

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

SUO MOTU WRIT PETITION (CIVIL) NO.6 OF 2020

IN RE: PROBLEMS AND MISERIES OF MIGRANT LABOURERS

O R D E R

1. We have heard Shri Tushar Mehta, learned Solicitor General of India, Shri Kapil Sibal, senior Advocate, Dr. Abhishek Manu Singhvi, senior Advocate, Shri Jaideep Gupta, senior Advocate, Shri Ranjit Kumar, senior Advocate. Learned counsel appearing for the State of Maharashtra, learned counsel for Human Rights Commission and other counsel.

2. Shri Tushar Mehta, learned Solicitor General submits that subsequent to orders passed by this Court on 28.05.2020 and 09.06.2020, substantial number of migrant workers have returned to their home towns. Whenever, request for running of Shramik Trains was received by the Railways, the trains were

immediately provided for. Most of the stranded migrant workers having returned to their homes, the issue of transportation of stranded migrant workers be closed and in case there are still any grievances, aggrieved person may approach the jurisdictional High Court for appropriate relief.

3. The State of Maharashtra has filed affidavit in reply dated 23.07.2020 in reply to the additional affidavit dated 16.07.2020 filed in I.A.No.49693 of 2020. The affidavit filed by Rajesh Kumar, Additional Chief Secretary(Labour) Industries, Energy and Labour Department, State of Maharashtra itself indicates that some migrant labourers are still awaiting to return to their native places from the State of Maharashtra. Paragraph 9 refers to few figures in different districts. In paragraph 13, reply has been given with regard to list of 52,514 migrant labourers, it has been stated that after verification, it has been found that only 1,137 migrant workers were ready and willing to return

back to their native places. Substantial number of migrant labourers are reported to have reached already their native places. Affidavit further states that in event any complaints are received from migrant workers by Trade Unions, NGOs and other local organization, same should be shared with State Administration which shall be attended promptly. The Affidavit further states that online registration process for Shramik Trains stands resumed.

4. In our order dated 09.06.2020, we have directed all States/UTs to transport all stranded workers by trains or other modes within fifteen days. It appears that in spite of steps taken by the States including State of Maharashtra, there are still migrant workers stranded in different States including State of Maharashtra.

5. We are of the view that State of Maharashtra may take appropriate steps to ensure that stranded migrant workers who are still awaiting to return to their native places shall return to their native

places, at an early date. The appropriate steps be taken in this regard.

6. Insofar as submissions of Shri Tushar Mehta, learned Solicitor General that the issues pertaining to transportation of stranded migrant workers be closed and if there are any grievances by any one, they may be asked to approach the jurisdictional High Court, in our order dated 09.06.2020, in paragraph 25, we have made following observations: -

"25. It has also been brought before us that various High Courts have also taken notice of cases of migrant labourers. High Courts being constitutional Courts are well within their jurisdiction to take cognizance of violation of fundamental rights of migrant workers and we have no doubt that those proceedings shall proceed after considering all aspects including the response of concerned authorities."

7. We have already made clear that those matters of which High Court has taken cognizance, they shall be decided by respective High Courts. No further observations are required in the above respect.

8. In our order dated 09.06.2020, we have referred to three enactments namely:

i) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

ii) Construction Workers(Regulation of Employment and Conditions of Service) Act , 1996 and;

iii) Unorganized workers' Social Security Act, 2008.

9. Submissions have been made before us that necessary registration under the aforesaid enactments have not been made by respective States due to which large number of migrant workers and unorganized labourers are unable to reap benefits of the said enactments. In our order dated 09.06.2020, in paragraph 24, we made following observations:

"24....Reference of enactments, namely, Inter-state Migrant workmen (Regulations of Employment and Conditions of Service) Act, 1979 as well as Construction Workers(Regulation of Employment and Conditions of Service) Act, 1996 have been made to. Reference has also been made to Unorganized Workers' Social Security Act, 2008. With regard to working of the aforesaid enactments and the measures taken by the

different States, we shall consider the response of the States and thereafter shall consider the issues raised regarding short-term measures and long-term measures.”

10. Our above order contemplated response of the States with respect to registration of workers. Although several States have made rules under the above enactments but all necessary details regarding the steps taken by concerned States have not been brought on record. No States have filed Affidavit giving its response with regard to steps taken by the States in regard to aforesaid enactments. In the affidavit filed by State of Maharashtra dated 16.07.2020, State has referred to Maharashtra Unorganized Workers' Social Security Rules, 2013 framed under Workers' Social Security Act, 2008. The affidavit further states that Maharashtra State Social Security Board has been constituted on 03.04.2018 but registration under Unorganized workers Social Security Act has not yet started but about 5,84,219 workers have been enrolled under

Pradhan Mantri Shram Yogi Maan Dhan Yojana.

