

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 42 of 2020

SUO MOTU

Versus

STATE OF GUJARAT & 2 other(s)

Appearance:

SUO MOTU(25) for the Applicant(s) No. 1

for the Opponent(s) No. 1,2,3

CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA

and

HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 14/05/2020

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE J.B.PARDIWALA)

1 In response to our order dated 11th May 2020 passed in the Writ Petition (PIL) No.42 of 2020, the State Government has filed its report. The report reads as under:

“Report on behalf of the Respondent State pursuant to the order dated 11.05.2020 of this Hon’ble Court in the captioned proceedings

The present Report is being submitted in the captioned proceedings on the basis of the instructions provided by the concerned Departments of the State Government, presenting the arrangements in place as well as important actions taken in the wake of spread of COVID-19, with reference to various aspects indicated in the aforesaid order dated 11.05.2020 of this Hon’ble Court.

I. Re: Supply of food and other facilities to urban homeless:

1. For providing shelter for Urban homeless, the State has been rigorously implementing Deendayal Antyodaya Yojana – National Urban Livelihood Mission (DAY-NULM) of the Government of India as under:

- (a) *The said DAY-NULM aims at providing permanent shelter equipped with essential services to the urban homeless in a phased manner under the Scheme of Shelter for Urban Homeless (SUH).*
- (b) *Scheme of Shelter for Urban Homeless (SUH) is implemented in all 8 Municipal Corporations and 30 'A' class and district head quarter Municipalities (i.e. 38 cities).*
- (c) *In the State, there are 91 shelters having approx. capacity of 5,500, which are operational in 38 Cities.*
- (d) *As per the provisions of the SUH guidelines, for all the shelters, a space of 50 square feet person has been taken as the minimum space to be provided.*
- (e) *The shelters are permanent, running throughout the year and open round the clock, with all basic facilities/amenities like well-ventilated rooms, water arrangements, adequate bathing & toilet facilities, standard lighting for shelter, first aid kit, common kitchen/cooking space, necessary utensils for cooking and serving, cooking gas connections etc. at the shelters for dignified living.*
- (f) *To monitor shelter homes daily in all Municipal Corporations, Nodal Officers not below the rank of Assistant Municipal Commissioner have been appointed, who have been instructed to provide sufficient sanitizers and other equipment which are needed to prevent CORONA Virus infections. Also, they were informed to maintain cleanliness and hygiene daily.*
- (g) *Accordingly, all Municipal Corporations have provided face masks and sufficient sanitizers to the Shelter Homes and tie up with various NGOs / Trusts to provide free food to the all inmates who are residing in the Shelter Homes.*

2. *During the lockdown period, Ahmedabad Municipal Corporation ('AMC' for short) has so far initiated 30 shelter homes for the homeless with a capacity of 1,721 beds in different locations in the city in each of 7 zones along with the supply of food, medicines and other facilities indicated hereinabove. Details of different shelter homes so far created by AMC in its 7 zones, having total 1,721 beds are as follows, wherein there are about 502 inmates from other States:*

	Zone	Wards	No. of beds	Total	Occupied	Vacant upto 10.05.2020
1	North	India Colony	90	330	32	58
		Kubernagar	40		16	24
		Naroda	90		37	53
		Bapunagar	40		18	22
		Saraspur	30		29	1
		Saijpur Bogha	40		21	19
2	South	Isanpur	50	442	14	36
		Khokhra (3)	250		109	141
		Maninagar	42		24	18
		Vatva	100		117	0
3	West	Navrangpura (2)	88	213	66	22
		Naranpura	45		16	29
		S.P. Stadium (2)	80		52	28
4	East	Odhav (3)	220	310	67	153
		Bhaipura –	90		37	53
		Hatkeshwar				
5	Central	Shahpur	54	174	12	42
		Shahibaug (2)	80		33	47
		Jamalpur	40		14	26
6	North West	Gota	30	152	12	18
		Ghatlodiya	40		18	22
		Chandlodiya	40		17	23
		Bodakdev	42		25	17
7	South West	Vejalpore	100	100	51	49

Apart from the above, one Family Shelter Home is at Bodakdev in South West Zone, where in all 128 homes are available, in which 40 families (163) are residing and 88 such home are vacant. The State arranged maximum 198 shelter homes holding 10,267 migrant workers at the peak on 18/04/2020 and the numbers have come down when it was decided to arrange conveyance for the stranded migrant workers after the completion of second phase of Lockdown.

3. It is submitted that the Urban Community Development Department of AMC has so far distributed around 36,80,000 food packets free of cost to homeless people of the city during this lockdown period till 11.05.2020. Apart from this, AMC has also distributed other grocery items, sanjivani kits, masks, sanitizers, medicines, vegetables, milk packets, etc., which have been made available through different NGOs, charitable organisations, etc. A chart indicating necessary information in this behalf is annexed hereto and marked as **Annexure-I**.

