

**IN THE HON'BLE SUPREME COURT OF INDIA  
(ORIGINAL CIVIL JURISDICTION) I.A NO. 67131 OF  
2021**

**IN  
SUO MOTU WRIT PETITION (CIVIL) NO. 6 OF 2020**

**IN THE MATTER OF**

**IN RE: PROBLEMS AND MISERIES ...PETITIONER (S) OF  
MIGRANT LABOURERS**

**AND IN THE MATTER OF**

**1. SARVA HARA JAN ANDOLAN**

Through Ulka Mahajan  
Morba Road, Mangaon  
District Raigad

**2. ANGMEHNATI KASHTAKARI  
SANGARSH SAMITI**

Through its Convenor, Chandan  
Kumar, Having its office at 89, New  
timber market, Bhavanipeth, Pune

...APPLICANTS

**WRITTEN SUBMISSIONS ON BEHALF OF THE  
APPLICANTS**

**PAPER BOOK  
(FOR INDEX PLEASE SEE INSIDE)**

**ADVOCATE FOR APPLICANTS: NUPUR KUMAR**

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**WRITTEN SUBMISSIONS**

1. In terms of the directions of the order of this Hon'ble Court dated 11.06.2021, the Applicants are submitting their brief written submissions on the issues of (i) Food security measures (ii)Registration of migrant workers. The Applicants reserve the

right to make further submissions on the issues yet to be considered by this Hon'ble Court

2. An average family has lost more than 60% of its pre-crisis income. Only 38.9% households were never completely out of food during the lockdown [**Ann A-2 of I.A No 67131/2021: Dipa Sinha *Hunger and food security in the times of COVID-19* Journal of Social and Economic Development 2021 pg 51, 2nd para**]. The Applicants therefore submit the following measures can be undertaken by Central and State Governments to help alleviate some of the most pressing issues faced by migrant workers today:

**I. FOOD SECURITY MEASURES [para 19-37 of IA No. 67131/2021]**

3. It is an admitted position of the Union of India in its Affidavit dated 09.06.2021 (“Affidavit”) that the Atma Nirbhar Bharat package scheme has been discontinued. Consequently, there is no Central Government sponsored scheme supplying free food grains to migrant workers without ration cards [**para 4, pg 9 of the Union of India Affidavit dated 09.06.2021**]
4. Instead State Governments and NGOs/charitable organisations are being “allowed” to procure food grains at “subsidised” rates through the Open Market Sale Scheme (“OMSS”) at predetermined prices through e-auction in the open market [**para**

**7-8, and Annexure R-3 at Page 43 and Annexure R-5 at page 48 of the Affidavit].**

5. It is submitted that in light of the financial ruin faced by migrant workers in the wake of the pandemic, those workers who do not have ration cards are the most vulnerable to facing grave food insecurity. Meanwhile, over 1550 tonnes of food grains in the reserves of the Food Corporation of India have been wasted as of October 2020. Therefore, it is submitted that the following measures should be taken to assist migrant workers:
  - a. The Atmanirbhar Bharat Scheme under which food grains were distributed free of cost to migrant workers without ration cards should be resumed forthwith till December 2021 and State Governments should be provided with free food grains instead of being required to purchase them through the OMSS from the Food Corporation of India.
  - b. Restrictions on coverage arising from the quota of beneficiaries (75% of the population in Urban areas and 50% of the population in Rural areas) provided for under Section 3 (2) of the National Food Security Act, 2013 should be waived with immediate effect till December 2021 at the minimum, and maybe further extended as necessary based on circumstances at the relevant time. Such a waiver would increase the number of persons who can be enrolled as beneficiaries and ration card holders as most States have already exhausted the maximum number of ration cards they can issue under the said quota. Consequently a large number of needy and vulnerable persons like tribals, widowed persons, single women, who are otherwise eligible are being denied registration for ration cards. **[A copy**

**of a table showing that the percentage of food grains as per the quota of the National Food Security Act 2013 are almost completely exhausted (Annexure A-6 of IA No.67131/2021) has been annexed hereto and marked ANNEXURE A- 1 (PG 9)].**

