

SECTION: PIL

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. No. _____/2020

IN

SUO MOTU WRIT PETITION (CIVIL) NO (S) 6/2020

IN THE MATTER OF:

IN RE: PROBLEMS AND MISERIES OF MIGRANT LABOURERS
...PETITIONER

AND IN THE MATTER OF:

HARSH MANDER & ORS. ...APPLICANTS

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Prashant Bhushan

(PRASHANT BHUSHAN)
COUNSEL FOR THE APPLICANTS
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SUPREME COURT OF INDIA
NEW DELHI-110 001

NEW DELHI
DATED: 15.07.2020

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. No. 50577/2020

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ANJALI BHARDWAJ

JAGDEEP S. CHHOKAR

...APPLICANTS

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COUNSEL FOR THE APPLICANTS: **PRASHANT BHUSHAN**

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...APPLICANTS

ADDITIONAL AFFIDAVIT ON BEHALF OF THE APPLICANTS

I, Anjali Bhardwaj,

do hereby

solemnly affirm and state on oath as under:

1. That I am one of the applicants in the above mentioned intervention application and being familiar with the facts and circumstances of the case, I am competent and authorized to swear this Affidavit. I have been authorised by the other applicants Mr. Harsh Mander and Mr. Jagdeep Chhokar, to swear this affidavit on their behalf as well.

2. This Hon'ble Court, vide order dated 26th May 2020 in Suo Motu Writ Petition No. 6 of 2020, took cognizance of the problems and miseries of migrant labourers who have been stranded in different parts of the country. The order noted that "newspaper report and media reports have been continuously showing the unfortunate and miserable conditions of migrant labourers walking on-foot and cycles from long distances". The applicants filed an intervention application seeking to bring to the court's notice certain important aspects of the miseries being faced by migrant workers. Vide the said intervention, the applicants submitted that the following two key issues were at the heart of the problems and miseries being faced by migrant workers during the lockdown:
 - (i) Loss of livelihood and means of income resulting in people being unable to pay for rent and food.
 - (ii) Lack of proper arrangement for safe and free travel back to their hometowns and villages

3. This additional affidavit seeks to highlight the continuing food insecurity of the migrants since there has been no extension of the Food Security Scheme for migrant labourers and provision of free cooked food has been discontinued. There has also been no report regarding the compliance with the MHA order dated 29th March 2020, regarding payment of wages.

No Extension of Food Security Scheme for migrant labourers & discontinuation of provision of free cooked food

4. Under the AtmaNirbhar Bharat Scheme, announced in May 2020, the Central government, taking cognisance of the fact that most migrant workers are left out of the purview of the Public Distribution System under the National Food Security Act, declared that for 8 crore migrant workers, the government will provide 5 kg of food grains per person and 1 kg of pulses per family, free of cost, for a period of 2 months i.e. May and June 2020. This scheme was to cover migrant labourers, stranded persons, who are not covered under the National Food Security Act (NFSA) or State scheme PDS cards. The details of the scheme are given in Para 5(x) and accompanying Annexure- A8 of Affidavit dated 8.7.2020 filed on behalf of the Ministry of Home Affairs. Para 5(x) is reproduced below:

“ x. Ministry of Consumer Affairs, Food & Public Distribution under the Atma Nirbhar Bharat Scheme issued a State/UT wise allocation of 8 lakh MT of foodgrains (7 LMT Rice and 1 LMT wheat) to all States/UTs for free of cost distribution at the scale of 5 kg per person per month for a period of two months i.e. May & June 2020 to about 8 crore to migrant/stranded migrant persons who are neither able to access foodgrains through NFSA nor through any other State PDS scheme during the precarious COVID-19 situation. The details of such scheme is annexed as Annexure A-8”

5. However, the scheme for food security of migrant workers has not been extended beyond the 2 months, despite a declaration of National Disaster under the Disaster Management Act, 2005 still being in force and despite no measure of normalcy having

returned in the country and in the lives of migrant workers. This is a violation of the right to food and right to life of crores of people and will cause further distress among migrant workers.