4. It is submitted that the homeless people and their families referred to in 'Ahmedabad Mirror' in its Edition dated 11.05.2020 are being provided food on regular basis. Even during the recent complete lockdown, no sooner it was reported that many of them have not had the food for some time, it was seen that these people are also taken care of. It is further submitted that in mammoth exercise being undertaken by AMC to supply food packets through various charitable organizations / NGOs everyday to urban homeless people and others of the entire city, at times complaints do crop up owing to varied reasons beyond control, but the municipal administration sincerely tries to immediately attend the same. In the instant case, all those people who have been referred to in the aforesaid newspaper report, have now been taken care of. So far, AMC has successfully managed to see that its citizens do not go hungry, barring the exceptional circumstances referred to above, which is in fact a matter of rarity, but the situation is not at all going out of control. It is further submitted that necessary arrangements are in place for distribution of food packets all over the city of Ahmedabad as well as in the areas on the outskirts as well as other parts of the State of Gujarat.

5. In furtherance of the above, it is submitted that till now, AMC has served –

- (i) 8,40,651 – Food packets;
- (ii) 2,61,076 kgs. – Vegetables;
- (iii) 2,95,395 – Ration kits containing grocery (i.e. wheat flour, rice, oil, pulses / lentils, masala, sugar, etc.) which can serve family of 5 persons for about 2 to 4 weeks.

In addition to the above, more than 4,000 labourers, i.e. construction workers, etc. are also being provided shelter at about 35 labour camp locations, where food and other daily requirements are being taken care of through various agencies with the help of volunteers of the societies, different NGOs, food outlets, clubs, of course with the coordination of the employees and officers of the AMC in the matter of distribution thereof. Photographs of distribution of food packets with the help of NGO's done by Police officials in Ellisbridge area are annexed hereto and marked as **Annexure-II**.

II. Re: Migration of migrant workers:

1. At the outset, it is submitted that the following system has been established by Ahmedabad District Administration and somewhat similar system by other Collectorates, for sending the migrant workers to their native State, as explained hereunder:

- (i) Detailed surveys of migrant workers who want to go their native States are conducted by the concerned Taluka Mamlatdar. They gather the information of all such labours and migrant workers.
- (ii) Mamlatdars compile the information and prepare the list for different States. The list is then sent to District Collector Office.
- (iii) List thus received from different Taluka Mamlatdars are gathered at Collector Office. Details are then sorted out for different States and district wise, e.g. details of migrants of UP, Bihar are then sorted out district wise.
- (iv) List of each district is then sent to concerned District Magistrate and Collector of that respective State for confirmation and no objection certificate for receiving their people.
- (v) After confirmation / NOC received from different District Magistrates, proposal is prepared with detailed list of around 1,200 migrant persons for single train. The list is then sent to DRM (Railway Department) to sanction a train for that route / district of State.
- (vi) After sanction letter is received from DRM (Railway) Office, Collector Office informs respective Mamlatdars with tentative train schedule. Mamlatdars then arrange to see that the leaders called 'Mukadams' of different groups of migrant workers as well as Municipal Councillors, MLAs and office staff are called in person in advance and made to understand that they would be contacted and supplied a list of migrant workers in advance, who alone should be instructed to reach the specified assembly point next day at least 5 to 6 hours earlier than the scheduled time of a departure train.
- (vii) Majority of these migrant workers stay in groups at different places in localities like GIDC, etc. and others in shelter homes, who are then instructed by phone through Mukadams, Municipal Councillors, MLAs, office staff etc. to reach the predecided assembly points. For this purpose, all the staff of the Mamlatdar Office, including Deputy Mamlatdars, Talatis and Clerks are engaged.
- (viii) At the assembly point, these migrant workers are arranged

while maintaining norms of social distancing, for the purpose of carrying out the following specified tasks:

- (a) marking their presence while checking their details relating to addresses of the native States;
- (b) carrying out medical screening and health check up of every individual;
- (c) consuming food and water being served to them.

Pertinently, sheds have been provided at the assembly points, where the aforesaid procedure consumes about 5 to 6 hours.

(ix) Thereafter, Mamlatdars arrange adequate buses of GSRTC to transfer migrant labours to the District Railway Station, while complying the guidelines of MHA regarding social distancing, etc.

(x) Taluka Mamlatdar, SDM staff and other nodal officers deputed by the District Collector remain present at Railway Stations and make sure that all the arrangements are in place including ample sheds and barricades and ultimately, migrant labours are made to board to train while maintaining the norms of social distancing and are once again provided with food packets and water bottles before boarding the train.

