

**SECTION: PIL**

IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)

IN

M.A. No. \_\_\_\_\_/2022

IN

SUO MOTU WRIT PETITION (CIVIL) No (s) 6/2020

**IN THE MATTER OF:**

IN RE: PROBLEMS AND MISERIES OF MIGRANT LABOURERS

...PETITIONER

**AND IN THE MATTER OF:**

HARSH MANDER & ORS.

..... APPLICANTS

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NEW DELHI-110 001  
**CODE NO. 515**

NEW DELHI  
DATED: 18.01.2022

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**(APPLICATION FOR DIRECTION)**

COUNSEL FOR THE APPLICANTS: **PRASHANT BHUSHAN**

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JAGDEEP S. CHHOKAR

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**APPLICATION FOR DIRECTIONS**

To,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUDGES

OF THE HON'BLE SUPREME COURT OF INDIA

The Humble Application of the  
Petitioner-Applicant above named

MOST RESPECTFULLY SHOWETH:-

1. This application is with regard to the Union of India and various state government's non compliance with the directions given by the Hon'ble Supreme Court in its judgment dated June 29, 2021 in the migrant workers case (Suo Motu Writ Petition (Civil ) No. 6 of 2020,

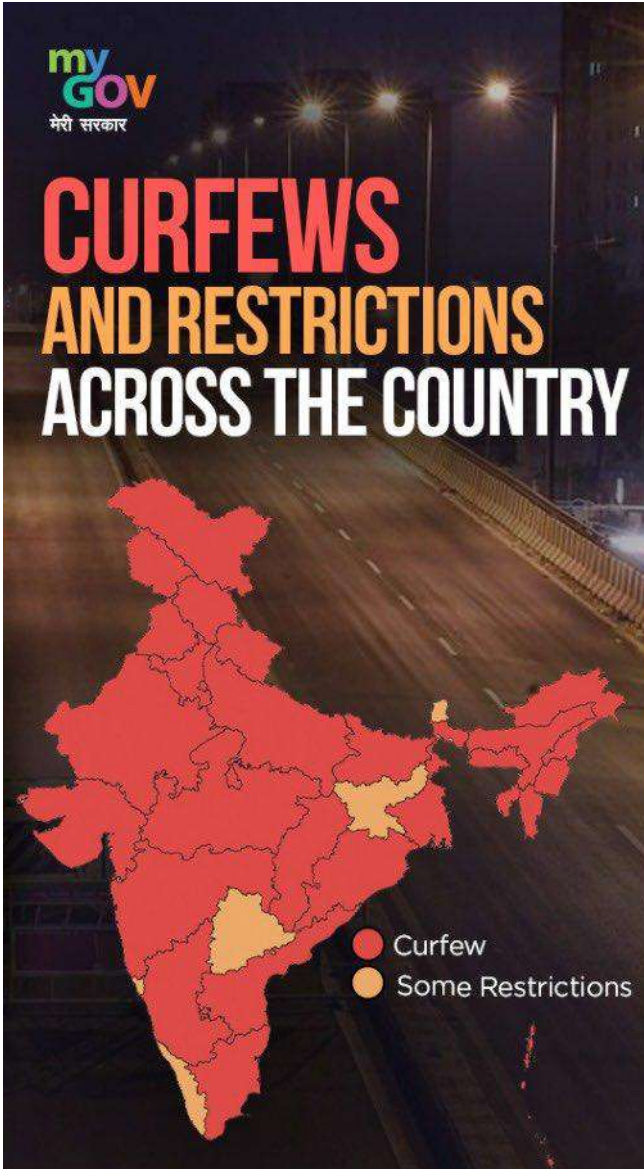
'In Re: Problems And Miseries Of Migrant Labourers'). The intervenors in the said Writ Petition had through an additional affidavit in April 2021, brought before the Hon'ble Court the continuing problems faced by migrant workers since the lockdown in 2020, that persisted over the whole year due to the continued economic distress and various restrictions, curfews and lockdowns imposed in various States to control the spread of COVID and requested the Hon'ble Court to take cognizance of the problems of this vulnerable community and issue directions for provision of rations and cooked food, etc. to them. Based on this application the Hon'ble court had been pleased to issue detailed directions vide its judgement dated 29<sup>th</sup> June 2021.

(A copy of the Judgement of the Hon'ble Court in (Suo Motu Writ Petition (Civil ) No. 6 of 2020, 'In Re: Problems And Miseries Of Migrant Labourers' dated 29<sup>th</sup> June 2021 is annexed as **Annexure A1 (Page 34 to 113)**).

2. The lack of compliance with the Directions of this Hon'ble Court in a matter that involves the lives and livelihood of lakhs of migrant labourers in the country, is even more concerning as the country is once again facing rising number of COVID cases and various state governments have put in place lockdowns, restrictions and curfews thereby exacerbating the economic distress and hardships of migrant workers most of whom are in the unorganised sector and therefore have no social or financial security net to fall back on, and are once again facing loss of livelihood, uncertainty and hunger. The

reliefs granted by this Hon'ble court were in the specific context of the pandemic and aimed at ensuring basic modicum of food security for economically vulnerable persons during this time of unprecedented hardship. It is therefore important that this Hon'ble Court monitors the compliance with its orders.

