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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 22nd July, 2020

+ **W.P.(C) 3324/2020 & CM APPL. 11679/2020**

SHASHANK S. MANGAL & ANR.....Petitioners

Through: Mr. Shashank S. Mangal and
Mr. Aman Inani,
Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.....Respondents

Through: Mr. Ramesh Singh, Standing Counsel
with Mr. Ankur Chhibber, Advocate
for R-1 & 2/GNCTD with Dr.
Rajender Dhar, Addl. Secretary,
Labour Department, GNCTD.
Mr. Kirtiman Singh, CGSC with Mr.
Rohan Anand and Mr. Waize Ali
Noor, Advocates for R-3/IOI with
Mr. Surendra Patel, Deputy Secretary,
MoL&E, Mr. Shashi Negi, Chief
Labour Commissioner (Central), Mr.
Ajey Tewari, Joint Secretary, DGLW
and Mr. Manoj Kumar Gupta,
Director.

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The present petition under Article 226 of the Constitution of India was filed seeking implementation of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (*hereinafter, "Migrant Workers Act"*) in Delhi. Notice was issued in the

petition on 2nd June, 2020. After setting out the scheme of the Act, the following information was called for from the Union of India and the Delhi Government:

“10. This Court is of the prima facie opinion that in order to have a proper, streamlined regulation of migrant workmen and their conditions of service, the first and the foremost significant measure would be the collection of the actual data and the integration of the same between the Central Government and the State Governments. For the said purpose, the said Governments would have to consider as to whether there should be a centralized portal for registration of migrant workmen by the contractors who engage them or the employers who employ them. Mechanisms and tools also ought to be made available so that employers and contractors do not find the same burdensome and that they can submit the data without glitches.

11. However, before passing any further orders in this matter, both the Governments are directed to file their respective affidavits disclosing the data relating to migrant workers, set out below, as available with them as of 1st June, 2020. In addition to the data, the respective Governments would also place on record the procedure currently being followed for contractors or employers to register migrant workers as also what are the procedures being followed for ensuring compliance. Accordingly, a status report be filed by both the Ministry of Labour, UOI and the GNCTD in respect of the following:

- i) Number of establishments which are currently registered under Section 4 of the Act;*
- ii) Number of licences issued to contractors in terms of Section 8 of*

the Act;

iii) The number of inter-state migrant workers who have, in fact, been declared under Section 12 to the State Government or even to the Central Government.

iv) Number of actions taken against 'contractors' and/or 'employers' for contravention of provisions of the Act since 2010.

v) Total number of 'officers' appointed under Sections 3, 7, 11 and 20 of the Act.”

3. Thereafter, on 29th June, 2020 the UOI filed a report/note, which gave some information. GNCTD also filed a status report giving various facts. After perusing the said reports, this Court had directed as under:

“7. A perusal of the above two reports/notes shows that there is a dire need for creating a mechanism for registration of migrant workers. Though some progress appears to have been made under the BOCW Act, registration/grant of licences under the 1979 Act is almost negligible, if not nil. This position needs to be altered and solved in order to ensure that migrant labour is adequately protected in terms of the Acts and benefits meant for them are also passed on to them.

8. Let a further detailed affidavit be filed by the Union of India as to the kind of portal, which is sought to be created, for the registration of migrant labour across the country. Such a portal ought to have on board all the state governments so that the ingress and egress of migrant labour is duly recorded and reported. On the next date, respective officers from the GNCTD and the Union of India who are familiar with the above exercise

shall join the hearing through video-conferencing.

9. Ld. counsel for the Petitioner submits that in an unstarred question in Parliament, a response was given by the Labour Minister which the Petitioner wishes to place on record. Let a copy of the same be placed on record.”

4. Pursuant to the last order, the UOI has filed a detailed affidavit, deposed and signed by the Regional Labour Commissioner (Central), New Delhi. Mr. Manoj Kumar Gupta, Director under instructions from Mr. Surendra Patel, Deputy Secretary, MoL&E, Mr. Shashi Negi, Chief Labour Commissioner (Central), Mr. Ajey Tewari, Joint Secretary & DGLW have joined the proceedings. On behalf of the GNCTD Dr. Rajender Dhar, Addl. Secretary, Labour Department, has joined the proceedings today through video conferencing.