(xi) Details of migrant labours so far sent to different States by trains from Ahmedabad District are as under:

State	Number of Trains	Number of Labours
Uttar Pradesh	48	61492
Bihar	7	8865
Orissa	2	2400
Total	57	72757

(xii) Details as regards proposals so far sent to the concerned States for approval are as under:

State	Number of Proposals	Number of Labours
Uttar Pradesh	19	28017
Bihar	6	8896
Orissa	1	1600
Jharkhand	1	1170
Chhattisgarh	5	6937
Uttarakhand	1	1404
Total	33	48024

2. A crowd of migrant workers referred to in a news item titled as 'Migrant workers made to wait for 19 hours in Gujarat to board train to UP' in the edition of 11.05.2020 of Indian Express, is not factually very accurate. In this behalf, after the said reporting, one Mr. R.V Asari, Superintendent of Police (Ahmedabad Rural), was instructed to inquire into the whole episode and report. As per his report, the accurate facts in this behalf are that on 10.05.2020, as per the prepared list of 1195 migrant workers, they gathered at the assembly point at GIDC industrial estate, Village: Changodar, Taluka: Sanand. All the formalities referred to above were taken care of at the said assembly point and that thereafter, they were taken to Viramgam Railway Station in 24 GSRTC buses, and reached there at about 16:45 hours, and thereafter, the process of boarding commenced, and ultimately the train left at 17:30 hours on 10.05.2020. Pertinently, when the process of transferring the listed migrant workers to Viramgam Railway Station was going on, many other migrant workers not referred to in the said list of 1195 persons, took just a chance to gather outside the office of the concerned MLA in Viramgam, who has been actively engaged in informing the listed migrant workers and assisting in the arrangement of bringing the said listed migrant workers to the Railway Station. It has been further reported in this behalf that the crowd of the said migrant workers wanted to see that they are also allowed to board the train, though they were desired on a previous night to wait and keep patience, if their names are not in the list and accordingly not announced. This kind of episode is a matter of rarity so far as the State of Gujarat, in particular, is concerned.

3. Notwithstanding what is mentioned above, it has been decided to take the following two main steps to begin with, to see that the aforesaid incident of crowding by the migrant workers may not reoccur:

- (a) An announcement through local vernacular TV Channels would be made that each of the migrant workers would be able to travel his / her native place and that, therefore, nobody should undertake to visit the assembly point and/or the offices of District / Municipal Authorities, whose names are not included in the list and accordingly not announced in their respective areas.
- (b) On every previous night, an attempt would be made to see that the aforesaid request is reiterated through the Mukadams, Municipal Councillors, MLAs, office staff i.e. the representatives of the Mamlatdar office, while announcing the names of the migrant workers who are to undertake the travelling next day.

4. In spite of developing the above referred system to smoothen and ease the process of transit of the migrant workers, so that they may not have to wait for hours and hours together before they are able to board

the trains, under very rare and exceptional circumstances, such an eventuality is likely to take place, more particularly when the scheduled trains are cancelled. However, in such an eventuality, sufficient care would be taken to see that the norms of social distancing are maintained amongst the said migrant workers and that they would be provided food and other facilities, as the exigencies of the situation may demand.

III. Re: Availability of Medical Aid during complete lockdown period.

1. Pertinently, all the police officers on duty have been instructed to see that even during the complete lockdown, ailing persons are able to reach a hospital or a clinic of their choice and seek immediate medical treatment. This includes access to healthcare facilities, all public and private medical institutions, dispensaries, chemist shops, laboratories, clinics, nursing homes, ambulance services, movement of medical staff, nurses, paramedics and transportation of medical support services. Notifications dated 31.03.2020, 24.04.2020 and 04.05.2020 have been issued by the Commissioner of Police, Ahmedabad, in this regard. Copies of the said notifications are annexed hereto and marked as **Annexure-III (Colly.)**. A few instances of assistance provided by the police personnel in Ahmedabad, in this regard, are as follows:

- Medical check-up of some 28 senior citizens above the age of 80 years of age was facilitated by Sabarmati Police Station officers;
- Police officers transported one Kidney patient residing at Chainpur village for dialysis at Sanjivani hospital at Vadaj daily from his house to the hospital.
- One Gauriben w/o Pratipal Prajapati, aged 45 years, resident of Shahpur Darwaja, was provided a SHE team police vehicle to meet her 90 year old ailing father residing at Maninagar when the police came to know about her problem through an NGO.

2. Considering the newspaper report published on 11.05.2020 in Ahmedabad Mirror regarding police officials stopping people from availing medical facilities, a letter dated 12.05.2020 was issued by the Commissioner of Police, Ahmedabad, taking note of such newspaper article and to allow the patients to visit the doctors uninterrupted. A copy of the said letter dated 12.05.2020, is annexed hereto and marked as **Annexure-IV**. The news report mentioned about the unpleasant experiences of some people who were stopped by Ahmedabad Police when they were going to the Hospital for their respective treatments either for themselves or for their relatives. In the case of Mr. Narayan Bharwad, the Traffic Police Inspector Mr. J.B. Buval alleged to have stopped him, had refuted the allegation by stating that the former had misbehaved with him when he was stopped on the road and he even lodged a complaint in this matter. In

the same news report, the Joint Commissioner of Police went on record clarifying that this is not the general behaviour of Police as they have instructed the person to help people with medical emergencies. The Police have been briefed about what is exempted and what is not during the Lockdown.