- c. The implementation of the One Nation One Ration Card (“ONORC”) Scheme should be forthwith, so that the 11 States and 8 Union territories who are yet to implement it, namely Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Jharkhand, Maharashtra, Meghalaya, Mizoram, Sikkim, West Bengal and the Union Territories of Andaman and Nicobar Islands, Chandigarh, Dadra, Nagar Vaeli and Daman and Diu, Jammu and Kashmir, Ladakh, Lakshadweep and Puducherry should do so forthwith. As per the Press release by the Ministry of Finance dated 11.03.2021, only 17 states have implemented the ONORC scheme.[**Press Information Bureau Press release at Annexure A-9 of I.A No 67131/202 has been appended hereto as ANNEXURE A-2 (PG 10-12)].**
- d. Community kitchens should be encouraged across all States with food grains and cooking supplies provided free of cost by the Central Government to State Governments for distribution to community kitchens run by NGOs and charitable organisations or by Municipal Corporations. Many states have not initiated such community kitchen programmes in the second wave of the pandemic. Such schemes pertaining to community kitchens should be framed according to the specific needs of the affected population as evaluated by the said State Government.
- e. The Pradhan Mantri Garib Kalyan Yojana and Atmanirbhar Bharat Scheme should both supply vegetables, pulses and

cooking oils in addition to wheat and rice till December 2021 such that impoverished migrant workers have access to nutritious food. The procedure for distribution of food grains should be transparent and schemes should be widely publicised by State Governments as per modalities that will work efficiently in each State.

- f. Fair Price shops across all states should maintain 10% excess stock in its reserves so the enhanced coverage to migrant workers does not impede distribution to regular beneficiaries
- g. Issues arising from technical glitches/ problems with the process of seeding/linking Aadhar cards with ration cards should be cleared on a priority basis by State Governments, and at any rate should not preclude the distribution of food grains to beneficiaries
- h. The Aforesaid food security measures should be extended to all migrant workers currently working or residing in States they are not domiciled in due to the precariousness of their living conditions. No criteria should be stipulated to exclude migrants on the ground that they are not “stranded”.

## **II. REGISTRATION OF MIGRANT WORKERS [para 39-52 of IA No. 67131/2021]**

- 6. No conclusive time frame has been provided for preparation of National Database of Unorganised Workers (NDUW). The Union of India in its Affidavit indicated that it could take 3-4 months [para 17, pg 21]. The provision of financial and logistical assistance by the Central Government to State Governments for this project is an unsustainable 5-year plan proposed by the Union

of India [**para 13, pg 18**]. Such a proposal is grossly insufficient since the NDUW must be prepared urgently especially in the light of the pandemic. Submissions made by the Union of India in its Affidavit about logistical difficulties in completing the pilot portal in Maharashtra [**para 11**] are disputed by local representatives of the Maharashtra Labour Department who say that the truth is that no financial assistance is being provided to States by the Central Government.

7. After the 1<sup>st</sup> wave of the pandemic 23 crores of the lowest 10% percentile have been pushed below the minimal earnings of Rs. 375 per day. 81% percent migrants, 64% non-migrants lost employment in the lockdown. 31% (migrants) and 15% (non-migrants) further reported not being able to access rations. [**Annexure A-1 of I.A No 67131/2021 : *The State of the Working India, One year of Covid, Centre for Sustainable Employment Aziz Premji University Pg 34 at 39, 40, 41, 44, 45, 47***].
8. As such, measures being undertaken to register workers under various existing welfare legislations through workers facilitation centres under Section 10 of the Unorganised Workers Social Security Act, 2008 is inadequate according to what is stated by the Union of India in its Affidavit [**para 10, page 16**]. While some of the workers whose welfare is overseen through statutory boards, such as Mathadi and Construction workers, and workers constituting part of the “organised labour” centric industries, or establishments to whom the Employees Provident Fund Act, 1952 or the Employees State Insurance Act, 1948 are applicable have been provided some welfare schemes in the pandemic, migrant



workers who fall in the category of “unorganised workers” are completely unprotected from the extreme financial strain caused due to the pandemic. The Applicants propose the following measures:

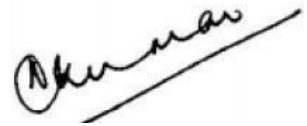
- a. Workers facilitation centres should be constituted under S. 9 of the Unorganised Workers’ Social Security Act, 2008 at the block level throughout all States, in terms of directions this Hon’ble Court in its order dated 09.06.2020 in the present Suo Motu Petition, or where unorganised workers are largely concentrated. [**Section 9 and 10 of the Unorganised Workers Social Security Act, 2008 has been appended hereto at ANNEXURE A – 3 (Pg 13-14)**].
- b. At such facilitation centres, workers can be made aware of the schemes available to assist them, legal assistance can be offered to them to collect arrears of their wages and also offline registration of workers under the welfare acts can be performed.
- c. Such centres should be established forthwith and Trade Unions should be co-opted in operating such centres.
- d. Self-registration of migrant workers in terms of Section 10(1) of Unorganised Workers’ Social Security Act, 2008 should be permitted.
- e. Registration conducted at such Workers Facilitation Centres should also result in registration for Covid vaccination and supply of covid vaccines on-site at such centres.
- f. Taking note of the digital divide registration should not be confined to on line registration but should be manual at the said workers facilitation centres with assistance for those who cannot fill in their own forms

AND FOR THIS ACT OF KINDNESS, THE APPLICANTS AS IN  
DUTY BOUND SHALL EVER BE GRATEFUL.