3. As per information available in the public domain and through media reports, nearly all states and UTs in the country have imposed curfews, lockdowns and restrictions on economic activities and movement of people. These range from closure of all educational institutes, restriction on weekly markets, closure of eateries, cinema halls, curbs and restrictions on cultural and social functions to complete shutdown of all government and private offices except those involved in essential services. In most states, now the curbs and restrictions have been in place for several days. An infographic put out via the official government twitter handle '@mygovindia' on January 13, 2022 shows that as of January 12, 2022, there were some form of curfews and restrictions in all 36 states and UTs in the country. The infographic is reproduced below and the original tweet is accessible at <https://twitter.com/mygovindia/status/1481576934585040896/photo/1>



**my  
GOV**  
मेरी सरकार

# CURFEWS AND RESTRICTIONS ACROSS THE COUNTRY

● Curfew  
● Some Restrictions

State/UTs	Curfews/Restrictions
Himachal Pradesh	10 pm to 5 am
Jharkhand	Shops closed after 8 PM
Karnataka	Weekend curfews 10 pm Friday to 5 am Monday
Kerala	Public events limited to 50 people
Madhya Pradesh	11 pm to 5 am
Maharashtra	11 pm to 5 am
Manipur	9 pm to 4 am
Meghalaya	10 pm to 5 am
Mizoram	9 pm to 4 am
Nagaland	10 pm to 4 am
Odisha	9 pm to 5 am
Punjab	10 pm to 5 am
Rajasthan	11 pm to 5 am along with a weekend curfew
Sikkim	No gatherings; cinema and restaurants to work at 50% capacity
Tamil Nadu	10 pm to 5 am and lockdown on Sundays
Telangana	No public gathering allowed
Tripura	9 pm to 5 am
Uttar Pradesh	10 pm to 6 am
Uttarakhand	10 pm to 6 am
West Bengal	10 pm to 5 am
Andaman and Nicobar Islands	9 pm to 5 am
Chandigarh	10 pm to 5 am
Delhi	10 pm to 5 am along with weekend curfews
Jammu and Kashmir	9 pm to 6 am
Ladakh	10 pm to 5 am
Puducherry	11 pm to 5 am
Lakshadweep	9 pm to 6 am
Dadra and Nagar Haveli and Daman and Diu	Crowding at the beach prohibited. Schools closed

4. The COVID pandemic over the last two years has led to rising economic distress and has also severely impacted food intake, especially among the vulnerable sections of society creating a



situation of hunger and malnutrition as also documented by various studies. An article titled "Outbreak of pandemic led to an increase in number of households with no earning members: CMIE" published on The Economic Time's Website in December, 2021 stated that according to the Centre for Monitoring Indian Economy (CMIE), the outbreak of the pandemic has resulted in a rise in the number of households with no earning members, making them more vulnerable to the epidemic.

"On an average 7.8% of the households did not report any member as employed from July through November 2021, after the second Covid wave, compared to 6% before the pandemic, CMIE said.

This proportion, though, had risen to 11.5% in 2020 with the peak in April at 33% during the nationwide lockdown, 25% in May 2020 and 12% in June 2020.

According to CMIE, while the proportion of households where more than one person is employed has fallen relentlessly from nearly 35% in 2016 to about 24% in 2021, households where only one person is employed has risen from 59% in 2016 to 68% in the first 11 months of 2021."

(A copy of the article on The Economic Time's website "Outbreak of pandemic led to an increase in number of households with no earning members: CMIE" is annexed as **Annexure A2 (Page 114 to 115)**).

5. An article titled "Oxfam report: In 2021, income of 84% households fell, but number of billionaires grew" published in the Indian Express

newspaper in January 2022 based on the findings of a report by Oxfam highlights that the income of 84 per cent of households in the country declined in 2021, and during the pandemic (since March 2020, through to November 30, 2021), more than 4.6 crore Indians are estimated to have fallen into extreme poverty in 2020, nearly half of the global new poor according to the United Nations. The article also highlights the rising gender inequality with women collectively having lost Rs 59.11 lakh crore (USD 800 billion) in earnings in 2020, with 1.3 crore fewer women in work now than in 2019.

(A copy of the article on The Indian Express's website "Oxfam report: In 2021, income of 84% households fell, but number of billionaires grew" is annexed as **Annexure A3 (Page 116 to 118)**.)

6. An article titled "Over 33 lakh children in India malnourished, 17.7 lakh of them severely malnourished: Govt data" published in the Indian Express newspaper in 2021 based on information accessed under the RTI Act and on the POSHAN dashboard of the government noted:

"Over 33 lakh children in India are malnourished and more than half of them fall in the severely malnourished category with Maharashtra, Bihar and Gujarat topping the list, the WCD ministry has said in response to an RTI query.