3. It is submitted that massive efforts are being made by the police authorities in assisting and supplementing the efforts of other authorities during this pandemic situation. Considering the endeavours of the authorities, there can be no intention to deliberately stop any person so as to cause any harm, per se. It has been witnessed by the authorities that many times, people visiting hospitals do not carry any records and the police officials have no way to check the genuineness of the claims made by such persons. Moreover, considering the prevalent situation and the rising number of cases each day, the police authorities have been extra vigilant in their attempts to prevent wilful defaulters of the guidelines of the lockdown, who not only put themselves at risk but others, as well.

4. It was found that some of the private clinics were not functioning owing to the fear of the pandemic. When this was brought to the knowledge of the Administration, private clinics operators have been requested to run their clinics for providing necessary medical assistance to the needy people. A decision has been taken by the authorities in this regard on 06.05.2020. A copy of the said decision dated 06.05.2020, is annexed hereto and marked as **Annexure-V**. All police officers of the DCP rank, are proactively contacting doctors, holding meetings and persuading them to open their hospitals so that people can avail medical facilities. The doctors are also being contacted via social media. Photographs of one such meeting are annexed hereto and marked as **Annexure-VI**.

5. The Ahmedabad City Police has launched a scheme called "NAMAN" to look after senior citizens of the city. They are looked after by SHE Teams of all police stations. Total 2,855 senior citizens are registered with the police. SHE teams visit their homes regularly. The teams help them in getting medicines, availing medical assistance, if required and also assist in availing any other emergency services. They were also provided ration kits during the lockdown and an SOS mobile application has also been downloaded in their mobile phones so that they can avail tele-medicine facilities during lockdown with the help of one NGO.

6. Any such media report pointing out any shortcoming on part of the administration is being taken seriously and suitable instructions are being given at the supervisory level every now and then, for corrective measures and similar such instructions were given in the above discussed issues, as well."

2 In addition to the aforesaid report, the following further details have been placed on record:

1. *As regards to the news item "In pain? Grin and bear, because cops won't allow you meet your doc" (Ahmedabad Mirror, 11.05.2020) it is humbly submitted on the directions of the Ministry of Home Affairs, Government of India dated 24.04.2020 and the Government of Gujarat under the Disaster Management Act, 2005 to enforce lockdown in order to fight COVID-19 pandemic, the Commissioner of Police Ahmedabad City has issued notifications prohibiting certain activities thereafter. Considering the importance of the healthcare facilities all public and private medical institutions, dispensaries, chemist shops, laboratories, clinics, nursing homes, ambulance services, movement of medical staff, nurses, paramedics and transportation of medical support services have been allowed in the notification.*
2. *It is submitted that people going for purchasing medicines and for availing medical treatment have also been exempted from the restrictions of the Lockdown. Despite the relaxation in the notification it was noticed some of the private clinics were not functioning owing to the fear of the pandemic. When this was brought to the knowledge of the Administration, private clinics operators have been requested to run their clinics for providing necessary medical assistance to the needy people.*
3. *On the report published in Ahmedabad Mirror on 11/05/2020 citing difficulties faced by people in getting access to medical facilities and cops on duty stopping people from visiting the doctors, all Police Officers posted in Ahmedabad have been instructed by the Commissioner of Police office vide a letter on 12/05/2020 to allow the patients to visit doctors uninterrupted. A few instances of assistance provided by the police personnel in Ahmedabad, in this regard, are as follows:*

Medical check-up of some 28 senior citizens above the age of 80 years of age was facilitated by Sabarmati Police Station officers;

Police officers transported one Kidney patient residing at Chainpur village for dialysis at Sanjivani hospital at Vadaj daily from his house to the hospital.

4. *The Municipal Commissioner, Ahmedabad recently requested all private Hospitals to keep open the clinics for medical facilities to be extended to the needy people. All police officers of the DCP rank proactively contacted doctors, held meetings and persuaded them to*

open their hospitals so that people can avail medical facilities. The doctors were also contact via social media.

