

IN RE: PROBLEMS AND MISERIES OF MIGRANT
LABOURERS

(Miscellaneous Application No. 94 of 2022 in
Suo Motu Writ Petition (Civil) No. 6 of 2020)

JULY 21, 2022

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Migrant Labourers – Problems and Miseries of – In compliance of directions issued by Supreme Court, Ministry of Labour and Employment developed a “National Database of Unorganised Workers (NDUW) portal” and “eShram portal” for registration of unorganised workers including migrant workers spread over 400 occupations – Some States such as State of Maharashtra, State of Tamil Nadu, State of Telangana, State of Gujarat and State of Karnataka failed to achieve the target – Therefore, directions issued to those States, who have not been able to achieve the target for registration of the unorganised workers, to do so and cooperate with the Union of India – Ministry of labour and Employment and to ensure that unorganised labourers/ workers in different sectors are registered in the eShram portal – The exercise to be completed within a period of six weeks – The concerned States /Union Territories to submit the report to the Union of India – Ministry of Labour and Employment on completion of six weeks so that the Union of India – Ministry of Labour and Employment can file a further Status Report on the aforesaid – Union of India further directed to come out with a formula and/or appropriate policy/ scheme, if any, so that the benefits under National Food Security Act are not restricted as per the census 2011 and more and more needy persons/citizens get the benefit under the National Food Security Act, keeping in mind that “Right to Food” is a fundamental right available under Article 21 of the Constitution – Union Government may look into the same by considering the figures/ projection of population increase during the decade 2011-2021, which would be on an assessment of increase in population and file response on the next date of hearing.

CIVIL ORIGINAL JURISDICTION: Miscellaneous Application
No. 94 of 2022 in Suo Moto Writ Petition (Civil) No. 6 of 2020.

A Under Article 32 of The Constitution of India
By Courts Motion

- Ms. Aishwarya Bhati, ASG, Tapes Kumar Singh, Gaurav Liberhan, Anil Grover, Amit Anand Tiwari, AAGs, Mrs. Ankita Chaudhary, Dy. AG, Dr. Mansh Singhvi, Ms. Manisha Lavkumar, Sr. Adv., Prashant Bhushan, Ms. Cheryl D'Souza, Kanu Agrawal, Rajat Nair, Saurabh Mishra, Krishnakant Dubey, Vatsal Joshi, Anuj Srinivas Udupa, Aman Sharma, Manvendra Singh, Arvind Kumar Sharma, Amrish Kumar, Sandeep Kumar Jha, Divyansh Tiwari, Ms. Nupur Kumar, Raghvendra Kumar, Anand Kumar Dubey, Rajiv Kumar Sinha, Simanta Kumar, Nishant Verma, Ms. Rajlakshmi Singh, Sunil Saraogi, Varun Singh, Narendra Kumar, Ms. Uttara Babbar, Rituraj Biswas, Rahul Chitnis, Sachin Patil, Aaditya A. Pande, Geo Joseph, Ms. Shewtal Shepal, G. Prakash, Tapes Kumar Singh, Sukant Vikram, Aditya Pratap Singh, Aditya Narayan Das, M. Shoeb Alam, Satya Mitra, Kumar Anurag Singh, Anando Mukherjee, Shwetank Singh, Raj Kishor Choudhary, Dr. Abhishek Atrey, Ms. Ambika Atrey, Akash Giri, Krishnan Mishra, R.K. Rathore, Ms. Ranjeeta Rohatgi, Ms. Samten Doma, Avijit Mani Tripathi, Upendra Mishra, K.V. Kharlyngdoh, T.K. Nayak, P.S. Negi, S. R. Kochhar, Ms. Marbiang Khongwir, B. V. Balaram Das, Ejaz Maqbool, Sumeer Sodhi, Abhishek Lalwani, Debashish Tiwari, Mahfooz Ahsan Nazki, Polanki Gowtham, Shaik Mohamad Haneef, T. Vijaya Bhaskar Reddy, K.V. Girish Chowdary, Ms. Rajeswari Mukherjee, Pranav Sachdeva, S. Udaya Kumar Sagar, Ms. Sweena Nair, P. Mohith Rao, Pukhrambam Ramesh Kumar, Karun Sharma, Ms. Anupam Ngangom, Wahengbam Immanuel Meitei, Ms. Pinky Behera, Ashish Yadav, Vishal Banshal, Ms. Rajeshwari Sarkar, Subhranshu Padhi, Chirag M. Shroff, Amandeep Mehta, Ms. Deepanwita Priyanka, Shadan Farasat, Ramesh Thakur, Mrs. Mrinal Elker Mazumdar, Ms. Himanshi Shakya, Raj Bahadur Yadav, Ms. Noopur Singhal, Rahul Khurana, Satish Kumar, Suresh Kumar Bhan, Sanjay Kumar Visen, Manish Kumar, Harsh Choudhary, Abhimanyu Tewari, Ms. Eliza Bar, Ms. Taruna Ardhendumauli Prasad, Ms. G. Indira, Suhaan Mukerji, Nikhil Parikshith, Vishal Prasad, Abhishek Manchanda, Sayandeep Pahari, Tanmay Sinha, for M/s. PLR Chambers and Co., Karan Bharihoke, Abhinav Mukerji, Mrs. Bihu Sharma, Akshay C. Srivastava, Ms. Pratishtha Vij, Ms. Ruchira Goel, Sibho Sankar Mishra, Ms. Kanika Chugh, Umakant Mishra, Rajesh Kumar Nayak, Niranjana Sahu, Debabrata Dash, Nitin Mishra, Nikhil Goel, Arnav
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LABOURERS