Prompting concern that the Covid pandemic could exacerbate the health and nutrition crisis among the poorest of the poor, the Women and Child Development ministry estimates that there are 17,76,902 (17.76 lakh/1.7 million) severely acute malnourished children (SAM) and 15,46,420 (15.46 lakh/1.5

million) moderately acute malnourished (MAM) children as of October 14, 2021.

The total 33,23,322 (33.23 lakh/3.3 million) is a compilation of data from 34 states and union territories, the ministry said in response to an RTI query by PTI. The numbers were registered on the Poshan tracker app developed last year as a governance tool for real-time monitoring of nutritional outcomes.”

(A copy of the article appearing in The Indian Express is annexed as **Annexure 4 (Page 119 to 122)**).

7. Another article titled “In India, as the virus abates, a hunger crisis persists” published on The Washington Post’s Website in December, 2021 stated that even as the number of coronavirus cases has decreased, another crisis has erupted in homes across the country i.e., that with high unemployment and a record economic contraction following two nationwide lockdowns, many families have lost both their purchasing power and savings, and can now barely afford three meals a day. India was placed 101st out of 116 nations polled in the 2021 Global Hunger Index, down seven points from the previous year. In addition, the article also discussed India's food security law, which seeks to give free or subsidised food grains to two-thirds of the country's population, making it the country's greatest safety net. However, analysts claim that inadequacies, reliance on biometric authentication, and a limited reach have hampered its effectiveness. During the lockdown, the government increased benefits by giving people who were eligible an extra five kilos (11 pounds) of rice or wheat per month, a scheme that was

recently extended until March 2022. However, experts argue that the law's scope should be expanded to account for population growth over the last decade, which may bring an extra 100 million people under its jurisdiction.

(A copy of the article on The Washington Post's website "In India, as the virus abates, a hunger crisis persists" is annexed as **Annexure A5 (Page 123 to 130)**).

8. Following the judgment the intervenors in suo motu petition (civil) 6/2020 (IA no. 58769/2021) wrote to all the Chief Ministers of States and the Prime Minister on August 16, 2021 bringing the judgment and the directions contained therein to their notice. The letter highlighted the various directions and measures that the respective governments had to implement to ensure food and social security of migrant and informal workers who are the backbone of the economy and had suffered immensely during the first two waves of COVID-19 on account of loss of livelihoods, health crisis and exclusion from the social security net. The intervenors highlighted that it was imperative that the directions of the Supreme Court are operationalised on an urgent footing and details of the same are place in the public domain.

(A copy of the letter dated 16th August 2021 sent to the Chief Minister of Andhra Pradesh is annexed as a sample of the letters sent to all Chief Ministers as **Annexure A6 (Page 131 to 133)**).

(A copy of the letter dated 16th August 2021 sent to the Prime Minister is annexed as **Annexure A7 (Page 134 to 137)**).

9. Following this, counsel on behalf of the intervenors sent legal notices to the Chief Ministers of all state governments regarding non-compliance with the specific directions contained in the judgment on the formulation and implementation of scheme for providing dry rations to migrant workers and also to the Cabinet Minister for Consumer Affairs, Food and Public Distribution, Government of India regarding the non-compliance with the direction of the Hon'ble Court to the Central Government to undertake exercise under Section 9 of the National Food Security Act, 2013 (NFSA) to re-determine the total number of persons to be covered under Rural and Urban areas of the State.

(A copy of the legal notice sent to the Chief Minister of Andhra Pradesh is annexed as a sample of the legal notices sent to Chief Ministers of all the states as **Annexure A8 (Page 138 to 139)**).

(A copy of the legal notice sent to the Cabinet Minister for Consumer Affairs, Food and Public Distribution, Government of India is annexed as **Annexure A9 (Page 140 to 141)**).

**NON COMPLIANCE WITH DIRECTION TO CENTRAL GOVERNMENT REGARDING REVISING COVERAGE OF POPULATION ELIGIBLE FOR THE PUBLIC DISTRIBUTION SYSTEM UNDER THE NATIONAL FOOD SECURITY ACT**

10. Taking cognisance of the fact that quotas under the National Food Security Act (NFSA) have not being revised since the 2011 census despite the increase in population, this Hon'ble Court vide its judgment dated June 29, 2021 had directed the central government to re-determine the total number of persons to be covered in rural and urban areas in states for issuance of ration cards. The relevant paragraph and directions are reproduced below:

*"40. Section 9 provides for coverage of population under Targeted Public Distribution System, which is to be determined by the Central Government and the total number of persons to be covered in such rural and urban areas of the State shall be calculated on the basis of the population estimates as per the census of which the relevant figures have been published. The State-wise coverage under National Food Security Act was determined by the then Planning Commission (now Niti Aayog) by using the NSS Household Consumption Survey data for 2011-2012. More than 10 years have elapsed from determination of State-wise coverage. In event, Central Government undertakes fresh determination of the State-wise coverage under National Food Security Act, number of beneficiaries State-wise are bound to increase benefitting the large number of eligible persons. We, thus, are of the view that Central Government need to take steps to undertake exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under Rural and Urban areas of the State, which shall be beneficial to large number of persons."*