- 5. Ahmedabad City Police has launched a scheme called "NAMAN" to look after senior citizens of the city. They are looked after by SHE Teams of all police stations. Total 2,855 senior citizens are registered with the police. SHE teams visit their homes regularly. The teams help them in getting medicines, availing medical assistance, if required and also assist in availing any other emergency services. They were also provided ration kits during the lockdown and an SOS mobile application has also been downloaded in their mobile phones so that they can avail tele-medicine facilities during lockdown with the help of one NGO.*
- 6. With reference to the news item "give us food or kill us now" (Ahmedabad Mirror, 11.05.2020) it is stated that, clear cut instructions have been given to the field officers to take care of the footpath dwellers by moving them to Shelter Homes wherever possible and also to provide food and water with the help of volunteers. Further, Ahmedabad Police including the Ellis bridge Police Station Staff has provided 11,000 grocery kits, 3,88,000 food packets, 11,045 Water (drinking) bottles, 23,000 snacks packets etc. to poor people including those dwelling on the road side and foot path with the assistance of charitable trusts and other volunteers.*
- 7. With regard to the news item "migrant workers made to wait for 19 hours in Gujarat to board train to UP" (Indian Express, 11.05.2020), it is submitted that on 10.05.2020, a total of 1,195 migrant workers of Uttar Pradesh origin working in Changodar Village of Ahmedabad District left for Viramgam to catch the exclusive train arranged for the migrant workers to reach their native place Rae Bareilly, Uttar Pradesh. Before leaving Changodar, medical screening was conducted by the Health Department on all the migrant workers leaving for their native place as per the guidelines of the Government of India. Thereafter, the details of the workers were collected and the Office of the Collector, Ahmedabad sent the said details to the Railway Department for booking travel tickets. After taking due permission from the Government of Uttar Pradesh to enter the State the Railway Department issued tickets for the train left at 1700 hrs. on 10/05/2020 to Rae Bareilly, Uttar Pradesh. The concerned officials and staff of the Office of the Mamlatdar, Sanand collected the details pertaining to each of the workers and later the workers were taken to the Viramgam, Ahmedabad Railway Station in 24 buses of Gujarat State Transport Corporation arranged specially for this purpose by the revenue officials of the State. The seating arrangement in the bus*

was made keeping in mind the social distancing aspect during the journey and the workers were provided with food packets and water (drinking) bottles.

8. The workers reached Viramgam, Ahmedabad Railway Station around 16:45 Hours, 10/05/2020 and thereafter the process of the boarding of the workers commenced and by 17:30 Hours the train left for Rae Bareilly, Uttar Pradesh. It is pertinent to note that within 4 to 5 hours' time the workers reached the Railway Station from the Starting Point after following all the procedures mentioned in the guidelines of Government of Gujarat. The workers were so delighted when the train left the Station they expressed their gratitude by clapping and shouted in joy thanking the administration for all the assistance provided by them. Thus it is clear that the news article is not only far from the truth but the real happening.
 9. Regarding the news item "Stop Migrant workers walking home take them to Shelters: DGP" it is submitted that as on date 66 Shelter homes arranged for migrant workers are in existence holding 1338 migrant workers at different places of the State. The strength shelter homes have come down after special trains were arranged for the migrant workers to reach their native place since 02/05/2020 on the instructions of Government of India to lessen the hardships of the migrant workers struck in different places and who want to go back to their native places during the Lockdown of COVID-19 pandemic. The State arranged maximum 198 shelter homes holding 10267 migrant workers at the peak on 18/04/2020 and the numbers have come down when it was decided to arrange conveyance for the stranded migrant workers after the completion of second phase of Lockdown.
 10. The revenue officials identified proper places for the shelter homes with suitable accommodation, food and medicinal facilities without compromising the social distancing. This is apart from requesting the migrant workers and made to stay wherever they are by providing necessary assistance as per the requirements with the help of local public and industrialists. Police staff provided necessary assistance in bringing the stranded workers to the nearby shelter homes whenever they were spotted moving in foot for long distances. As of now 263 Special Trains for 3,33,376 migrant workers of Uttar Pradesh, Bihar, Jharkhand, Orissa, Madhya Pradesh origin were arranged to transport them to their respective native places since 02/05/2020 to 13/05/2020.
6. On any such media reports pointing out any lagging on the part of administration are taken seriously and suitable instructions are given by

the supervisory level every now and then for corrective measures and similar such instructions was given in the above discussed issues too.”

3 Thus, according to the State authorities, all steps necessary to ease the problems, hardships and difficulties faced as on today by the migrant workers are being taken care of. According to the report, if any citizen of the State has any other ailment and needs medical treatment, then they can avail such medical treatment at a private clinic or a private hospital. According to the report, the State Government has directed all the medical practitioners to operate their clinics and attend to the patients. In short, it is the case of the State authorities that all necessary steps are being taken to ensure that the people at large do not have to suffer.

