jaspreet Gogia, AOR
Ms. Asha Gopalan Nair, AOR
Mr. Anuvrat Sharma, AOR

Mr. Anil K. Jha, AOR
Mr. B. V. Balaram Das, AOR
Mr. Irshad Ahmad, AOR
Mr. Jatinder Kumar Bhatia, AOR
Mr. Dharmendra Kumar Sinha, AOR
Ms. G. Indira, AOR
Mr. Rohit Kumar Singh, AOR
Mr. Kamal Mohan Gupta, AOR
Mr. Radha Shyam Jena, AOR
Mr. S.. Udaya Kumar Sagar, AOR
Ms. A. Subhashini, AOR
Mr. Anil Shrivastav, AOR
Mr. Vijay Pal, Adv
Mr. Mahendra Kumar, Adv
Mr. Deepankar, Adv
Ms. Kajal Kumari, Adv
Mr. Kundan Lal, Adv

M/S. Plr Chambers And Co., AOR
Mr. Suhaan Mukerji, Adv
Mr. Vishal Prasad, Adv
Mr. Nikhil Parikshith, Adv
Mr. Abhishek Manchanda, Adv
Mr. Sayandeep Pahari, Adv.

M/S. Arputham Aruna And Co, AOR
Ms. Diksha Rai, AOR
Mr. P. V. Dinesh, AOR
Ms. Kiran Bhardwaj, AOR
Ms. Aswathi M.k., AOR
Mr. Rameshwar Prasad Goyal, AOR
Ms. Hemantika Wahi, AOR
Ms. Savita Singh, AOR
Ms. Aparna Bhat, AOR
Ms. Liz Mathew, AOR
Mr. Gopal Singh, AOR
Mr. Ashok Kumar Singh, AOR
Mr. C. K. Sasi, AOR
Mr. Garvesh Kabra, AOR
Mr. Sanjay Kumar Visen, AOR
Mr. M. T. George, AOR
Mr. Kuldip Singh, AOR
Mrs. Swarupama Chaturvedi, AOR
Mr. Balaji Srinivasan, AOR
Mr. Abhay Pratap Singh, AOR
Mr. Sumeer Sodhi, AOR
Ms. Deepanwita Priyanka, AOR
Ms. Tulika Mukherjee, AOR
Ms. Astha Sharma, AOR
Mr. Raj Bahadur Yadav, AOR
Mr. Shubhranshu Padhi, AOR
Mr. Shuvodeep Roy, AOR

Mr. Jogy Scaria, AOR
Mr. Abhinav Mukerji, AOR
Mr. M. Yogesh Kanna, AOR
Mr. Gurmeet Singh Makker, AOR

Mr. Ravi Prakash Mehrotra, Sr. Adv.

Mr. Sachin Patil, AOR
Mr. Aravindh S., AOR
Mr. Vinod Sharma, AOR
Mr. Nirnimesh Dube, AOR
Mr. Sandeep Kumar Jha, AOR
Mr. Tanmaya Agarwal, AOR
Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Avijit Mani Tripathi, AOR
Ms. K. Enatoli Sema, AOR
Mr. Sunny Choudhary, AOR
Mr. Satish Pandey, AOR
Mr. Narendra Kumar, AOR
Mr. Ashok Kumar Singh, AOR
Mr. Shantwanu Singh, Adv
Ms. Pragya Singh, Adv
Mr. Akshay Singh, Adv
Mr. Zoheb Hossain, AOR
Ms. Tulika Gupta, Adv

State of Assam

Ms. Diksha Rai, AOR (Standing Counsel)
Ms. Palak Mahajan, Adv.
Mr. Ankit Agarwal, Adv.
Ms. Ragini Pandey, Adv.

State of Punjab

Ms. Jaspreet Gogia, AOR
Mr. Karanvir Gogia, Adv.
Ms. Mandakini Singh, Adv
Ms. Shivangi Singhal, Adv
Ms. Varnika Gupta, Adv
Ms. Ashima Mandla, Adv

State of Uttarakhand

Mr. Saurabh Trivedi, AOR
Mr. Tanmaya Agarwal, Adv.
Mr. Jatinder Kumar Bhatia, AOR
Mr. Ashutosh Sharma, Adv

State of T.N.