11. The intervenors had sent a letter to the Prime Minister dated August 16, 2022 regarding ensuring compliance with the directions given by the Supreme Court. On the issue of enhancing the quota under NFSA, the letter highlighted that given that the publication of the census 2021 data has been delayed on account of COVID-19, and as per media reports, the interim census data is likely to be available only in the year 2023-24, the government should use population projections as per report of the Technical Group on Population Projections published by the National Commission on Population, Ministry of Health & Family Welfare. If the population projection estimates for 2021 are used, a total of 91.5 crore people would be covered within the PDS under the NFSA i.e. 10.2 crore people more than the current coverage.

(A Copy of the media report regarding the delay in the publication of the census data is annexed as **Annexure A10 (Page 142 to 143)** and also available online at <https://economictimes.indiatimes.com/news/politics-and-nation/interim-census-data-likely-to-be-available-in-2023-24/articleshow/81537582.cms>).

12. An application was filed by one of the intervenors, Ms. Anjali Bhardwaj, under the Right to Information Act, 2005, seeking details of the steps taken by the government to implement the direction of this Hon'ble Court regarding re-determining coverage under the NFSA. The reply dated 24.8.2021 by Abhay Srivastava, Under Secretary to the Govt. of India/CPIO inter-alia states-

*"Section 9 of the Act provides that the total number of persons to be covered in rural and urban areas of the State shall be calculated on the basis of the population estimates as per the Census of which the relevant figures have been published. Therefore, as per Act, any revision in the State/UT-wise coverage shall be possible after the data of next Census is published. Judgment passed by Hon'ble Supreme Court is being examined at present." (emphasis supplied)*

(Copy of the application under the RTI Act and the reply dated 24.8.2021 are annexed at **Annexure A11 (Page 144 to 147)**).

13. It is clear that though the Central Government was required to take steps to re-determine coverage under NFSA so that a large number of people who currently do not possess ration cards could benefit from accessing food security under the Act to help them cope with the crisis caused by the COVID 19 pandemic, however, as per the reply under the RTI Act, it is stated that the government has decided it will implement the direction only after publication of census data. This is despite the fact that as per official statements, the publication of the census has been delayed on account of COVID and the interim data is likely to be available only in 2023-24. This undue delay is at variance with the purpose of the judgment of this Hon'ble Court which is clearly to ensure basic relief and food security for economically vulnerable sections especially migrant workers during the COVID-19 pandemic. The severe problems being faced by informal sector workers, especially migrant workers, due to loss



of livelihood on account of the COVID-19 pandemic and subsequent restrictions on economic activity led this Hon'ble Court to register the *suo motu* case.

**14.** The counsel on behalf of the intervenors sent a legal notice to the Cabinet Minister for Consumer Affairs, Food and Public Distribution, Government of India dated 17<sup>th</sup> September 2021 regarding non-compliance with this specific direction regarding re-determining the coverage under the NFSA. However, till date no response has been received to the legal notice.

**15.** The judgment of this Hon'ble Court is aimed at ensuring food security of economically vulnerable groups including migrant workers during the time of distress and misery caused by the COVID-19 pandemic and the subsequent lockdowns and restrictions on economic activity. Therefore, the Union of India is in flagrant violation of the directions of this Hon'ble Court regarding re-determining the state-wise coverage of the Public Distribution System under the NFSA.

**DIRECTION TO STATE GOVERNMENTS TO FORMULATE AND IMPLEMENT A SCHEME FOR DISTRIBUTION OF DRY RATION TO MIGRANT LABOURERS ON OR BEFORE 31.07.2021**

16. Specifically, taking cognisance of the fact that a large number of migrant workers do not possess ration cards, this Hon'ble Supreme Court had given the following directions in Para 80(iii):

*"We direct the States to bring in place an appropriate scheme for distribution of dry ration to migrant labourers for which it*

*shall be open for States to ask for allocation of additional foodgrains from the Central Government, which, as directed above, shall provide the additional foodgrains to the State. The State shall consider and bring an appropriate Scheme, which may be implemented on or before 31.07.2021. Such scheme may be continued and operated till the current pandemic (Covid-19) continues.”*

Further, Paras 27 and 29 which are reproduced below also contained important observations and directions to ensure fulfilment of peoples’ right to food, which the SC interpreted to be a fundamental facet of right to life enshrined in Article 21 of the Constitution.