4 Both the reports are ordered to be taken on record.

5 The first thing that we brought to the notice of the learned Advocate General today is the problem with regard to 200 and odd contractual employees working in the House Keeping Department of the Sardar Patel Vallabhbbhai Patel Hospital (SVP Hospital), Ahmedabad. We brought to the notice of the learned Advocate General as well as the learned Government Pleader that yesterday, late in the evening, all the Gujarati TV News Channels, flashed that the employees of the House Keeping Department of the hospital were on the verge of going on a strike as they have not been paid their salary for the month of May 2020. We immediately realised that this is something very serious and would lead to further complications. At this point of time, no employee of any hospital can go on a strike. At the same time, the employees should be paid their salaries in time. No sooner this fact was brought to the notice of the learned Advocate General, then the learned Advocate General immediately called up the authorities concerned and inquired about the same. Mr. Trivedi immediately made a statement that the problem has been resolved and the employees have been paid the salary for the

month of May 2020. Accordingly, this problem was taken care of very promptly.

6 Today, when the matter was taken up for further hearing, we noticed that there are many fresh civil applications filed by different learned counsel. We made ourselves very clear that the matter was kept today only with a view to seek the response of the State Government on the four issues which were raised by us *suo motu*. However, all the learned counsel, who have preferred different civil applications, requested that they have few suggestions to be made so that the Government can look into such suggestions and work in that direction to ease the hardships suffered by the people at large. The following issues were raised in the course of the hearing of the matter:

[1] Why the State Government is not ready to ply the buses almost more than 8000 in numbers owned by the Gujarat State Road Transport Corporation. This issue came to be raised in the wake of the fact that only Luxury buses are being used for the purpose of transporting the migrant workers from one State to the other and also from one district to other district within the State of Gujarat. It is pointed out that a huge amount is being demanded for the purpose of purchasing ticket of a Luxury bus.

[2] It was pointed out that why the funds of RERA meant for the construction workers is not being utilised for the benefit of their well being. This is something to do with the construction workers which are almost two lac in numbers within the State of Gujarat.

[3] It is pointed out that why should the State Government ask any person desirous of going back to his native to pay for the ticket? Why the Government should not bear the expenses for the same?

[4] It was pointed out that why the State authorities should not make use of the community halls, marriage halls, schools, etc, for the purpose of providing shelter to the migrant workers and other labourers and also for quarantine purpose?

[5] It was pointed out that if the migrant workers and labourers want to go back to their native, the contractors or the employers should be asked to pay for their tickets and if the contractors decline, then the Government should bear the expenses. It was also pointed out that necessary legal steps should be taken against the contractors who decline to pay to the labourers.

[6] A lot of concern was expressed on the discharge policy prevailing as on date of the CORONA virus patients. It was pointed out that while discharging the patients, no further test is being carried out. Many other loopholes were pointed out as regards the discharge policy.

[7] It was also pointed out that the State authorities should make necessary arrangements for N-95 masks. The N-95 masks should be provided to all the health workers working in the different hospitals and should also be made available for the general public at large for their safety.

[8] It was pointed out that it is hightime that the State authorities should consider to permit the hair cutting salons to be opened. People are finding it extremely difficult because the salons are closed. It was pointed out that some modalities should be worked out on the basis of which the salons may be permitted to be opened.

[9] It was next pointed out that the services of electrician, other technicians should be made available. Today, if there is any electrical fault in the house, there is no one to take care of.

[10] The other issues with regard to the examination of the students of Standard 10th and Standard 12th were also raised. It was pointed out that the students are in a dilemma. The State authorities should clarify as to when it will be possible to conduct the examination.

[11] It was pointed out that there are lot of problems at Asarva, more particularly, the Government colony.

[12] In the last, something very important was pointed out. This has something to do with the exorbitant amount being demanded by the private hospitals for treating the COVID-19 patients. It was pointed out that few private hospitals have been authorised by the State Government to admit and treat the COVID-19 patients, but, the fees are exorbitant. The fees are running in lacs of rupees and an ordinary man will never be able to afford to avail adequate treatment from a private hospital.

[13] On the other hand, it was pointed out that the Civil Hospital, Ahmedabad as well as the SVP Hospital, Ahmedabad is full. No beds are available as on date. In such circumstances, a COVID-19 affected person will have to reach to a private hospital.

7 The aforesaid are the few aspects which were discussed in the course of the hearing of the matter.

8 There is no doubt that each of the aspects referred to above requires due consideration by the State authorities at the earliest. Mr. Kamal Trivedi, the learned Advocate General, Ms. Manisha Lavkumar Shah, the learned Government Pleader, Mr Mitesh Amin, the learned Public Prosecutor and Mr. Devang Vyas, the learned Assistant Solicitor General of India have taken note of all the aforesaid aspects and have assured this Court to take up the issues with the State Government at the earliest and revert to this Court by the next date of hearing.

9 Today, in the course of the hearing of the matter, we put forward few suggestions to be considered by the State authorities.

[1] The most grave and serious problem as on date within the State is hunger. People are without food, more particularly, the migrants, the labourers and the people hailing from the poor and downtrodden class of the society. In our order dated 11th May 2020, we pointed out that the poor class of society is not worried about the virus, but, they are worried about starvation. We highlighted that on account of complete lockdown, the services which were being rendered by the NGOs, charitable institutions and other volunteers has come to a grinding halt. We request the learned Advocate and the learned Government Pleader to take up this issue with the State authorities and see to it that even during the period of lockdown, some modalities should be worked out by virtue of which few selected and trustworthy NGOs, volunteers and charitable institutions can be asked to provide food to the poor and the needy.

