

In Chamber

Case :- P.I.L. CIVIL No. - 8058 of 2020

Petitioner :- Dileep Kumar Mishra (In Person)

Respondent :- U.O.I. Thru Home Secretary, Govt. Of India & Others

Counsel for Petitioner :- Dileep Kumar Mishra

Counsel for Respondent :- C.S.C.,A.S.G.

Hon'ble Anil Kumar,J.

Hon'ble Saurabh Lavania,J.

Heard Sri Dileep Kumar Mishra (In Person), Sri S.B. Pandey, learned Assistant Solicitor General of India assisted by Sri Varun Pandey and Sri H.P. Srivastava, learned State Counsel.

By means of present writ petition (PIL), the petitioner seeks a direction in the nature of mandamus, from this Court, to the respondents to safeguard the rights of migrant workers/labourers stranded in the State of U.P. and provide the essential necessities like food, drinking water and medical help to them. It is also prayed that a direction may also be issued by this Court to the respondents to ensure that the persons (migrant/labourers), who are moving on the road are not left starving and to provide them transportation free of cost to reach their native place.

In support of his arguments, learned counsel for the petitioner placed reliance on the order dated 21.04.2020 passed by the Apex Court in Writ Petition (Civil)/Diary No(s).10801 of 2020 (Harsh Mander & Anr. Vs. Union of India & Anr.).

Sri S.B.Pandey, learned Assistant Solicitor General of India in matter is issue submitted that the Hon'ble Apex Court passed the judgment and order dated 05.05.2020 in Writ Petition (Civil)/Diary No(s).10947 of 2020 (Jagdeep S. Chhokar & Anr. Vs. Union of India), the same reads as under:-

"The Court is convened through video conferencing.

We have heard Mr. Prashant Bhushan, learned counsel for the petitioners and Mr. Tushar Mehta, learned Solicitor General for the Union of India.

In the writ petition, following prayers have been made:

"a. Issue a writ order or direction to the Respondents to allow migrant workers across the country to return to their

hometowns and villages after conducting necessary testing for COVID-19 and to arrange for their safe travel by providing necessary transportation to this effect; 1 b. Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case."

Mr. Tushar Mehta, learned Solicitor General submits that after filing of the writ petition, the reliefs which have been claimed in the writ petition, have been substantially granted since the Government has issued order on 29.03.2020 accepting for movement of workers, who were migrant workers, pilgrims, tourists and students who had stranded at different places and could not move from one place to another. It is further submitted by Mr. Tushar Mehta that the above was already under contemplation even before filing of the writ petition and the Government was considering the same. He further submits that subsequently further orders have been passed on 01.05.2020 and thereafter for facilitating the movement of the aforesaid category of stranded persons, Government is taking all steps with regard to mitigating the hardship of migrant workers who had stranded.

Mr. Prashant Bhushan, learned counsel has submitted that the migrants have to pay 15% of the ticket fair which is not possible for them to bear at this moment.

Mr. Tushar Mehta, learned Solicitor General has submitted that with regard to ticket fair the appropriate steps have to be taken by the Railways and by the concerned State Government. At this moment, no such statement can be made as to what amount is being taken from the migrant workers. He further submitted that Union of 2 India with the consultation of State Government and Railways are taking all necessary steps for movement of the migrant workers who are stranded.

As noted above, in the writ petition direction was prayed for to the Respondents to allow migrant workers across the country to return to their hometowns and villages after conducting necessary testing for COVID-19 and to arrange for their safe travel by providing necessary transportation. The order dated 29.04.2020 issued by the Government of India, Ministry of Home Affairs subclause (iv) under Clause 17 on movement of persons, the Government of India had allowed the movement by directing all States/Union Territories to designate nodal authorities and develop standard protocols for receiving and sending such stranded persons. The main relief which was sought in the writ petition, thus, stood substantially satisfied by the aforesaid order.

The order dated 01.05.2020 issued by the Ministry of Railways has also been placed before us where the Railways has decided to run "Shramik Special" trains to move migrant workers, tourists, students and other persons stranded at different places due to lock down. Necessary modalities for such transportation has to be implemented by the concerned States/Union Territories in collaboration with the Railways. Insofar as charging of 15% of Railway tickets' amount from workers, it is

not for this Court to issue any order under Article 32 regarding the same, it is the concerned State/Railways to take necessary steps under the relevant guidelines. Certain other difficulties have been pointed by Shri Prashant 3 Bhushan with regard to stranded migrant workers which difficulties are to be addressed and taken care by the concerned State Governments/Union Territories. The substantial relief in the writ petition having been fulfilled we cannot expand the scope of the writ petition to consider other issues sought to be raised by the learned counsel for the petitioners during course of argument. In view of the aforesaid, no purpose will be served in keeping the writ petition pending. Taking note of the statement made by Shri Tushar Mehta, learned Solicitor General and for the reasons as above the writ petition is closed."

Sri S.B.Pandey, learned Assistant Solicitor General of India also placed the order dated 21.04.2020 passed by the Hon'ble Apex Court in Writ Petition (Civil)/Diary No(s).10801 of 2020 (Harsh Mander & Anr. Vs. Union of India & Anr.), which is quoted below.

"The Court is convened through Video Conferencing. This Petition is filed by the petitionerS seeking inter alia, to direct Central Government and the State Government to jointly and severally ensure payments of wages/minimum wages to all the migrant workers within a week. Heard Mr. Prashant Bhushan, learned counsel for the petitioners as also Mr. Tushar Mehta, learned Solicitor General appearing on behalf of the Union of India. Mr. Prashant Bhushan argued that despite governmental measures, thousands of laborers still lack access to basic amenities. The learned counsel further argued that studies conducted by NGOs indicate that there are several areas where the aid is not reaching to the migrant workers. On the contrary, the learned Solicitor General, Mr. Tushar Mehta, has filed a status report and submitted that various measures are in place to address the issues concerning the migrant workers. He further argued that helpline number has been provided to report issues concerning the implementation at the ground level, and that whenever any complaint is received, the authorities are attempting to address the same immediately. Taking into consideration the material placed before us, we call upon the respondent-Union of India to look into such material and take such steps as it finds fit to resolve the issues raised in the petition. With the above observation, the writ petition stands disposed of."

He further submitted that after order passed by the Hon'ble Apex Court, the Government of India (Ministry of Home Affairs) on 19.05.2020 issued an Order No.40-3/2020-DM-I (A) alongwith revised Standard Operating Protocol (SOP) on movement of stranded workers.

It is also submitted that the direction issued by the Union of India shall be followed by the various States.

Sri H.P. Srivastava, learned State Counsel and Sri S.B.Pandey, learned Assistant Solicitor General of India have ensured this Court that the guideline issued by the Ministry of Home Affairs as well as the direction given by the Apex Court will be fully carried out by the State of U.P.

Thus, in view of the above said facts, we direct the learned counsel for the respondents to file status report by way of an affidavit in the matter in issue by the next date of listing indicating therein that what facilities have been provided to the workers/laborers who are keen to reach their native place in the State of U.P., some of which are on the way as also to the stranded workers/labourers in the State of U.P.

List after two weeks before appropriate court.

Order Date :- 21.5.2020

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