*“27. Various States have filed their affidavits. From the affidavits filed by different States, it does appear that although some States have devised certain schemes for distribution of dry ration to migrant workers, most of the States do not have such schemes...”*

*“29. Most of the States have been harping on providing food grains free of cost for two months, i.e., May and June, 2020... The States/Union Territories who are responsible for Public Distribution System and who are the agency to reach beneficiary have to devise the scheme to cater the needs of migrant workers and find out ways and means to reach those migrant workers and supply the dry ration. Especially during this pandemic, the States/Union Territories have to make extra efforts to reach migrant labourers so that no migrant labourer is denied two meals a day.”*

In its order dated May 13 in the same matter, this Hon'ble Court recognising the fact that often migrant workers may not possess necessary documents, had directed:

*"While providing dry ration the authorities of the States shall not insist on an identity card for those migrant labourers who do not possess for the time being and on self-declaration made by the stranded migrant labourers dry ration be given to them."*

17. Thus, all state governments were required to formulate and implement a scheme for distribution of dry ration to migrant labourers. Such scheme was to be implemented on or before 31.07.2021 and as per the directions, the scheme is to be operated till the pandemic continues.
18. The intervenors sent a letter to the Chief Ministers of all the states dated August 16, 2021 regarding ensuring compliance with the directions given by the Supreme Court to formulate and implement a scheme for providing rations to economically vulnerable persons, including migrant workers who do not possess ration cards.
19. A Right to Information application was filed by one of the intervenors, Ms. Anjali Bhardwaj, under the Right to Information Act, 2005, to the Department of Food & Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution seeking the following information regarding compliance with this direction:

*"The Supreme Court of India in its judgement on June 29, 2021 in the migrant workers case (Suo Motu Writ Petition (Civil ) No. 6 of 2020, (In Re: Problems And Miseries Of Migrant Labourers) directed the Central Government, Department of Food and Public Distribution (Ministry of Consumer Affairs, Food and Public Distribution) to allocate and distribute foodgrains as per demand of additional foodgrains from the States for disbursement of dry foodgrains to migrant labourers. In this regard, please provide the following information:*

*1. Please provide the names of all states which have sought additional foodgrains from the Central government for disbursement of dry foodgrains to migrant labourers in pursuance of the aforementioned judgment of the Supreme Court.*

*2. Please provide a copy of the letter/communication/correspondence vide which each state sought additional foodgrains from the Central government for disbursement of dry foodgrains to migrant labourers in pursuance of the aforementioned judgment of the Supreme Court.*

*3. For the month of August 2021, please provide details of the quantity of additional foodgrains allocated by the Central government to each state government for the purpose of providing foodgrains to migrant labourers in pursuance of the aforementioned judgment of the Supreme Court. Please provide this information state-wise."*

20. Vide reply dated September 17, 2021, Under Secretary to Govt. of India and CPIO provided the following information:

*"Point no 1- State Govt. of Telangana and Meghalaya have sought additional foodgrains from the Central government for disbursement of dry foodgrains to migrant labourers in pursuance of the judgment of the Supreme Court dated June 29,2021 in the migrant workers case.*

*Point no.2- Section 8(1)(e) of the RTI Act 2005 exempts information available to a person in his fiduciary relationship from disclosure unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.*

*Point no. 3- **So far no additional allocation of foodgrains has been made by this Department to any state government for providing foodgrains to migrant labourers in pursuance of the judgment of the Supreme Court dated June 29,2021 in the migrant workers case.**" (emphasis supplied)*

21. Therefore, as is evident from the reply quoted above, the Government of India till September 2021 made no additional allocation of foodgrains to any state government for providing foodgrains to migrant labourers in pursuance of the judgment of the Supreme Court dated June 29,2021 in the migrant workers case. This is despite the fact that two states viz. *Govt. of Telangana and Meghalaya* had specifically sought additional foodgrains from the

Central government for disbursement of dry foodgrains to migrant labourers in pursuance of the judgment of the Supreme Court dated June 29,2021 in the migrant workers case. This clearly shows flagrant violation of the directions contained in the judgment dated June 29,2021, specifically with respect to the direction that Union of India provide additional foodgrains to state governments for ensuring rations for migrant workers in pursuance of a specific scheme. From the information provided by the Department of Food & Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution, it also becomes clear that other than 2 states, none of the other states have sought any additional grains and therefore it appears are not providing rations to migrant workers who do not possess ration cards.

(Copy of the application under the RTI Act and the reply dated 17.9.2021 are annexed at **Annexure A12 (Page No. 148 to 154)**).

22. Further, after perusing the websites of the Food Departments of all the states and not finding any information regarding compliance with the directions of the Supreme Court to state governments to formulate and implement a scheme for distribution of dry ration to migrant labourers on or before 31.07.2021, the counsel on behalf of the intervenors sent legal notices to the Chief Ministers of all state governments. The legal notices dated 18<sup>th</sup> August 2021 stated:

*“By this notice, I therefore call upon you to formulate and implement a scheme for distribution of dry ration to migrant labourers immediately and certainly within the next two weeks, failing which we will be constrained to approach the Court for contempt proceedings against the state government. In case the government has put in place such a scheme, kindly place the details of the same in the public domain and also share them with us via post and/or email.”*

23. However, out of the 29 states which were sent legal notices, only 5 replied. Therefore, it appears that the remaining states have not put in place any mechanism or scheme to provide rations to ensure food security for migrant workers till such time that the pandemic continues. A summary of the replies of the 5 states is presented below.