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Singh Deo, Shuvodeep Roy, Rakesh Dahiya, Ms. Astha Sharma, Biju P Raman, M. Yogesh Kanna, Ms. K. Enatoli Sema, Amit Kumar Singh, Ms. Chubalemla Chang, Sunny Choudhary, Divyansh Tiwari, Sunil Fernandes, Mohit Paul, Hitesh Kumar Sharma, S.K. Rajora, Akhileshwar Jha, Dr. Vivek Sharma, D. Kumanan, Sheikh Fakhruddin Kalia, Ms. Mary Mitzy, Ms. Devyani Gupta, Ms. Tanvi Anand, Nishe Rajen Shonker, Mrs. Anu K. Joy, Alim Anvar, Siddhesh Kotwal, Mrs. Ana Upadhyay, Ms. Manya Hasija, Akash Singh, Nihar Dharmadhikari, Nirnimesh Dube, B.K. Satija, Sarad Kr. Singhanian, Vatshal Joshi, Bhuvan Kapoor, Krishna Kant Dubey, G.S. Makker, Advs. for the appearing parties.

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Applicant-in-person

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The Order of the Court was passed by

M. R. SHAH, J.

1. That while disposing of Suo Motu Writ Petition (Civil) No. 6 of 2020 – In Re: Problems and Miseries of Migrant Labourers, this Court issued the following directions:-

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- (i) It is directed that the Central Government to develop the Portal in consultation with National Informatics Centre (NIC) for registration of the unorganized labourers/migrant workers. We also impress upon and direct that the Central Government as well as the respective States and the Union Territories to complete the process of Portal for registration under National Data Base for Unorganised Workers (NDUW Project) as well as implement the same, which by all means may commence not later than 31.07.2021. We also impress upon and direct that the process of registration of the unorganized labourers/migrant workers is completed at the earliest, but not later than 31.12.2021. All the concerned States/Union Territories and the Licence Holders/Contractors and others to cooperate with the Central Government to complete the process of registration of migrant workers and unorganized labourers so that the benefits of the welfare schemes declared by the Central Government/State Governments/Union Territories be available to migrant workers and unorganized labourers for whose benefits the welfare schemes are declared.

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- A (ii) The Central Government having undertaken to distribute additional quantity of foodgrains as demanded by the States/ Union Territories for distribution to migrant labourers under some Scheme framed by the States, we direct the Central Government, Department of Food and Public Distribution (Ministry of Consumer Affairs, Food and Public Distribution)
- B to allocate and distribute foodgrains as per demand of additional food-grains from the States for disbursement of dry foodgrains to migrant labourers.
- C (iii) We direct the States to bring in place an appropriate scheme for distribution of dry ration to migrant labourers for which it shall be open for States to ask for allocation of additional foodgrains from the Central Government, which, as directed above, shall provide the additional foodgrains to the State. The State shall consider and bring an appropriate Scheme, which may be implemented on or before 31.07.2021. Such scheme may be continued and operated till the current pandemic (Covid-19) continues.
- D (iv) The States, who have not yet implemented “One Nation One Ration Card” scheme are directed to implement the same by not later than 31.07.2021.
- E (v) The Central Government may undertake exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under the Rural and Urban areas of the State.
- F (vi) We direct all the States/Union Territories to register all establishments and license all contractors under the Act, 1979 and ensure that statutory duty imposed on the contractors to give particulars of migrant workers is fully complied with.
- G (vii) The State/Union Territories are directed to run community kitchens at prominent places where large number of migrant labourers are found for feeding those migrant labourers who does not have sufficient means to procure two meals a day. The running of the community kitchen should be continued at-least till pandemic (Covid-19) continues.
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2. Thereafter, the matter was again heard on 18.05.2022 and this Court passed the following order:- A

“Ms. Aishwarya Bhati, learned ASG, appearing for the Central Government prays for some time to place on record the compliance report. She has stated at the Bar that, as such, the Central Government has already developed the Portal in consultation with the National Informatics Centre for registration of the unorganized labourers/migrant workers pan-India. She has stated at the Bar that approximately 27.45 Crores are registered in the portal on the basis of the information given by the respective concerned States. How the Central Government and the concerned States are going to take the advantage and/or the benefit of the registration of the unorganized labourers/migrant workers to protect the interest of the unorganized labourers/migrant workers? One of the object and purpose of the registration is to ensure that the benevolent schemes which are declared by the Government/Governments reach the concerned unorganized labourers/migrant workers. D