5. Mr. Kirtiman Singh, CGSC for UOI has taken this Court through the affidavit filed by the UOI, specifically in respect of the portal which is now being created. He submits that the Government of India has taken steps for creation of a National Database for Unorganized Workers (*hereinafter*, “*NDUW*”). The concept note of the said database has also been placed on record. Ld. counsel further submits that insofar as this database is concerned, the same is being monitored by the Supreme Court in SLP (Crl) 150/2012 titled *Shramjeevi Mahila Samiti v. State of NCT of Delhi & Ors.*

6. It is submitted by Mr. Manoj Kumar Gupta that the NDUW has been approved. The budget is being prepared and the same has to be confirmed/approved by the EFC, Ministry of Finance. Upon approval, steps will be taken to create the database within 6 months.

7. Dr. Rajender Dhar has highlighted the various steps taken by the

Delhi Government for registration of Migrant Workers as of January, 2020. It is submitted that during the lockdown, a Special Nodal Officer was designated to entertain complaints from Migrant Workers. It is further submitted that more than 710 complaints were received from the Migrant Workers in respect of non-payment of wages, out of which 85% have been resolved after Government intervention. Insofar as termination of the Migrant Workers is concerned, assistance was provided to workers free of cost and a 'Shramik' helpline was also created for this purpose. It is further submitted that Rs.10,000/- has been disbursed to more than 36,000 Migrant Workers, who have availed of the various schemes of the Delhi Government.

8. Mr. Ramesh Singh, Id. ASC submits that insofar as the Migrant Workers Act is concerned, the same envisages Migrant Workers belonging to one state being deputed by contractors from another state. Ld. counsel submits that this requirement needs to be re-examined owing to the nature of Migrant Workers in the unorganized sector.

9. Ld. counsel for the Petitioner submits that there is another enactment that deals with unorganized workers who are not engaged by contractors i.e., the Unorganized Workers Social Security Act, 2008. Ld. counsel submits that various state governments, including the Delhi Government, have not even framed Rules under this Act.

10. This Court has heard ld. counsels for the parties and perused the status reports filed by the UOI and the GNCTD. Firstly, since the NDUW is now under works, the said database should be created expeditiously. The features of the NDUW as per the 'Concept Note' are:

- 1) *Creation of National Database for Unorganised Workers seeded with Aadhaar.*
- 2) *Integration of PM-SYM, NPS Traders Pensions Schemes and other schemes being implemented by the Central Govt. for Unorganised workers.*
- 3) *Sharing of information with various stakeholders through APIs.*
- 4) *Mobile App for registration (**Shramik Setu App**)*
- 5) *Access of pension account by beneficiaries through login and password.*
- 6) *Exit Module of the schemes*
- 7) *Grievances Module*
- 8) *Call Centers (integrated with Grievances Module)*
- 9) *Feedback for the users (Public and Registered) on the Portal*
- 10) *Any other functions as decided by the Ministry*

The creation of a portal with the above features would bring all unorganised and migrant labour under a single umbrella so that benefits which are meant for them can suitably be provided and in case of any crisis, details are available with the authorities. Insofar as the provisions of the Migrant Workers Act are concerned, since the same envisages recruitment of workers through contractors and the said Act would have no application otherwise the same requires a relook. The Government of India shall consider if any provisions of the said Act should be amended for the welfare of unorganized workers who are not engaged by a contractor.

11. Since the creation of a database is presently being supervised by the Supreme Court, no further orders are required to be passed in this matter.

Taking on record the status reports, affidavits and the statements made by the respective officers of UOI and GNCTD and binding them to the same, the present petition is disposed of. All pending applications are also disposed of. If the Petitioner has any outstanding grievances, the Petitioner's rights and remedies in respect of the same are left open.

PRATHIBA M. SINGH
JUDGE

JULY 22, 2020/dk/T

HIGH COURT OF DELHI



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