### **State of Tamil Nadu**

24. As per reply to the legal notice vide letter dated 8.10.2021 the secretary to the government of Tamil Nadu stated:

*“1(j) In this State, the lockdown period Dry Ration Kits containing 15 kg of rice, 1 kg of dhal, 1 litre of edible oil has been distributed to 4,16,047 Interstate Migrant workers working in the first phase during April 2020.*

*In the 2<sup>nd</sup> phase in May 2020, 4,66,025 interstate migrant workers were provided with the above ration kits.*

*Further, 1,29,444 ISMWs who do not have a ration card were provided with dry ration kits during June, 2021.*

*Xxx*

*2. Based on the directions of Hon'ble Supreme Court of India, the proposal for implementing a new scheme viz. "supply of dry ration to migrant labourers/workers" who are not covered under the One Nation One Ration Card Scheme in Tamil Nadu State is under active consideration of the Government."*

(A copy of the reply of the Tamil Nadu government is annexed as **Annexure A13 (Page 155 to 157)**).

25. Therefore, as can be ascertained from the reply, the state government is in violation of the said judgment as it has not formulated and implemented any scheme for providing dry rations to migrant workers, who do not possess ration cards, and as of October 2021, it was only under consideration.

### **State of Odisha**

26. As per reply to the legal notice vide letter dated 31.8.2021, it is stated that the government of Odisha has formulated a scheme for providing dry rations to migrant workers who do not possess ration cards. The scheme provides for self-certification in case people do not possess any identity proof. As per the scheme, people are entitled to 5 kgs of rice per person per month free of cost.

(A copy of the reply of the State of Orissa is annexed as **Annexure A14 (Page 158 to 163)**).

### **State of Jharkhand**



27. As per reply to the legal notice vide email dated 16.11.2021, the state of Jharkhand has provided details of the scheme put in place following the said judgment of 29.6.2021. As per letter dated 16/7/2021 it is stated that wherever eligible, migrant workers be included under the National Food Security Act or the State level Jharkhand Food Security Scheme. Further, wherever migrant workers are not eligible for inclusion in either of these, they be provided rations from the contingency food fund. As per details provided in another annexure, under the contingency food fund, Rs. 6 crore is provided to Gram Panchayats, civic bodies and at the district level to provide rations on an emergency basis.

(A copy of the reply of the State of Jharkhand is annexed as **Annexure A15 (Page 164 to 168)**).

28. Therefore, as can be ascertained from the reply, the state government is in contempt of the said judgment as it has merely issued an order to state that migrant workers can be provided rations on an emergency basis from contingency food fund. The state government has not formulated and implemented a specific scheme for providing dry rations on a monthly basis to migrant workers, who do not possess ration cards, till such time that the pandemic continues.

### **State of Delhi**

29. As per reply to the legal notice vide letter dated 14.10.2021, it is stated that the government of Delhi vide Cabinet decision dated

5.10.2021 *"has decided to provide food grains to 40 lakh NON-PDS beneficiaries subject to the continuation of Covid-19 pandemic at the same entitlement as specified under NFS Act, 2013 which is 5 Kg food grains free of cost to the needy persons who don't possess ration cards, including migrant workers, unorganised workers, building and construction workers, domestic help for remaining period of this calendar year. Further, vide this Cabinet Decision Minister-in-charge has been authorised to approve the quantity of food grains beyond 40 lakh beneficiaries, if required till continuation of Covid-19 pandemic."* As per details provided, 20 lakh Non-PDS beneficiaries were provided foodgrains during May-June 2021, further 10 lakh more in July 2021 and during the remaining period of the calendar year provision has been made to give rations to 40 lakh more persons.

(A copy of the reply of the State of Delhi is annexed as **Annexure A16 (Page 169 to 170)**).

30. Therefore, as can be ascertained from the reply, the state government has put in place a mechanism for providing foodgrains to persons, including migrant workers, who do not possess ration cards. However, it appears there are challenges regarding lack of availability of rations at the designated distribution centres forcing people to make multiple visits in a bid to try to obtain rations and often being returned empty handed, as also reported by the media. Details of the stock availability at designated distribution centres must be made easily available in the public domain to facilitate

access of needy persons to food security during this time of distress. A Time of India report dated 21<sup>st</sup> October 2021 states:

“A survey conducted by DRRAA says that 106 schools in Delhi, which are designated as ration distribution points for providing foodgrains to people without ration cards, were not distributing food grains as they had no stock of rations...non provision of rations to those without ration cards was exacerbating the distress and hunger among the vulnerable population of Delhi.”

(A copy of the Times of India report dated 21<sup>st</sup> October is annexed as **Annexure A17 (Page 171 to 172)**).