6. As per the Ministry's own statistics, this scheme for food distribution had been underutilised. Out of eight lakh tonnes allotted to the States, only 6.39 lakh tonnes had been picked up. Out of this only 2,23,433 tonnes of food grains was given to 2.24 crore beneficiaries in May and 2.25 crore beneficiaries in June. These figures show that despite the scheme, the food grains and pulses reached only a fraction of those without rations cards due to problems with identification of beneficiaries and then in distribution by the States. Despite this, only the date for distribution of this quota (for May-June) under the scheme has been extended till August 31 but the scheme itself remains for two months.

(A copy of the Hindu report dated 9th July 2020 titled, "Deadline for distribution of food grains extended till August 31" is annexed as **Annexure AA1**(Page 11 to 12).

7. It is submitted that unless a proper system for accountability is set up in each state, the benefits of the scheme are unlikely to reach the intended beneficiaries i.e. migrant workers. The Chief Secretaries of each state must be made personally responsible for ensuring that identification of migrant/stranded persons is completed in a time-bound manner and the full quota allocated to each state is distributed within 15 days. Further, a simple

criteria for identifying the migrant workers should be used such as self-certification as insistence on cumbersome procedures or production of documents will exclude the most vulnerable and marginalised. At a time when people are struggling due to loss of income generating capacities and economic distress, it is inexplicable that governments are not lifting and distributing foodgrains.

8. It is pertinent to note that in contrast the Central Govt has extended the Pradhan Mantri Garib Kalyan Ann Yojana (PMGKAY) till November 2020 vide which existing ration cardholders will be provided additional 5 kgs of grains per person and 1 kg of pulse per household free of cost on account of the continuing economic distress among people. This shows that the central government is well aware of the fact that people, especially those in the informal sector, daily wagers, labourers and marginalized require continued assistance to survive and have two square meals a day. In such a scenario not extending scheme for providing rations to migrant workers who have been hit the hardest by the crisis and whose desperate plight led the Hon'ble Supreme Court to take suo motu cognisance of the matter, is in violation of the fundamental right to food of people as protected under article 21. Provision of rations for migrant workers for merely 2 months is woefully inadequate. These migrant workers as stated by the government are not covered under the Food Security Act and do not possess ration cards, and therefore will

have no modicum of even basic food security during the ongoing crisis.

9. The situation of hunger and food insecurity is especially dire as in several states the provision of free cooked meals through shelters and relief centres has been discontinued. For instance in Delhi government has issued orders on 9.6.2020 to close all hunger relief centres which were providing hot cooked meals free of cost. The provision of cooked food through homeless shelters has also been discontinued wef July 1, 2020.

The discontinuation of provision of free cooked food through shelters and relief centres is extremely concerning. Many migrant workers who have returned from their villages have not found employment or have only found part time employment, earning a fraction of the wages and therefore, are unable to afford shelter and food.

(A copy of the said order by Government of NCTD dt. 06.06.2020 is annexed as **Annexure AA2 (Page 13 to 1)**).

No report regarding compliance with MHA order on payment of wages

10. One of the key issues highlighted by the intervenors in their affidavit dated 4th June 2020, was the problems and miseries of migrant workers on account of loss of livelihood and means of income resulting in people being unable to pay for basic needs.

11. It was submitted in the afore-mentioned affidavit that taking cognisance of the severely harsh impact on the workforce, the MHA, exercising powers under the Disaster Management Act vide its order dated March 29, 2020 directed the State Governments/Union Territory Governments to take all necessary steps and issue necessary orders to ensure, inter alia, that all employers shall make payment of wages to their workers, without any deduction for the period their establishments are under closure during the lockdown. The MHA order was in force from March 29, 2020 to May 17, 2020 and during this period all employers were under obligation to make payment of wages of their workers. However, despite the order, there were reports from across the country of workers not being paid wages for the duration of the lockdown and while the order was in force. It was submitted that there is no information in the public domain regarding the status of implementation of this order and steps taken by concerned governments and authorities to ensure compliance. However, till date, no report regarding compliance with this order has been filed by the Union of India or the state governments.
12. It was further submitted that as there was no provision in the order for financial security in the form of a basic subsistence allowance or cash transfer for people who were self-employed or working in small informal set ups which have shut operations due to the losses during lockdown, the government must ensure

financial assistance to compensate for losses suffered. This is key to enable people to secure a life of dignity as guaranteed by Article 21 of the Constitution of India by enabling them to provide for their own basic needs and those of their families- shelter, food, medical needs, children's education etc. Monetary assistance will also enable people to restart and restore their means of livelihood as the lockdown eases and economic activity resumes. Provision for such relief would be within the framework of the Disaster Management Act, 2005 which allows the National Disaster Management Authority under section 12 to lay down guidelines for minimum standards of relief to be provided to persons affected by disaster, including assistance for restoration of means of livelihood and any such relief as may be necessary.

