

(2020) 04 KAR CK 0039

In the Karnataka High Court

Case No : Writ Petition No. 6693 Of 2020 (GM-RES-PIL)

Mallikarjuna A

APPELLANT

Vs

Government Of India & Others

RESPONDENT

Date of Decision : 21-04-2020

Acts Referred:

Citation : (2020) 04 KAR CK 0039

Hon'ble Judges : Abhay S. Oka, CJ;B.V. Nagarathna, J

Bench : Division Bench

Advocate : M.B. Nargund, M.N. Kumar, M.Dhyam Chinnappa, Vikram Huilgol

Final Decision : Dismissed

Judgement

Abhay S. Oka, CJ

1. We have heard the petitioner appearing in person. The only prayer made in this petition reads thus:

â??Issue a writ of Mandamus directing the respondents, to screen all the migrant laborers, both interstate and intra state for COVID-19,

who ever are willing to go back to their home towns and see that all negative tested cases be dropped to their home towns using the State or

Central transporting facility without charging anything, without any further delay.â??

2. On 29th March 2020, the Ministry of Home Affairs, Government of India has issued a direction that the migrant people who have moved out to

reach their home states/home towns must be kept in the nearest shelter by the respective State/Union Territory Governments. The further direction

issued is to provide quarantine facilities after proper screening for a minimum period of 14 days as per the standard health protocol. There is also a

direction issued to the State/Union Territory Governments to ensure that adequate arrangements are made for providing temporary shelters and

provision of food for the poor and needy people, including the migrant labourers stranded due to lockdown measures in the respective areas.

3. The petitioner appearing in person relies upon the Standard Operating System issued by the Central Government on 19th April 2020 for movement

of the stranded labour which provides that in case of a group of migrants who wish to return to their places of work within the State where they are

presently located, they should be screened and those who are asymptomatic should be transported to their respective places of work. The submission

of the petitioner appearing in person is that if a labourer who is asymptomatic can be permitted to be transported to his place of work, there is no

reason why he should be denied of an opportunity to go back to his house. He submitted that the act of placing the migrant workers in quarantine or in

the shelters completely violates the fundamental rights of the migrant workers under the Constitution of India. He submitted that the fundamental

rights of the migrants cannot be violated by detaining them in the shelters or in quarantine facilities and therefore, neither the Government nor the

Courts can prevent the migrant workers from reaching their respective homes. Lastly, he submitted that the migrants cannot be put in quarantine or

shelters for indefinitely long period.

4. We have considered the submissions. Firstly, we must note here that the Writ Court is dealing with the extraordinary situation arising out the spread

of COVID-19. Secondly, the petitioner has not challenged the order dated 29th March 2020 which enjoins the State Governments and the Union

Territory Governments to ensure that the migrants who have moved out to reach their home states/home towns must be kept in the nearest shelters

with quarantine facilities.

5. Though the petitioner appearing in person submits that in this petition, a challenge to the order dated 29th March 2020 should be considered, we are

unable to consider the said prayer in the absence of any substantive challenge to the order dated 29th March 2020. Thirdly, in the main Writ Petition

No.6435/2020 and other connected matters, this Court is dealing with the issue of providing proper shelter to the various categories of migrants,

homeless and other persons belonging to the marginalized sections of the

Society. This Court is also monitoring the aspect of providing adequate food to the migrants. In fact, the directions in this behalf have already been issued.

6. Fourthly, the reliance placed on the Standard Operating System issued on 19th April 2020 will not help the petitioner. The Standard Operating

System provides that in the event migrants wish to return to their places of work within the State where they are presently located, they would be

screened and those who are asymptomatic would be transported to their respective places of work. This direction ensures that the migrant workers

get employment at their respective places of work wherever such work is permissible. The Standard Operating System specifically reiterates that no

movement of the labourers outside the State/Union Territory from where they are currently located is permitted.

7. In view of the aforesaid reasons, we are unable to entertain this writ petition containing the prayer which we have quoted above. Grant of such a

prayer will run completely contrary to the order dated 29th March 2020 of the Ministry of Home Affairs, Government of India. Hence, we decline to

entertain this writ petition and the same is rejected.