

ITEM NO.1 Court 6 (Video Conferencing) SECTION PIL-W

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

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

IN RE : PROBLEMS AND MISERIES OF MIGRANT LABOURERS

(IA No.58769/2021 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 24-05-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) By Courts Motion

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For Respondent(s)

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Intervener	Ms. Indira Jaisingh, Sr. Adv. Ms. Gayatri Singh, Sr. Adv. Ms. Ronita Bhattacharya, Adv. Ms. Nupur Kumar, AOR
IA 62856/21	Mr. Rakesh Dahiya, AOR Mr. Sandeep Chaudhary, Adv. Mr. Aditya Dahiya, Adv.

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

1. In response to our earlier order dated 13.05.2021, counter affidavit has been filed by the Government of NCT of Delhi, affidavit of compliance has been filed on behalf of State of U.P., compliance affidavit on behalf of Government of Haryana, affidavit in reply on behalf of State of Maharashtra, affidavit on behalf of State of Orissa, compliance affidavit on behalf of State of Bihar and affidavit dated 23.05.2021 on behalf of Union of India.
2. By our order dated 13.05.2021, we had also issued three interim directions with regard to NCR region.

3. We have heard Shri Prashant Bhushan, learned senior counsel for the applicant, Shri Tushar Mehta, learned Solicitor General and Smt. Aishwarya Bhati, learned ASG for the Union of India. Shri Maninder Singh for the State of Gujarat, Ms. Garima Prashad for the State of U.P., Shri Ranjit Kumar for the State of Bihar, Shri Rahul Chitnis for the State of Maharashtra and Shri Sanjay Kumar Visen for the State of Haryana.

4. Shri Prashant Bhushan submits that although directions were issued by this Court for disbursement of dry ration to the stranded migrant workers but the same has not yet started. He submits that none of the States have started Atma Nirbhar Scheme for those migrant workers, who have no ration cards. With regard to cooked food, Shri Bhushan submits that adequate number of centres have not been established. He submits that NCT of Delhi has started huge numbers of centres last years whereas number in present year is less. Shri Bhushan submits that cash transfer benefit is not being extended to by several States. He submits that State of NCT has announced cash transfer only to construction workers whereas there are large number of other categories like

rickshaw pullers, street vendors, who all need cash transfers. He submits that unorganized workers are not being registered although more than a year has been passed from starting the process. He submits that benefit of various schemes is being denied to the migrant workers. He submits that the directions with regard to dry rations and cooked food as was issued by Order dated 13.05.2021 should be extended to stranded workers wherever they are stranded throughout the country.

5. In the affidavit filed by the States, steps taken with regard to migrant workers regarding their transportation, cooked food and dry rations have been indicated. In the affidavit of Union of India, it has been stated that in view of the restrictions, the partial lockdown by few States although initially there was exodus of migrant workers especially in State of NCT of Delhi, which was satisfactorily dealt with by NCT of Delhi, State of U.P. and State of Haryana and in the NCR region as on date there is no problem regarding transportation of stranded migrant workers. In affidavit, it has also been mentioned that the Ministry of Railways was advised as early as on 20.04.2021 to manage the exodus of migrant workers from Delhi towards

east. It is submitted on behalf of Union of India that as on date most of the industries are working and there is no such large scale of cessation of employment of workers in the second wave of COVID-19. The Union of India has referred to guidelines issued by the Ministry of Labour and Employment dated 20.07.2020 and other guidelines.

6. Learned counsel for the States - State of Bihar, State of Gujarat, State of U.P. and other States contends that in pursuance of earlier directions of this Court dated 09.06.2020 and 31.07.2020, registration of migrant workers was undertaken and there are records maintained by the States regarding the migrant workers. State of Gujarat in its affidavit regarding registration of unorganized workers stated that the Ministry of Labour and Employment, Government of India has started the process of developing a comprehensive National Database for Unorganised Workers (NDUW) including migrant and construction workers. Common service centres have been designated as enrolment agencies for unorganized workers under the NDUW project. The letter dated 19.04.2021 of the Government of Gujarat has also been brought on record as Annexure-R6, which refers to Centralised Database for

the Unorganised Workers. The letter also refers to orders of this Court dated 11.01.2018 and 21.08.2018 passed in SLP (Cr1.) No. 150 of 2012 by which this Court had directed Ministry of Labour and Employment to develop and deploy a portal for registration of unorganized workers and make it available to the State Governments. The letter further mentions that Ministry of Labour and Employment has accordingly started the process for developing a comprehensive National Database for the Unorganised Workers (NDUW) including migrant and construction workers.

7. Shri Mehta, learned SG submits that instructions shall be obtained from Ministry of Labour and Employment regarding the process of comprehensive National Database for Unorganised Workers, which is said to be initiated under the orders of this Court.

8. In the affidavits, filed by different States, details of the different welfare schemes, which have been enforced in the States which are available for benefit of construction workers, migrant workers have been mentioned. Establishment of common service centres/helpdesk have also been made by different States which are undertaking the registration of migrants under

the earlier orders passed by this Court.