Mr. Yogesh Kanna, AOR.
Mr. Rajarajeswaran Adv.
Mr. D. Mahesh Babu, AOR
M/S. Corporate Law Group, AOR
Dr. Joseph Aristotle S., AOR.
Ms. Preeti Singh, Adv.
Ms. Nupur Sharma, Adv.
Mr. Sanjeev Kumar Mahara, Adv.

Govt. of Puducherry

Mr. V. G. Pragasam, AOR
Ms. S. Prabhusubramanian, Adv.
Ms. Asha Gopalan Nair, AOR
Mr. Anuvrat Sharma, AOR
Mr. Sunil Fernandes, AOR

UT of A&N Admn.

Mr. K.V. Jagdishvaran, Adv.
Ms. G. Indira, AOR
Ms. Habilila Nana, Adv

State of W.B.

Mr. R.S. Suri, ASG
Ms. Sunita Sharma, Adv
Mr. Vikas Bansal, Adv
Mr. Digvijay Dam, Adv
Mr. B.K. Satija, Adv
Mr. G.S. Makker, Adv

Mr. Ravi Prakash Mehrotra, Sr. Adv
Mr. Jogy Scaria, AOR
Mr. Suhaan Mukerji, Adv.
Ms. Liz Mathew, Adv.
Mr. Vishal Prasad, Adv.
Mr. Nikhil Parikshith, Adv
Mr. Abhishek Manchanda, Adv.
Mr. Sayandeep Pahari, Adv.
M/s. PLR Chambers And Co., AOR

Mr. Aravindh.S., AOR
Mr. C. Rubavathi, Adv

Mrs. K. Enatoli Sema, Adv,
Mr. Amit Kumar Singh, Adv
Ms. Chubalemla Chang, Adv
Ms. Jyoti Mendiratta, AOR

Mr. Anil Kumar, Adv
Mr. Kamal Mohan Gupta, AOR

State of Rajasthan

Dr. Manish Singhvi, Sr. Adv.
Mr. Sandeep Kumar Jha, AOR
Mr. Ashok Kumar Singh, AOR
Mr. Vikram Jain, Adv.
Ms. Pragya Singh, Adv.
Mr. Shantwanu Singh, Adv.
Mr. Akshay Singh, Adv
MR. Arpit Parkash, Adv

State of Maharashtra

Mr. Sachin Patil Adv.

Mr. Rahul Chitnis Adv.
Mr. Geo Joseph Adv.

State of Telengana

Mr. S.Udaya Kumar Sagar, AOR
Ms. Sweena Nair, Adv.

State of Nagaland

Mrs. K. Enatoli Sema, Adv.
Mr. Amit Kumar Singh, Adv.
Mr. Irshad Ahmad, AOR
Mr. Anil K. Jha, AOR
Mr. Rohit Kumar Singh, AOR
Mr. Kamal Mohan Gupta, AOR
Mr. Dharmendra Kumar Sinha, AOR
Ms. A. Subhashini, AOR

State of A.P.

Mr. Anil Shrivastav, AOR (AAG)

State of Bihar

Ms. Niranjana Singh, AOR
Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay C. Shrivastava, Adv.

State of Jharkhand

Mr. Tapeshe Kumar Singh, AAG
Mr. Kumar Anurag Singh, Additional Standing
Counsel
Ms. Tulika Mukherjee, AOR
Ms. Aastha Shrestha, Adv
Ms. Purna Singh, Adv.
Mr. Aditya Kumar, Adv.
Mr. Abhay Pratap Singh, AOR
Mr. Radha Shyam Jena, AOR
Mr. P. V. Dinesh, AOR
Ms. Kiran Bhardwaj, AOR

State of Chhatisgarh

Dr. Rajesh Pandey, Adv.
Ms. Aswathi M.K., AOR

State of Karnataka

Mr. Shubhanshu Padhi, Adv.
Mr. Ashish Yadav, Adv.
Mr. Rakshit Jain, Adv
Mr. Vishal Banshal, Adv