10 According to us as on date, the most important direction necessary to be issued to the State Government is to see that all the private hospitals across the city of Ahmedabad and also situated at the outskirts

work out the modalities with respect to the fee structure. At any cost, the private hospitals should not be permitted to demand exorbitant amount for the purpose of treatment of COVID-19 patients. These are difficult times and not the time to do business and earn profit. The medical services are the most essential services and in times like the present one, the private hospitals cannot demand lacs of rupees from a patient. This aspect has been highlighted by Mr. Brijesh Trivedi, the learned counsel in his note filed by him and which is on record. It is pointed out that the S.V.P. Hospital and the Civil Hospital are fully occupied with the rise in the number of COVID-19 patients requiring hospitalization. Most of the private hospitals requisitioned by the State are also fast filling up. This fact has also been reported by the media. There is large scale spread of infection and everyday hundreds more are being affected. More private hospitals are required to be accorded permission and their rates should be regulated by the State Government for the purpose of COVID-19 treatment. It is to be noted that whilst the designated private hospitals under the Epidemic Act are charging the government rates specified under the MA Yojana with some additions, few private hospitals in the city of Ahmedabad are demanding exorbitant fees running in the lacs of rupees for treating the COVID-19 patients. This excessive charge in this critical war like situation when humanity is fighting for survival is absolutely unjustified and deserves to be deprecated. This is creating an unequal situation for the private hospitals in the city. When so many are clamouring for treatment, the exorbitant rates appear inhumane. Except for the very rich and affluent class of people, such hospitals remain out of reach for most patients. The treatment for this pandemic in this hard times even if offered by any private hospital must be reasonable and affordable.

11 We hereby direct the State Government to address this issue with the persons concerned to ensure that an affordable level playing field for

all private hospitals in Ahmedabad so as to make larger number of beds available for more and more patients. This requires to be done forthwith.

12 We direct the State authorities to immediately take up this issue and resolve the same. If the private hospitals do not budge and are determined to demand exorbitant amount, then this Court will have to take appropriate legal action against such hospitals and the consequences may be quite bitter including cancellation of licence. We request the learned Advocate General to immediately look into this issue and see to it that the same is resolved at the earliest.

13 All other aspects, as pointed out and referred to above, shall be considered by the State authorities to reduce the hardships and the difficulties faced by the people at large as on date.

14 There is one another aspect which we would like to highlight. If a person is ailing and requires immediate medical treatment, then the police should not restrain such a person from reaching to a particular hospital or a clinic of a private doctor. The police should exercise its discretion in this regard wisely and adopt a practical approach in this regard.

15 We would like to seek important information relating to the treatment which is being as on date to the COVID-19 affected patients. We would like to know:

[1] Whether the serum potassium level test is conducted? We are saying so because high or low potassium is life threatening.

[2] Whether quality check or fluid penetration test for the PPE supplied to the doctors and nurses is undertaken? In short, is the

PPE verified for the blood penetration resistance test?

[3] Whether the senior Anaesthetist and the critical care specialist remains physically 24 X 7 in the ICU? We are saying because intubation is important.

We request the learned Advocate General to place this information on record through a responsible medical officer by way of an affidavit.

16 Let all the Civil Applications be notified on **22nd May 2020** along with the main matter. One copy each of this order be furnished to Mr. Trivedi, the learned Advocate General, Ms. Manisha Lavkumar Shah, the learned Government Pleader, Mr. Mitesh Amin, the learned Public Prosecutor and Mr. Devang Vyas, the learned Assistant Solicitor General of India for its onwards communication.

17 We hope and trust that whatever has been observed by us is taken in its true spirit by the State authorities. This is the time for one and all to work unitedly. Differences should be buried. Once again, we observe that this is not the time to educate the migrant workers, poor and the needy people of the concept of social distancing, etc. They will never be able to understand any such concept. They are not worried about the virus. They are worried about food. It would be very harsh to say that a person should not die because of COVID-19, but no problem if he dies because of hunger. Therefore, the entire concentration should be to provide the maximum succour and relief to the migrant labourers and the other members of the poor and downtrodden class of society and ease their pain and suffering.

18 At this stage, we request the learned Advocate General and the

learned Government Pleader to look into the decision rendered by a Division Bench of the Karnataka High Court dated 12th May 2020 in the Writ Petition No.6435 of 2020, wherein the Karnataka High Court has observed as under:

“5. Once there is a policy decision taken by the State Government that all the migrant workers from other States will be permitted to return to their respective States by the special trains, the assurance of the State Government must reach the migrant workers, who have applied for permission to travel. In fact, the entire list of the persons who have applied to travel to other States is available with the State Government as all the migrant workers have registered themselves on Seva Sindu portal.