31. And similar position also persists as of January 2022, as reported by Times of India on 15<sup>th</sup> of January 2022 titled, “NGO writes to Delhi govt, says none of 62 schools checked distributing rations”.

(A copy of the Times of India report dated 15<sup>th</sup> January 2022 is annexed as **Annexure A18 (Page 173 to 174)** and is also available online at <https://timesofindia.indiatimes.com/city/delhi/ngo-writes-to-delhi-govt-says-none-of-62-schools-checked-distributing-rations/articleshow/88905928.cms>)

### **State of Assam**

32. As per reply to the legal notice vide email dated 22.11.2021, the state of Assam has provided a copy of a notification dated

November 22, 2021, vide which it is stated that “*The Government of Assam proposed to notify the following scheme by the name "Assam Migrant Workers' Food Security Scheme" in order to provide relief in the form of dry ration to the migrant workers of the State during periods of lockdown, restrictions etc. due to COVID-19 pandemic*”. As per the notification, rations will be provided to only such migrant workers who are registered under the e-shram portal.

33. Therefore, as can be ascertained from the reply, the government is in violation of the judgment dated 29.6.2021 as the scheme is only at a proposal scheme as of November 22, 2021 even though vide the judgment state governments were required to formulate and implement such scheme for providing rations to migrant workers by July 31, 2021. Further, the scheme is extremely restrictive as it states that rations will be provided to only such migrant workers who are registered under the e-shram portal, thereby excluding the vast majority of migrant workers and being in violation of the Supreme Court directive that ration be provided even to those without identity proof on the basis of self-certification. The notification itself states that on average only 4-5% of migrant workers are registered on the portal.

(A copy of the reply of the State of Assam is annexed as **Annexure A19 (Page 175 to 176)**).

34. Therefore, as summarised above, out of the 29 states to whom legal notices were sent regarding compliance with the

judgment of this Hon'ble Court, only 5 state governments sent replies. It appears that the remaining states have not put in place any mechanism or scheme to provide rations to migrant workers till such time that the pandemic continues. Further, as can be ascertained by the facts summarised above, even out of the 5 states which sent replies, 2 states (Tamil Nadu, Jharkhand) have not adopted any scheme for providing ration to migrant workers without ration cards in contempt of the directions of this Hon'ble Court in judgment dated 29.6.2021. Only the states of Odisha, Delhi and Assam replied to the legal notices providing details of scheme formulated by the states. Further, only two state governments viz. Govt. of Telangana and Meghalaya sought additional food grains for providing to migrant workers and even that was not provided by the central government. Therefore, there is an urgent need for this Hon'ble Court to take notice of this flagrant contempt of its directions.

**ADDITIONAL RELIEF IN TERMS OF FOOD SECURITY DURING PANDEMIC ONLY PROVIDED TO RATION CARDHOLDERS AND NOT OTHER EQUALLY VULNERABLE AND FOOD INSECURE HOUSEHOLDS**

35. Recognising that the situation with respect to food security across the country is precarious, the Union government has taken a decision to extend the scheme titled- Pradhan Mantri Gareeb Kalyan Anna Yojana (PMGKAY) vide which 80 crore ration cardholders are being provided additional 5 kgs foodgrains per person per month free of cost till March 2022. Therefore, the Union of India is well

aware of the continuing distress among people and is taking steps to ensure additional provisions for foodgrains for people with ration cards. As per the press release put out by the Union of India regarding its decision to extend the scheme, it is stated:

*"...as part of the Economic Response to COVID -19, the Union Cabinet has approved the extension for the Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY-Phase V) for a period of another 4 months i.e. December 2021 till March 2022 @ 5 kg per person per month free of cost for all the beneficiaries covered under the National Food Security Act (NFSA) [Antodaya Anna Yojana & Priority Households] including those covered under Direct Benefit Transfer (DBT).*

*Phase-I and Phase-II of this scheme was operational from April to June, 2020 and July to November, 2020 respectively. Phase-III of the scheme was operational from May to June, 2021. Phase-IV of the scheme is currently operational for July-November, 2021 months.*

*The PMGKAY scheme for Phase V from December 2021 till March, 2022 would entail an estimated additional food subsidy of Rs. 53344.52 Crore*

*It may be recalled that in the wake of economic disruptions caused by the unprecedented outbreak of COVID-19 in the country last year, the Government in March 2020 had announced the distribution of additional free-of-cost foodgrains (Rice/Wheat) to about 80 Crore National Food Security Act (NFSA) beneficiaries at the scale of 5 Kg per person per month under the PM Garib Kalyan Anna Yojana (PM-*

*GKAY), over and above the regular monthly NFSA foodgrains i.e., regular entitlements of their ration cards, so that the poor, needy and the vulnerable households/beneficiaries do not suffer on account of non-availability of adequate foodgrains during the times of economic crisis. So far, under the PM-GKAY(phase I to IV) the Department had allocated a total of almost 600 LMT foodgrains to the States/UTs equivalent to about Rs. 2.07 Lakh Crore in food subsidy.*