9. We are of the view that for accessing of any benefit percolating from any scheme framed by the Centre or the States for the benefit of unorganized workers or migrant workers, registration of workers is essential, which registration shall facilitate the unorganized workers to assess the scheme and reap the benefit. In the affidavits, there has been mention of registration process by different States. Reference of registration of migrant workers, who return to their native place in wake of lockdown, which was imposed on 24.03.2020, developing a common portal, comprehensive National Database by Ministry of Labour and Employment under orders of this Court dated 21.08.2018 passed in SLP (Criminal) No. 150 of 2012 has also been mentioned. There are separate registration of workers under the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996. Under the Unorganised Workers Social Security Act, 2008, all States have framed the Rules and some States have also undertaken registration under the aforesaid Acts but no State has given any details as to whether registration under the Unorganised Workers Social Security Act, 2008

is complete.

10. We are of the view that registration of unorganized Workers should be completed as early as possible and there should be Common National Database for all organised workers situate in different States in the entire country and we are of the view that process which has been initiated by Ministry of Labour and Employment for creating a National Database for unorgnised workers should be completed with collaboration and coordination of the States, which may serve registration for extending different schemes by the States and Centre.

11. We may also notice that the Unorganized Workers Social Security Act, 2008 now stand repealed by the Code of Social Security Act, 2020 (Act No.36 of 2020 published in the Gazette of India on 29.09.2020). By Section 164 of the Code, several enactments have been repealed including the Unorganised Workers Social Security Act, 2008 and the Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996. In Section 112 of the Code of Social Security, 2020, registration of unorganized workers, gig workers and platform workers is contemplated. Instructions also need to be obtained by learned SG as to steps which are

proposed to be taken by Union of India regarding above.

12. We also impress upon the Central Government and the State Government to complete the process of registration of organized workers at an early date so that unorganized workers are able to reap the benefit of different schemes of the Centre and the States, which without proper registration and identity card seems to be difficult to implement on the ground. Learned SG may file a detailed affidavit with regard to above and as observed by us and a National Database for unorganised workers undertaken by the Central Government under the Ministry of Labour and Employment with collaboration and coordination of the States should be completed at an early date. We grant two weeks' time to Union of India to file an affidavit with the above regard. We are further of the view that there shall be suitable mechanism to monitor and supervise whether the benefits of the welfare schemes reach the beneficiaries which may be from grassroot levels to higher authorities with names & places of beneficiaries so that the purposes for such schemes are floated is achieved.

13. With regard to distributing of dry ration by the States to the migrant workers and to the migrant workers

in the NCR region as directed by us on 13.05.2021, let all States to file affidavits indicating the mechanism by which the dry ration should be distributed to those migrant workers, who does not possess a ration card. Whether the Atma Nirbhar Bharat Scheme of the Union of India, which was implemented for giving dry rations to migrant workers in May and June, 2020 is to be utilized or some other scheme has to be utilized is a matter for States to take a decision but the dry ration has to be distributed to the migrant workers throughout the country by the States.

14. The Union of India in its letter dated 26.04.2020, which has been brought on record as Annexure R-14 has also stated that efforts should be made by States/Union Territories to encourage migrant NFSA beneficiaries to use the facility of portability under One Nation One Ration Card (ONORC) to those migrants.

15. We, thus, direct that migrant workers wherever stranded throughout the country should be provided the dry ration under the Atma Nirbhar Scheme or any other scheme is found suitable by the States/Centre.

16. Coming to the direction regarding Community Kitchen, it is the responsibility of the States/Union Territories

to provide Community Kitchen to the stranded migrant workers, who have lost their employment and are in need of two meals a day, we direct all the States/Union Territories to make operational the community kitchen to the stranded migrant workers wherever they may situate in the country. There shall be wide publicity with respect to the various schemes including the places of community kitchens so that such needy persons may in fact take benefits.

17. Now, coming to the submission of the learned counsel for the applicant regarding direct cash transfer, it is submitted that although few States have made schemes for direct cash transfer to construction workers and different amounts from Rs.1,000/- to Rs.6,000/- have been transferred but no such direct transfer scheme is in place with regard to other unorganised workers.

18. We are of the view that cash transfer is a matter of policy and scheme framed by each State/Union Territory and no direction for cash transfer can be issued by this Court to any category of person unless they are covered by any scheme formulated by the State/Union Territory. In the affidavits, which are to be filed by the States/Union Territories, details of the schemes

regarding cash transfer be also brought on record.

19. Shri Colin Gonsalvis submits that a Writ Petition(C) No.916 of 2020 as well as I.A. No.49686 of 2020 filed in Sou Motu Writ Petition(C) No.6 of 2020 be also listed when the matter comes next.

20. List this writ petition alongiwth Writ Petition(C) No.916 of 2020, I.A. No.49686 of 2020 as well as I.A. No.51637 of 2020 filed by National Human Rights Commission on 11/14.06.2021.

(ARJUN BISHT)
COURT MASTER

(KAMLESH RAWAT)
COURT MASTER (NSH)