**SETTLED BY:**

**Mr. Anand Grover, Senior Advocate**  
**Ms. Gayatri Singh, Senior Advocate**

**FILED BY:**

A handwritten signature in black ink, appearing to read 'Nupur Kumar', written over a horizontal line.

**NUPUR KUMAR**  
**ADVOCATE FOR THE APPLICANTS**

**PLACE: NEW DELHI**  
**DATED: 14.06.2021**

## Annexure A-1

S.No.	States	Quate allowed under NFSA	Actual Coverage	%age of quota unfilled
1	Punjab	1,41,44,562	1,50,62,831	0%
2	Goa	5,32,181	5,44,581	0%
3	Delhi	72,77,995	73,22,850	0%
4	Karnataka	4,01,93,130	4,02,71,946	0%
5	Bihar	8,71,16,341	8,72,68,680	0%
6	West Bengal	6,01,83,770	6,01,75,012	0%
7	Meghalaya	21,45,517	21,45,145	0%
8	Andhra Pradesh + Telangana	4,59,92,397	4,59,27,422	0%
9	Assam	2,51,89,775	2,51,17,073	0%
10	Chhattisgarh	2,00,76,817	1,99,88,543	0%
11	Tamil Nadu	3,64,69,365	3,62,98,310	0%
12	Rajasthan	4,46,61,960	4,44,37,294	1%
13	Odisha	3,26,21,167	3,24,31,237	1%
14	Kerala	1,54,80,040	1,53,75,256	1%
15	Jharkhand	2,64,25,385	2,61,23,698	1%
16	Tripura	25,01,833	24,71,070	1%
17	Uttarakhand	61,93,849	60,40,954	2%
18	Uttar Pradesh	15,20,58,643	14,80,56,924	3%
19	Arunachal Pradesh	8,70,545	8,43,930	3%
20	Maharashtra	7,00,16,683	6,78,55,405	3%
21	Haryana	1,26,49,110	1,22,50,523	3%
22	Mizoram	7,06,296	6,78,774	4%
23	Sikkim	4,06,582	3,73,704	8%
24	Gujarat	3,82,84,729	3,48,82,573	9%
25	J&K	74,13,222	65,48,400	12%
26	Madhya Pradesh	5,46,42,214	4,70,10,361	14%
27	Himachal Pradesh	36,81,586	28,20,952	23%
28	Manipur	25,05,651	18,60,159	26%
29	Nagaland	14,78,702	10,73,687	27%



Ministry of Finance

## 17 States implement One Nation One Ration Card system

### Get additional borrowing of Rs. 37,600 crore

Posted On: 11 MAR 2021 12:00PM by PIB Delhi

Seventeen (17) States have successfully operationalised “One Nation One Ration Card system” with Uttarakhand being the latest State to complete the reform.

States completing One Nation One Ration Card system reform are eligible for additional borrowing of 0.25 percent of Gross State Domestic Product (GSDP). Accordingly, these States have been granted additional borrowing permission of Rs. 37,600 crore by the Department of Expenditure, Ministry of Finance. State wise amount of the additional borrowing permitted to these 17 States is annexed.

One Nation One Ration Card System is an important citizen centric reform. Its implementation ensures availability of ration to beneficiaries under National Food Security Act (NFSA) and other welfare schemes, especially the migrant workers and their families, at any Fair Price Shop (FPS) across the country.

The reform especially empowers the migratory population mostly labourers, daily wagers, urban poor like rag pickers, street dwellers, temporary workers in organised and unorganised sectors, domestic workers etc, who frequently change their place of dwelling to be self reliant in food security. This technology driven reform enables the migrant beneficiaries to get their entitled quota of food grains from any electronic point of sale (e-PoS) enabled fair Price Shops of their choice anywhere in the country.