PRAYERS

The applicants therefore pray that:

- a. This Hon'ble court issue a direction to the Union of India to extend its scheme of providing dry rations under the Atma Nirbhar Bharat Scheme, or any other scheme designed for that purpose to the 8 crore migrant labourers/ stranded or needy persons who are not covered under the National Food Security Act (NFSA) or State PDS cards and were identified under the said scheme, for atleast the next 12 months or to ensure their inclusion under the National Food Security Act by issuance of ration cards.

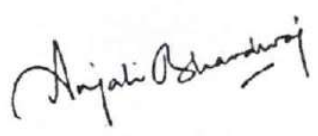
- b. This Hon'ble court issue a direction to the Union of India and state governments to set up a proper mechanism with the Chief Secretary of each state being responsible for ensuring time-bound implementation of the scheme for distribution of foodgrains to migrant workers.

- c. This Hon'ble court issue a direction to the Union of India and state governments to continue the provision of free hot cooked meals through designated relief camps and shelters for atleast the next six months till December 2020.

- d. This Hon'ble court issue a direction to the Union of India, to file a compliance report with respect to its order dated March 29, 2020, which directed state and union territory governments to ensure that industry, shops and commercial establishments make payment of wages of their workers, on the due date, without any deduction, for the period their establishments were under closure during the lockdown.

- e. This Hon'ble court issue a direction to the Union of India and state governments to provide financial assistance to workers who were self-employed and those whose workplaces shut operations due to the economic hardships during lockdown, at the rate of 50% of prevailing

minimum wages for a period of six months wef the commencement of the nation-wide lockdown.

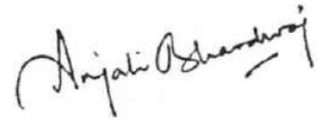


DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at New Delhi on this 15th of July 2020.



DEPONENT

THE HINDU

Deadline for distribution of free food grains extended till August 31

NEW DELHI:, JULY 09, 2020 22:29 IST

The measure under Atmanirbhar Bharat Mission is aimed at migrant workers who didn't have ration cards.

The Narendra Modi government has extended the deadline for distribution of free food grains under the Atmanirbhar Bharat Mission allocated to State governments, which was aimed at migrant workers who didn't have ration cards, by a month, till August 31.

Ten States seek extension of free food grains scheme

Union Minister for Food and Public Distribution Ramvilas Paswan said the scheme was launched on May 15 and the identification process of genuine beneficiaries took some time. "This scheme is for any one who doesn't have a ration card. The beneficiary may or may not be a migrant worker. It is up to the States to decide how they want to distribute it," Mr. Paswan said. He said that now States could complete distribution of balance of allocated food grains and pulses.

Under the Atma Nirbhar Bharat Package, 5 kg of free food grains per person and 1 kg of free whole gram per family has been distributed to migrant labourers, stranded and needy families, who are not covered under the National Food Security Act (NFSA) or State scheme PDS cards.

Scheme underutilised

The scheme has been underutilised, as per the Ministry's own statistics. Out of eight lakh tonnes allotted to the States, only 6.39 lakh tonnes has been picked up and out of this too, only 2,32,433 tonnes of food grains given to 2.24 crore beneficiaries in May and to 2.25 crore beneficiaries in June. Mr. Paswan said that around 33,620 tonnes of whole gram had been dispatched to the States and Union Territories. A total of 32,968 tonnes of whole gram had been lifted by various States and Union Territories, of which 10,645 tonnes had been distributed.

20 million tonnes

Around 20 million tonnes of foodgrains have been earmarked for free distribution to Antyodaya Anna Yojana (AAY) and Priority Household (PHH) cardholders up to November in the country.

Of this quantity, rice will account for about 11 million tonnes and wheat 9 million tonnes. Being carried out as part of the Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY), the free distribution of foodgrains is meant to be given as additional entitlement to the beneficiaries at the rate of five kg per month for five months — July to November.