*xxx*

*Overall, the government will be incurring an expenditure of nearly Rs.2.60 lakh Crore in PMGKAY Phase I- V”*

(A copy of the press note by PIB regarding the extension of the Pradhan Mantri Gareeb Kalyan Anna Yojana (PMGKAY) dated November 24, 2021 is annexed as **Annexure A20 (Page 177 to 179)** and is also available online at <https://pib.gov.in/PressReleasePage.aspx?PRID=1774586>)

36. Therefore, the Union of India is well aware of the economic distress among people and the need to augment and ensure food security for economically vulnerable people. However, making special provision for relief to alleviate distress caused due to economic disruptions on account of COVID-19 only for those who possess ration cards at a time when distress is affecting all people is discriminatory and a violation of Article 14 and 21 of the Constitution. Economically vulnerable persons including migrant workers, who do not possess ration cards are also in dire need of

measures for food security and therefore, the government must not discriminate merely on the basis of possession of ration card at a time when people across the country are affected by economic disruptions caused by the COVID-19 pandemic. Scores of people are left out of the purview of the food security net as the state-wise quotas for coverage, which are pre-determined and have not been updated to reflect the increase in population since the 2011 census, have been exhausted in most states. Further, often vulnerable groups, especially migrant workers are left out of the purview of the food security net as they are unable to furnish the necessary documents required to apply for and obtain a ration card in states. Therefore, there is an urgent need to ensure well-being and food security for all economically vulnerable persons and those in need irrespective of whether they possess a ration card.

### **DIRECTION TO OPERATE COMMUNITY KITCHENS FOR PROVIDING COOKED FOOD**

37. In addition, the Supreme Court had also directed all states/Union Territories to operate community kitchens to provide hot cooked meals for migrant workers vide direction contained in para 80(vii):

*"The State/Union Territories are directed to run community kitchens at prominent places where large number of migrant labourers are found for feeding those migrant labourers who does not have sufficient means to procure two meals a day. The running of the community kitchen should be continued at-least till pandemic (Covid-19) continues."*



**38.** In the light of the new restrictions that are being imposed in various states which include weekend lockdowns and night curfews, restriction on movements, closure of workplaces etc. the ability of the worker to work and earn a daily wage is being severely curtailed. Without a daily wage, lakhs of people are forced into facing situation of food insecurity, hunger and starvation. It is therefore imperative that the migrant workers and the poor in the country are provided free cooked food till the uncertainty of COVID continues and the restrictions are imposed. Various reports of panic among the migrant workers due to the new restrictions have been surfacing in the media and the situation on the ground is even more grim.

**39.** A report in the Economic Times dated 7<sup>th</sup> January 2022 states that as Covid cases surge in Delhi, migrant workers fear another lockdown, loss of livelihood which could push them into severe financial crisis from which they might never recover. Delhi had already announced weekend and night curfews among other restrictions.

(A copy of the Economic Times report dated 7<sup>th</sup> January 2022 is annexed as **Annexure A21 (Page 180 to 182)** and is also available online at

<https://economictimes.indiatimes.com/news/india/as-covid-cases-surge-in-delhi-migrant-workers-fear-another-lockdown-loss-of-livelihood/articleshow/88760784.cms>)

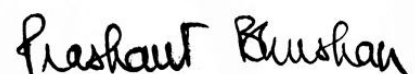
**PRAYERS**

In view of the above mentioned facts it is respectfully submitted that this Hon'ble Court may be pleased to:

- a) Direct the Union of India to file status report with respect to the directions contained in the judgement dated 29.6.2021 specifically indicating:
  - i. Steps taken with regard to undertaking exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under Rural and Urban areas of the State.
  - ii. Details of additional foodgrains provided by the Union of India to state governments in order to implement schemes for providing rations to migrant workers, including details of states which sought additional foodgrains, details of quantity provided etc.
- b) Direct all respondent state governments to immediately implement the direction contained in the judgement dated 29.6.2021 to bring in place an appropriate scheme for distribution of dry ration to migrant workers without insistence on furnishing of identity proof and file a status report indicating details of scheme formulated, number of people covered under the said scheme, the amount of dry ration distributed to each person and number of times rations were provided to people under the scheme.

- c) Direct all respondent state governments to immediately implement the direction contained in the judgement dated 29.6.2021 to run community kitchens at prominent places where large number of migrant labourers are found to provide cooked food and file a status report indicating details of number of community kitchens set up by state governments and whether these kitchens are functional as on date.
- d) Issue appropriate orders to identify and hold responsible, the officers concerned in different States and the Centre for non compliance of this Hon'ble Court Judgement in (Suo Motu Writ Petition (Civil ) No. 6 of 2020, 'In Re: Problems And Miseries Of Migrant Labourers';
- e) Pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

THROUGH:



**(PRASHANT BHUSHAN)**  
Counsel for the Applicants

New Delhi  
Dated:18.01.2022