6. As can be seen from the material placed on record, the migrant workers are in a desperate situation. As they have been deprived of livelihood, they have made up their mind to go back to their respective home States. The State Government must ensure that its assurance that every such migrant worker who has registered himself will be allowed to go back to his own State must reach the concerned migrant worker. Perhaps if such an assurance is communicated to the migrant workers, they will not be forced to make an attempt to travel by road to their respective States. The State Government must take the help of all the Trade Unions and Non Governmental Organisations (for short 'NGOs') who are working in the field to ensure that the assurance of the State reaches the migrant workers who have already registered with the State Government.

7. By way of specific illustration, we may refer to the migrant workers who want to go to the State of Bihar. The State Government can always inform through its agency or NGOs or the Unions to the migrant workers who are selected to travel by ten special trains starting from 16th March 2020 to 20th May 2020. The State must assure that if large number of migrant workers who wish to travel to a particular State are located in one City, the State Government will be arranging for transport from that City as well.

8. It is pointed out across the Bar that many of the migrant workers who want to move back to their respective States have not been paid wages. The grievance about the nonpayment of the wages must be looked into by the State Government and its agencies.

9. Another important issue is of the migrant workers requiring to pay the train fare. As per the order of the Ministry of Railways dated 2nd May

2020, the State Government which arranges for “Shramik” special trains is expected to pay the train fare. In the State of Karnataka, the policy of the State is to collect the train fare from the migrant workers. In case of some States, the concerned State Governments have agreed to pay the train fares of the migrant workers who are returning to the said States from the States in which they are working.

10. *Prima facie*, it appears to us that considering the constitutional rights of the migrant workers, no one should be deprived of an opportunity to go back to his own State only for the reason that he has no capacity to pay for the transport. The reason is that inability to pay is due to loss of livelihood.

11. The Central Government through the Ministry of Railway: will have to look into this issue, especially when the Home Secretary of the Government of India by his letter dated 11th May 2020 addressed to the Chief Secretary of all the States has stated that the State Governments should cooperate with the Central Government for running more number of “Shramik” special trains so that the traveling of the migrant workers is facilitated at ; faster rate. Even in the last paragraph of the said letter, the Home Secretary of the Central Government has urged the Chief Secretaries to receive all “Shramik” special trains without any hindrance and facilitate faster movement of the migrant workers to their native places. If the migrant workers are unable to pay the train fare, it will be impossible to facilitate their travel at a faster rate: Therefore, apart from the Central Government, even the State of Karnataka must look into the issue and take immediate decision on the question of paying railway fare of those migrant workers who are not able to travel due to their inability to pay.

12. The State Government and the Central Government, during this difficult time, must appreciate the major contribution made by the migrant workers in a large number of public projects as well as private projects which have contributed to the Improvement of the infrastructure in all the States and the improvement of economy. At : time when the migrant workers who have made such a huge contribution are facing distress, both the Central and State Government must come forward to help them to ensure that at the earliest, they return back to their home States. Ideally, no migrant worker should be deprived of an opportunity to travel back to his home State if he wishes to do so. Therefore, it will be appropriate If the State Government immediately convenes a meeting of all the Trade Unions, Employers’ Associations and NGOs in the State with a view to ascertain whether any contribution can come from the Employers’ Association, Trade Unions and NGOs which can be used for bearing the main fares of the migrant workers who are not in : position to pay the train fare.

13. Now that the migrant workers who wish to travel back to their

respective States have registered themselves, the State Government is made aware how many migrant workers want to go back to different States. The State Government must, therefore, work out time schedule for facilitating transport of these migrant workers to their respective States. The State Government should ensure that : broad time schedule is communicated to the migrant workers. The State can immediately do so in case of the migrant workers of the State of Bihar, who are going to be accommodated in the special trains which will be run from 16th May 2020 to 20th May 2020. The Central and State Government must find the solution on this issue which will ensure that the rights of those migrant workers who wish to go back to their respective States are not infringed only because they are in distress and are not in a position to pay the traveling charges.

14. The responses of the State and the Central Government on these aspects shall be placed on record on the next date, that is, on 18th May 2020. The State Government must place on record the details of the special trains so far arranged from various places in the State of Karnataka and the special trains which are scheduled to run in near future.

15. Needless to add that considering the delay involved in making available the traveling facilities to the migrant workers, the State Government must ensure that so long as the migrant workers are not leaving the State, the supply of ration/food to them remains uninterrupted.”

19 Post the matter for further hearing on 22nd May 2020 along with the civil applications.

THE HIGH COURT
OF GUJARAT

(J. B. PARDIWALA, J)

WEB COPY

(ILESH J. VORA, J)

CHANDRESH