

(2021) 05 SC CK 0017

In the Supreme Court Of India

Case No : Suo Motu Writ Petition (Civil) No(S). 6 Of 2020

In Re : Problems And Miseries Of Migrant Labourers Vs

Date of Decision : 13-05-2021

Acts Referred:

Citation : (2021) 05 SC CK 0017

Hon'ble Judges : Ashok Bhushan, J; M.R. Shah, J

Bench : Division Bench

Advocate : Prashant Bhushan, Cheryl Dsouza, Ashwariya Bhati, Kanu Agrawal, Saurab Mishra, Abhimanyu Tiwari, Eliza Bar, Anil Shrivastav, Ranjit Kumar, Manish Kumar, S.C. Verma, Sumeer Sodhi, Manoj Kumar Singh, Simran Agarwal, Chirag M. Shroff, Arun R. Pedneker, Mukti Chowdhary, Tushar Mehta, SG Mrs. Manisha Lavkumar, Deepanwita Priyanka, Anil Grover, Noopur Singhal, Satish Kumar, Sanjay Kumar Visen, Abhinav Mukerji, Mrs. Bihu Sharma, Pratishtha Vij, Tapesk Kumar Singh, Kumar Anurag Singh, Aditya Pratap Singh, Bhaswati Singh, Anando Mukherjee, Shubhranshu Padhi, Jishnu M.L., Priyanka Prakash, Beena Prakash, G. Prakash, Rahul Chitnis Sachin Patil, Aaditya A. Pande, Geo Joseph, Pukhrambam Ramesh Kumar, Anupama Ngangom, Karun Sharma, Amit Kumar, Avijit Mani Tripathi, Shaurya Sahay, Chetan Joshi, Aditya Shanker Pandey, Sunny Choudhary, Kameshwar Nath Mishra, Arjun Garg, Siddhesh Kotwal, Astha Sharma, Arshiya Ghose, K. Enatoli Sema, Amit Kumar Singh, Apratim Animesh Thakur, Prachi Hasija, Ashok Parija, Gen. Sibho Sankar Mishra, Karan Bharihoke, Neha Sahai Bharihoke, Dr. Manish Singhvi, Sandeep Kumar Jha, Raghvendra Kumar, Anand Kumar Dubey, Narendra Kumar, Shuvodeep Roy, Jayanth Muthuraj, M. Yogeshkanna S. Udaya Kumar Sagar, Sweena Nair, Garima Prashad, Dr. Abhishek Atrey, Vidyottma Jha Ambika Atrey, Suhaan Mukerji, Vishal Prasad, Nikhil Parikshith, Abhishek Manchanda, Sayandeep Pahari, K.V. Jagdishvaran, G. Indira, Nikhil Goel, Naveen Goel, Dushyant Sarna, Vinay Mathew, Tushar Mehta, K.M. Nataraj, Kanu Agarwal, Rajat Nair, Saurabh Mishra, Shashi Juneja, Pinky Behera, Raj Bahadur Yadav, V. G. Pragasam, S. Prabu Ramasubramanian, Nitin Mishra, Mitali Gupta, Colin Gonsalves, Gunjan Singh, Mohit Paul, Sunaina Phul

Judgement

We have heard Shri Prashant Bhushan, learned counsel for the applicant, Shri Tushar Mehta, learned Solicitor General of India, Shri Ashok Parija,

learned Advocate General of Odisha, Shri Rahul Chitnis, learned counsel for the

State of Maharashtra and other learned counsel.

[1] This IA has been filed in Suo Motu Writ Petition (Civil) No.6 of 2020 (In Re: Problems and Miseries of Migrant Labourers).

[1.1] In the year 2020 when the Nationwide lockdown was imposed on 24.03.2020 migrant labourers were the great sufferers because of cessation of their employment, they being left with no financial support to sustain themselves they were large exodus from metro cities like Delhi and Bombay.

[1.2] This Court in the writ petition has issued various directions including orders dated 09.06.2020 and 31.07.2020. This Court on 09.06.2020 and

31.07.2020 had directed all the States and Union Territories to provide transport to all stranded migrant workers within 15 days. In view of the surge

of second wave of COVID-19 which witnessed after March, 2021, NCT of Delhi and other States have brought fresh restrictions, night curfews and

lockdowns in April, 2021. The applicant pleads that in April, 2021 due to restrictions, curfews and lockdowns in the State of NCT of Delhi, State of

U.P., State of Haryana in the entire NCR region, there has been loss of livelihood of migrant labourers and they have started to moving to their home

Districts fearing that lockdown may continue bringing more miseries to them. The applicant highlights that exorbitant fares being charged from migrant

labourers who wanted to go home by private bus owners ranging from 4 to 5 times of normal fares. The applicant prays that the last year Central

Government has announced Atma Nirbhar Bharat Scheme where for the period of two months May and June, 2020, 5 kgs of food grains and one kg

of pulses were declared to be given to the migrant labourers who were not covered by the Public Distribution System under the National Food

Security Act. The applicant also referred to Pradhan Mantri Garib Kalyan Ann Yojana. The applicant's prayer is that the Central Government and

State Governments immediately put in place mechanisms to provide rations to all migrant workers and their families who have been excluded from the

National Food Security Act and PDS programmes. The applicant's case is that at the time of such immense crisis, self-declaration on need of rations

should be accepted to ensure maximum access for the marginalised.