11. We are of the view that all States/UTs have to file affidavits responding to steps taken by the States/UTs with regard to implementation of above mentioned three enactments. Let affidavit be filed by all the States/UTs indicating the steps taken by them with respect to above mentioned enactments within a period of three months.

12. Shri Kapil Sibal, learned senior counsel, reiterated his submissions that there are no National Disaster Management Plan prepared with respect to Covid-19. He further submits that as required by Section 12 of Disaster Management Act, 2005, minimum standards of relief have not been provided for persons affected by Covid-19 virus. He submits that National Disaster Management Plan of November 2019 as relied by learned Solicitor General does not relate to Covid-19 and as per Disaster Management Act, 2005, National Disaster Management Plan is required to be formulated with respect to

Covid-19 and necessary directions be issued in this regard.

13. Writ Petition(Civil) No.546 of 2020, Centre for Public Interest Litigation versus Union of India, has also been heard along with this Suo Motu Writ Petition No.6 of 2020. Writ Petition(Civil) No.546 of 2020 has specifically raised the issue of National Disaster Management Plan for Covid-19. In the said writ petition, specific reliefs have been also prayed for seeking a direction to the Union of India to prepare, notify and implement National Plan under Section 11 read with Section 10 of Disaster Management Act, 2005, to deal with Covid-19 pandemic and further to lay down minimum standards of relief under Disaster Management Act, 2005, to be provided to the persons affected by Covid-19 virus. There are specific pleading and prayers in the above writ petition in above regard. The hearing in Writ Petition(Civil) No.546 of 2020 has been concluded on 27.07.2020 and judgment has also been reserved.

Issues regarding preparation of National Disaster Management Plan for Covid-19 shall be dealt with in Writ Petition(Civil) No.546 of 2020 while deciding the Writ Petition(Civil) No.546 of 2020 where specific pleading and prayers have been made. Thus, we need not dwell on the above issue any further in this Suo Motu Writ Petition No.6 of 2020.

14. In our order dated 09.06.2020, we have noticed that the task which has now to be undertaken by the concerned States and Union Territories is to maintain record of all such migrant workers, who have arrived at different places. In paragraph 31, we have made following observations:

"...The first step in this regard is to maintain record of all such migrant workers, who have arrived at different places, towns in different States. The details of migrant workers, nature of their skill, place of their earlier employment be maintained in prescribed proforma to be formulated by the concerned State at village level, block level and the district level so that necessary helps can be extended by the State authorities and district authorities to these migrant labourers...."

15. We have also issued specific directions as direction No.(6) to the following effect: -

"(6) The details of all migrant labourers, who have reached their native places, shall be maintained with details of their skill, nature of employment, earlier place of employment. The list of migrant labourers shall be maintained village wise, block wise and district wise to facilitate the administration to extend benefit of different schemes which may be applicable to such migrant workers."

16. None of the States/Union Territories have filed any affidavit giving details of the compliance of the aforesaid direction. The States are required to bring on record the mode and manner in which records of migrant labourers who have reached their native places are being maintained with their skill, nature of employment and other details. Let States/Union Territories may also file affidavits in the above regard within a period of three weeks. In the affidavits to be filed by States/Union Territories, details with regard to compliance of other

directions as issued by this Court on 09.06.2020 be also detailed.

17. Shri Ranjit Kumar, learned senior counsel appearing for the State of Bihar submits that there are already State Plan and District Plan in the State of Bihar under Disaster Management Act, 2005. The State Disaster Management Authority was constituted in the State of Bihar on 06.11.2007 and the District Disaster Management Authorities were constituted w.e.f. 18.06.2008. There is a plan for Disaster Management for every district of the State of Bihar. Funds were allotted in November 2015 towards this and the present crisis is being managed under Disaster Management Act, 2005. Registration of all Migrant Workers coming to Bihar is done on Migrant Portal App on their arrival at their respective Blocks/Block quarantine camps. The issue of Registration by State of Bihar under the abovementioned enactments shall be considered after detail affidavit is filed by the State of Bihar in

the above regard.

18. Dr. Abhishek Manu Singhvi has also made submissions on the issue of food security, health insurance for migrant labourers, presumption of work by migrant labourers and relaxation on insistence on registration. The above issue shall be considered after the necessary affidavits as indicated above are filed by the States/Union Territories.

19. List this writ petition after four weeks alongwith other connected matters.

.....J.
(ASHOK BHUSHAN)

.....J.
(R. SUBHASH REDDY)

.....J.
(M.R. SHAH)

NEW DELHI,
JULY 31, 2020.