State of Kerala

- Mr. C. K. Sasi, AOR
Mr. Aniruddha P. Mayee, AOR
Mr. Abdullah Naseeh, Adv
Ms. Meena K.P, Advocate
- State of Gujarat
- Ms. Deepanwita Priyanka, AOR
Ms. Archana Pathak Dave, Adv.
- State of Manipur
- Mr. Pukhrambam Ramesh Kumar, Adv.
Mr. Karun Sharma, Adv.
Ms. Anupama Ngangom, Adv
- State of U.P.
- Ms. Garima Prashad, AOR
Mr. Aditya Kumar Dubey, Adv.
- State of Bihar
- Mr. Tanmaya Agarwal, AOR
Mr. Wrick Chatterjee, Adv
Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay C. Shrivastava, Adv.
- Mr. Gopal Singh, AOR
Mr. Sahil Raveen, Adv.
M/S. Arputham Aruna And Co, AOR
- Mr. Rameshwar Prasad Goyal, AOR
Ms. Hemantika Wahi, AOR
Mr. Garvesh Kabra, AOR
Mr. Chanchal Kumar Ganguli, AOR
Ms. Aparna Bhat, AOR
Ms. Liz Mathew, AOR
Mr. Sanjay Kumar Visen, AOR
- State of M.P.
- Mrs. Swarupama Chaturvedi, AOR
Mr. Sunny Choudhary, AOR
Ms. Neha Rai, Adv.
Mr. Balaji Srinivasan, AOR
Mr. M. T. George, AOR
Mr. Kuldip Singh, AOR
Mr. Joseph Aristotle S., AOR
- State of Mizoram
- Mr. Siddhesh Kotwal, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Astha Sharma, AOR
Ms. Manya Hasija, Adv
Ms. Pragya Barsaiyan, Adv
Mr. Akash Singh, Adv
- State of H.P.
- Mr. Vikas Mahajan, AAG

Mr. Vinod Sharma, Adv.
Mr. Anil Kumar, Adv.
Mr. Aakash Varma, Adv.

State of Sikkim

Mr. Raghvendra Kumar, Standing Counsel
Mr. Anand Kumar Dubey, Adv.
Mr. Narendra Kumar, AOR
Dr. Monika Gusain, AOR
Mr. Mahfooz A. Nazki, AOR
Mr. Nishant Verma, Adv
Mr. Rajiv Kumar Sinha, Adv
Mr. Simanta Kumar, Adv

U.T. of J&K

Ms. Shashi Juneja, Adv.
Mr. Satish Pandey, AOR

State of Tripura

Mr. Shuvodeep Roy, AOR.
Mr. Kabir Shankar Bose, Adv.
Mr. Rahul Raj Mishra, Adv.
MR. ISHAAN BORTHAKUR, ADV.

State Of Meghalaya

Mr. Avijit Mani Tripathi, AOR,
Ms. Tarini K. Nayak, Adv.
Mr. Chirag M. Shroff, Adv
Ms. Sanjana Nangia, Adv.
Ms. Abhilasha Bharti, Adv.
Mr. Kynpham V. Kharlyngdoh, Adv.
Mr. P.S. Negi, Adv.
Mr. T.K. Nayak, Adv.

State of Andhra Pradesh

Mr. Mahfooz A. Nazki, AOR
Mr. Polanki Gowtham, Adv
Mr. Shaik Mohamad Haneef, Adv
Mr. T. Vijaya Bhaskar Reddy, Adv
Mr. K.V.Girish Chowdary, Adv
Ms. Rajeswari Mukherjee, Adv

State of Uttarakhand

Mr. Jatinder Kumar Bhatiya, AOR
Mr. Tanmay Agarwal, Adv

State of Haryana

Dr. Monika Gusain, AOR
Mr. Sanjay Kumar Visen, AOR
Mr. Bhanwar Jadon, Adv
Ms. Adira A Nair, Adv
Mr. Sanjeev Prakash Upadhaya, Adv

UT of Chandigarh

Mr. Manpreet S. Doabia, Adv
Mrs. Kiran Bhardwaj, AOR

State of Chattisgarh

Mr. S.C. Verma, Sr. Adv./Advocate General
Mr. Sumeer Sodhi, AOR.
Mr. Anvit Seemansh, Adv.

State of Maharashtra

Mr. Sachin Patil, AOR.
Mr. Rahul Chitnis, Adv.
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv

State of Madhya Pradesh

Mr. Veer Vikrant Singh, Dy. AG
Mr. Sunny Choudhary (AOR)
Mr. Alok Pandey, Adv

UPON hearing the counsel the Court made the following
O R D E R

On 14.12.2021, this Court directed the State Governments/Union Territories, to issue ration cards/voter identity cards immediately to sex workers on the basis of the list maintained by NACO. The authorities were permitted to take assistance of State AIDS Control Societies, finalizing the list of Sex workers after verifying the information provided to them by Community Based Organisations. The State Governments/Union Territories were directed to submit a Status Report relating to the issuance of ration cards and Voter Cards. In the meanwhile, the State Governments/Union Territories were directed to continue distribution of dry ration to sex workers without insisting on ration cards and any other proof of residence.