[1.3] The applicant has also prayed that it is crucial to provide free cooked food through networks of community kitchens, hunger relief and feeding

centres especially at places where distressed migrant workers are congregating

such as industrial areas, homeless shelters, bus stations, train stations and other areas. The applicant's prayer is that the migrant labourers who want to go to their home town should be extended transport facilities by the State Governments to reduce their miseries references to Newspaper's reported dated 20.04.2021, Times of India have been made, newspaper reported regarding over-charging of fares by the private vehicles has also been highlighted. The applicant prays that authorities must ensure for those migrant labourers who wish to go back to their villages for which purpose necessary transport may be provided by the Central and State Governments. It is further pleaded that effective dissemination of information about all welfare schemes put in place for migrant workers which will be published so that migrant labourers may access the schemes.

[2.0] After having heard learned counsel for the parties we direct the Central Government as well as the Government of State of NCT of Delhi, State of U.P. and State of Haryana (for the Districts included in the NCR) to file a reply to the application suggesting means and measures by which they shall ameliorate miseries of stranded migrant labourers. We also issue notice on the application to State of Maharashtra, State of Gujarat and State of Bihar to file their reply giving the details of the measures which they propose to take to ameliorate the miseries of migrant workers regarding transportation of stranded migrant workers and providing dry ration as well as cooked meals to the stranded migrant workers. In the meantime, we issue following interim directions:

(1) Dry ration to migrant workers in National Capital Region under Atma Nirbhar Bharat Scheme or any other scheme be provided by the Union of India, NCT of Delhi, State of U.P. and State of Haryana utilising the Public Distribution System prevalent in each State with effect from May, 2021.

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.

(2) NCT of Delhi, State of U.P. and State of Haryana (for the Districts included in the NCR) shall ensure that adequate transport is provided to stranded migrant labourers (in the National Capital Region) who want to return to their home. The District Administration in coordination with Police

Administration may identify such stranded migrant labourers and facilitate their transport either by road transport or train. The Union of India may also

issue necessary instructions to Ministry of Railways to take necessary and adequate measures to cater the need of migrant labourers.

(3) NCT of Delhi, State of U.P. and State of Haryana (for the Districts included in the NCR) shall open community kitchen at well- advertised places

(in the National Capital Region) for stranded migrant labourers so that they and their family members who are stranded could get two meals a day.

[3.0] In our earlier order dated 09.06.2020, in paragraphs 24 and 31, we noted and observed as under:

24. An application was filed by National Human Rights Commission for intervention, which has been allowed. In the application the National

Human Rights Commission has referred to six instances where the National Human Rights Commission has taken suo motu cognizance of the issues

and had issued notices to various Government departments. We have no doubt that National Human Rights Commission shall take those proceedings

to its logical end. National Human Rights Commission has also suggested certain short-term measures and long-term measures to ameliorate the

conditions of the migrant workers. 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 Unorganised 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.

31. As noted above, majority of stranded workers have reached at their native places. The second major task which has now to be undertaken by the

concerned States and Union Territories is of taking care of those migrant workers/labourers who have returned to their native places after cessation

of their employment. 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. Counselling centres be set up by the concerned State at block level and the district level to provide

all information regarding Government schemes and other avenues of employment to these workers and where possible to expand the avenues of

employment to these workers so that they may not sit idle and they may be utilised as a resource by the State. Various counsel appearing for the

States and other counsel have also submitted that some of the migrant labourers, who got themselves registered to return to their native place have

changed their mind and after reopening of the industries and factories they have re-joined employment and are not willing to return. It is further

submitted that some of the migrant workers who have returned to native place, now are willing to come back to their place of employment and are

ready to undertake return journey in search of the employment. The State may also provide necessary information and facilitate the return of the

workers who want to return to their employment. Necessary information should be provided by the State in this regard by creating help desk with the

help of railway authorities and road transport authorities. Apart from schemes, which are run by the Central Government for the benefit of people in

the country, each State have also their own schemes taking care of different aspects including providing avenues for employment. Migrant labourers

and other needy persons should be made aware of all schemes through counselling centres and help desk which may be established by the States at

district levels and block levels to extend helping hand to large number of migrant workers. We are also of the view that all States and Union

Territories should bring on record the different schemes which are enforced in the concerned State which may benefit these migrant labourers so that

it may also be examined by this Court for issuing appropriate direction in that regard.â??

Thereafter, we granted two weeksâ?? time to all the States and Union Territories to submit additional affidavits in response to various aspects, as

noticed in the said order. The Central Government was also directed to bring on record different schemes which can be taken by migrant labourers

which may also be taken by additional affidavits within two weeks.

Thereafter, in paragraph 35(6), it was directed as under:

“(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.”

That, thereafter the matter again came up for hearing on 31.07.2020 and discussed in detail the issue with respect to the migrants and also noted the earlier order dated 09.06.2020 referred to hereinabove in paragraphs 14 to 16. We also noted the submissions made by the learned Counsel appearing for respective parties on the issue of food security, health insurance for migrant labourers, presumption of work of migrant labourers and relaxation on insistence of registration. We observed that the above issue shall be considered after the necessary affidavits as directed above are filed by the States/Union Territories. Thereafter, by order dated 01.09.2020, the Court granted further two weeks’ time to the States/Union Territories to file their responses and the steps taken on the aforesaid issues. It appears that most of the States have not filed their specific responses on the aforesaid issues and if filed, they are inadequate. Therefore, as a last chance, we give further 10 days’ time to NCT of Delhi, State of Uttar Pradesh, State of Haryana, State of Bihar, State of Gujarat, State of Maharashtra and State of Orissa to file their specific responses on the aforesaid issues more particularly referred to in our earlier orders dated 09.06.2020 and 31.07.2020 referred to hereinabove and steps taken or to be taken and within how much time necessary required steps to be taken. For the time being we have issued directions to file the response/counter on the aforesaid issues to the aforesaid States only. With respect to other States, further directions shall be issued hereinafter.

Put up on 24th of May, 2021.

Counter as indicated above shall be filed one day in advance.