State-wise allocation

Issuing a State-wise allocation order on Wednesday, the Department of Food and Public Distribution in the Union Ministry of Consumer Affairs, Food and Public Distribution made it clear that the allocation would be in addition to the regular monthly allocation to the States and Union Territories under the National Food Security Act (NFSA).

Among the States with the details of allocation of foodgrains are Uttar Pradesh – approximately 3.6 million tonnes; Bihar - 2.17 million tonnes; Maharashtra – 1.75 million tonnes; Madhya Pradesh – 1.36 million tonnes and Rajasthan – 1.11 million tonnes.

Southern region

Unlike in the north and Maharashtra where both wheat and rice have been allotted more or less in equal measure, the southern region has been given predominantly rice with minimum amount of wheat. Karnataka will get about 1 million tonnes of foodgrains; Tamil Nadu - 0.89 million tonnes; Andhra Pradesh – 0.67 million tonnes; Telangana – 0.479 million tonnes and Kerala - 0.387 million tonnes. Around 15,860 tonnes of rice have been earmarked for Puducherry.

In the first round of PMGKAY, which lasted between April and June, around 90% of the allocated quantity of foodgrains — a little over 11 million tonnes of foodgrains including 9.58 million tonnes of rice — was lifted by the States and Union Territories from the Food Corporation of India as on June 14, according to the Central department's portal on distribution of foodgrains under the PMGKAY.

(With inputs from T. Ramakrishnan in Chennai)

<https://www.thehindu.com/news/national/deadline-for-distribution-of-free-food-grains-extended-till-august-31/article32035840.ece>

P.B.
(TRUE COPY)

ANNEXURE AA2



GOVT OF NCT OF DELHI
OFFICE OF THE DISTRICT MAGISTRATE (SOUTH)
M.B. ROAD, SAKET, NEW DELHI-110068

F. No. ADM (SOUTH)/DDMA/2020/COVID-19/1047-1056

Dated: 08.06.2020

ORDER

The Government of NCT of Delhi had decided to provide food for people at Hunger Relief Centre for homeless/deprived/poor/distressed persons of society in view of COVID-19 lockdown through mid-day meal vendors vide Order No. F.No.DDMA/COVID/2020/173 dated 26/03/2020.

For this purpose more than 60 locations were designated vide order Nos F. No. ADM (SOUTH)/DDMA/2020/COVID-19/635-642 dated 29/03/2020, F. No. ADM (SOUTH) / DDMA /2020/COVID-19/643-649 dated 29/03/2020 & F. No. ADM (SOUTH)/DDMA/2020/COVID-19/650-657 dated 31/03/2020 and subsequent orders in this regard as 'Hunger Relief Centers' under South Delhi District, where meal /Jan Aahat (packed food packets), twice a day, were being provided to the needy persons at these locations.

Now, as the migrant labourers / People in distress have already been sent to their home states and most of the activities has already been started, therefore it has been decided that food distribution at these 'Hunger Relief centres' may be stopped with effect from 09.06.2020 (Evening).

Further the Officers / Officials deputed for this purpose shall report to Office of ADM (South) at Dharamshala / Guesthouse of Chhattarpur Mandir, Chhattarpur and the CDVs shall report to their concerned wardens, for further directions.

This has been issued with the prior approval of District Magistrate/Chairperson DDMA South Delhi district.



ADDITIONAL DISTRICT MAGISTRATE/CEO, DDMA
SOUTH DELHI DISTRICT

ARUN GUPTA, DARIGUS
Addl. Distt. Magistrate
Distt. South, Delhi
M.B. Road, Saket, New Delhi

To

1. The People Welfare Society (Regd.) House No. 50, Near BSES Office Village Fatehpur Beri, New Delhi-110074
2. M/s Centre For National Development Initiative, Plot No. 3, Rata Marg, Sangam Vihar, New Delhi-110062
3. M/s The Nav Prayas, Kh. No.647, Raugpuri Extension, Kapushera, New Delhi-110037

Scanned with CamScanner

P.B.
(TRUE COPY)

F. No. ADM (SOUTH)/DDMA/2020/COVID-19/1047-1056

Dated: 08.06.2020

Copy for kind information to:

1. Sh. Vikas Anand, IAS, CEO DDMA, GNCT of Delhi.
2. District Magistrate South.
3. DC, SDMC (South Zone).