Status Reports have been filed by some States. Broadly, a large number of sex workers have ration cards.

The State Governments/Union Territories have informed this Court that the others who do not have rations cards are being given dry ration without insisting on proof of residence. Some States have not filed the Status Report. The counsel appearing for those States, who have not filed the Status Report, submitted on instructions that the issuance of ration cards/voter cards is in process and the directions issued by this Court on 14.12.2021 are being implemented.

The manner of distribution of dry ration without issuance of ration cards is slightly likely different in the States of Delhi and Chandigarh. We are informed by the learned counsel appearing for the State of Delhi, that an SOP has been issued by the Government to the effect that ration will be distributed at 86 centres without insisting on the proof of residence.

In so far as the Chandigarh is concerned, we are informed by the learned counsel, that money was being transferred to the accounts of those sex workers who have been identified by NACO.

The State Governments/Union Territories who have not filed a Status Report pursuant to the order passed by this Court on 14.12.2021 are directed to do so within a period of two weeks from today. In the meanwhile, the State Governments/Union Territories are directed to complete the process of issuance of ration cards/voter cards to the sex workers.

Mr. Anand Grover, learned senior counsel appearing for the applicant, submitted that a large number of sex workers are left out from the lists that are available with NACO. According to the scheme of NACO, a minimum of 1000 sex workers should be there in a community on the basis of which inclusion will be made in the list prepared by NACO. In case, a community is less than 1000 sex workers, the members of such community will not find their names in the list prepared by NACO. He further submitted that in spite of the orders passed by this Court, dry ration is only being provided intermittently by the State governments to sex workers. He also submitted that all sex workers, irrespective of their gender, should be eligible for issuance of ration cards/voter cards as directed by this Court earlier.

Mr. Jayant Bhushan, learned senior counsel/ (A.C) assisted by Mr. Pijush Kanti Roy, stated that providing ration to the sex workers should not be stopped by the State Governments/Union Territories for any reason whatsoever. Referring to the order passed by this Court on 14.12.2021, Mr. Bhushan stated that this Court made it clear that information provided by Community Based Organisations shall be taken into account for preparation of the list of sex workers who would be entitled for issuance of ration cards. With reference to the affidavit filed on behalf of the UIDAI for issuance of Aadhar Cards to the sex workers, learned Amicus Curiae suggested that the reality is that

the sex workers cannot produce proof of residence and therefore, the list prepared by NACO can be considered for issuance of Aadhar Cards by the authority. The learned Amicus Curiae further flagged an issue relating to the large number of sex workers not coming forward in some states for taking ration cards/ voter identity cards which is a matter that requires an inquiry.

Mr. Zoheb Hossain, learned counsel appearing for UIDAI, submitted that Aadhar Card is issued with basic information. On furnishing the name, age, place of residence and mobile number, Aadhar Card is issued. The documents filed along with the affidavit would show that the proof of residence has to be submitted by the applicant for issuance of Aadhar Card. Mr. Hossain submitted that he will take instructions on the suggestion made by the learned Amicus Curiae regarding the issuance of Aadhar card to the sex workers on the basis of the list prepared by NACO, as a proof of residence.

Ms. Archana Pathak Dave, learned counsel appearing for the State of Gujarat, submitted that those sex workers who have not come forward for issuance of ration cards/ voter cards are being provided with dry ration under the existing schemes which are prevalent in the State of Gujarat. As directed by this Court on 14.12.2021, the State of Gujarat shall enquire into this aspect as to why such a large number of sex workers are not coming forward for taking ration cards/voter cards.

The State Governments/Union Territories are directed to complete the process of issuing ration cards/voter cards to all sex workers and report to this Court within a period of two weeks from today.

The basis for identification of sex workers need not be restricted to the list prepared by the NACO. The Community Based Organisations shall submit a list of members which shall be verified by the concerned District Legal Service Authority/State AIDS Control society. On such verification, the list shall be forwarded to the competent authorities in the State Governments/Union Territories for issuance of ration cards/voter cards.

Needless to state, the State authorities are directed to maintain confidentiality as has been stated in the earlier orders passed by this Court.

List on 11.02.2022.

(B.Parvathi)
Court Master

(RAJ RANI NEGI)
DY. REGISTRAR