The reform also enables the States in better targeting of beneficiaries, elimination of bogus/duplicate/ineligible card holders resulting in enhanced welfare and reduced leakage. Further, to ensure seamless inter-state portability of a ration card, Aadhar seeding of all ration cards as well as biometric authentication of beneficiaries through automation of all Fair Price Shops (FPSs) with installation of electronic point of sale (e-PoS) devices are essential. Therefore, additional borrowing limit of 0.25 percent of the Gross State Domestic Product (GSDP) is allowed to the States only on completion of both of the following actions:

- (i) Aadhar Seeding of all the ration cards and beneficiaries in the State
- (ii) Automation of all the FPSs in the State.

In view of the resource requirement to meet multiple challenges posed by the COVID-19 pandemic, the Government of India had on 17<sup>th</sup> May, 2020 enhanced the borrowing limit of the States by 2 percent of their GSDP. Half of this special dispensation i.e. 1 percent of GSDP was linked to undertaking citizen centric reforms by the States. The four citizen centric areas for reforms identified



by the Department of Expenditure were (a) Implementation of One Nation One Ration Card System, (b) reforms, Ease of doing business reform, (c) Urban Local body/utility reforms and (d) Power Sector



**Annexure**

**State wise additional borrowing permitted for completion of One Nation One Ration Card System**

Sl.No.	State	Amount (Rs in crore)
1.	Andhra Pradesh	2,525
2.	Goa	223
3.	Gujarat	4,352
4.	Haryana	2,146
5.	Himachal Pradesh	438
6.	Karnataka	4,509
7.	Kerala	2,261
8.	Madhya Pradesh	2,373
9.	Manipur	75
10.	Odisha	1,429
11.	Punjab	1,516
12.	Rajasthan	2,731
13.	Tamil Nadu	4,813
14.	Telangana	2,508
15.	Tripura	148

16.	<input type="checkbox"/>	Uttarakhand	702
17.	<input type="checkbox"/>	Uttar Pradesh	4,851

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## THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

ACT NO. 33 OF 2008

[30th December, 2008.]

An Act to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

**1. Short title, extent and commencement.**—(1) This Act may be called the Unorganised Workers' Social Security Act, 2008.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) “employer” means a person or an association of persons, who has engaged or employed an unorganised worker either directly or otherwise for remuneration;

(b) “home-based worker” means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

(c) “identity card” means a card, document or certificate issued to an unorganised worker by the District Administration under sub-section (3) of section 10;

(d) “National Board” means the National Social Security Board for unorganised workers constituted under sub-section (1) of section 5;

(e) “notification” means a notification published in the Official Gazette;

(f) “organised sector” means an enterprise which is not an unorganised sector;

(g) “prescribed ” means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be;

(h) “registered worker” means an unorganised worker registered under sub-section (3) of section 10;

(i) “Schedule” means the Schedule annexed to the Act;

(j) “ State Board” means the (name of the State) State Social Security Board for unorganised workers constituted under sub-section (1) of section 6;

(k) “self-employed worker” means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

(l) “unorganised sector” means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

1. 16th May, 2009, *vide* notification No. S.O. 1220(E), dated 14th May, 2009, *see* Gazette of India, Extraordinary, Part II, sec. 3(ii).



**7. Funding of State Government Schemes.**—(1) Any scheme notified by the State Government may be—

(i) wholly funded by the State Government; or

(ii) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government.

(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it.

(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

**8. Record keeping by District Administration.**—The record keeping functions for the purpose of this Act shall be performed by the District Administration:

Provided that the State Government may direct that the record keeping function shall be performed by—

(a) the District Panchayat in rural areas; and

(b) the Urban Local Bodies in urban areas.

**9. Workers facilitation centres.**—The State Government may set up such Workers' facilitation centres as may be considered necessary from time to time to perform the following functions, namely:—

(a) disseminate information on available social security schemes for the unorganised workers;

(b) facilitate the filling, processing and forwarding of application forms for registration of unorganised workers;

(c) assist unorganised worker to obtain registration from the District Administration;

(d) facilitate the enrollment of the registered unorganised workers in social security schemes.

## CHAPTER V

### REGISTRATION

**10. Eligibility for registration and social security benefits.**—(1) Every unorganised worker shall be eligible for registration subject to the fulfilment of the following conditions, namely:—

(a) he or she shall have completed fourteen years of age; and

(b) a self-declaration by him or her confirming that he or she is an unorganised worker.

(2) Every eligible unorganised worker shall make an application in the prescribed form to the District Administration for registration.

(3) Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.

(4) If a scheme requires a registered unorganised worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

(5) Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.