We had also directed all the States/Union Territories to register all establishments and license of all contractors under the Act of 1979 and ensure that the statutory duty imposed on the contractors to give particulars of the migrant workers is fully complied with. Many of the States have not complied with the said direction. E

The Central Government to obtain all the required information from all the States so that a further order can be passed to protect the interest of the unorganized labourers/migrant workers. All concerned States/Union Territories are directed to furnish all the required particulars which are needed by the Central Government so that the Central Government may file a composite report before this Court on the next date of hearing. F

Now our endeavor should be to consider the larger issue to protect the interest of the unorganized labourers/migrant workers and how their rights are to be protected. G

The Central Government to file a composite report in compliance of all the directions issued by this Court in the order dated 29.06.2021. All the States shall cooperate and submit all the particulars which are called for. H

A Learned counsel for the respective States to give copy of their counters to Ms. Aishwarya Bhati, learned ASG so that she can file a composite report.

Put up on 20.07.2022.”

B 3. Pursuant to our earlier orders, an affidavit has been filed on behalf of Union of India dated 18.07.2022 affirmed by the Deputy Director General, in the Ministry of Labour and Employment, Government of India. Various steps taken by the Union of India has been stated in the affidavit. It is stated in the affidavit/compliance report that in compliance of the directions issued by this Court, Ministry of Labour and Employment has developed a “National Database of Unorganised Workers (NDUW) portal” and “eShram portal” for registration of unorganised workers including migrant workers spread over 400 occupations such as Building and other Construction workers, Agricultural workers, Self-Employed workers, Asha workers, Anganwadi workers, Fisherman, Dairy workers etc.

D 4. It is stated that vide DO letter dated 13.08.2021 to all the States and Union Territories, the Ministry provided the comprehensive guidelines for mobilisation of the workers through District Level Implementation Committee and State Level Monitoring Committee, registration targets to be achieved by the States by 31.12.2021 alongwith the one-time financial assistance for setting up of required IT infrastructure, call centres etc. In order to mobilize the unorganised workers for registration on eShram portal, States/UTS have been provided with funds of Rs.19.07 crores and information, education and communication materials. It is pointed out that the eShram portal formally commenced the registration on 26.08.2021 in all the States/UTs and the same was conveyed to all the States by Ministry’s letter dated 31.08.2021. Various further steps have also been taken by the Union of India so that the maximum unorganised workers/migrants are registered with the eShram portal. Ms. Bhati, learned ASG has pointed out the Statewise targets and registrations. On going through the Statewise targets and registration, it appears that many States have failed to achieve the target. Many of the States have achieved less than fifty per cent target. For example, State of Maharashtra has achieved only 36.97% target, State of Tamil Nadu has achieved 34.84% target, State of Telangana has achieved only 34.90% target, State of Gujarat has achieved 48.40% target, State of Karnataka has achieved 36.19% target.

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5. In our earlier directions/orders, we have emphasised the need for registration of the migrants/unorganised workers in different fields and one of the objects is to see that all benevolent schemes announced by the Union of India and/or the concerned States, the benefits of which should reach to such unorganised workers. We appreciate the work undertaken by the Union of India – Ministry of Labour and Employment. However, as observed hereinabove, still some States such as State of Maharashtra, State of Tamil Nadu, State of Telangana, State of Gujarat and State of Karnataka have to achieve the target. Therefore, we direct those States, who have not been able to achieve the target for registration of the unorganised workers, to do so and cooperate with the Union of India – Ministry of labour and Employment and to ensure to it that those unorganised labourers/ workers in different sectors are registered in the eShram portal. The said exercise shall be completed within a period of six weeks from today. The concerned States /Union Territories are directed to submit the report to the Union of India – Ministry of Labour and Employment on completion of six weeks so that the Union of India – Ministry of Labour and Employment can file a further Status Report on the aforesaid.

6. So far as, one another direction issued was additional allocation of foodgrains as demanded by the States/Union Territories for distribution to migrant labourers. It is pointed out in the affidavit that the required quantity of foodgrains as per the locally assessed need has been provided through Food Corporation of India under the “Open Market Sales Scheme”. It is further pointed out that facility of “One Nation One Ration Card” has been enabled in all the States/ Union Territories covering about 80 crores NFSA beneficiaries.

7. Now, so far as re-determining the coverage under the National Food Security Act (NFSA), 2013 and to undertake an exercise under Section 9 of NFSA, 2013 and to re-determine the total number of persons to be covered under the Rural and Urban areas of the State, it appears that at present the total number of persons to be covered in the Rural and Urban areas of the State is calculated on the basis of population estimates as per the 2011 census. It appears that at the time of implementation of the NFSA, latest published figures of census pertained to the year 2011 and it is used to determine the coverage of all States / Union Territories considering Section 9 of the NFSA.

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- A Shri Prashant Bhushan, learned counsel appearing on behalf of the petitioner has pointed out that after 2011, the population has increased and therefore the beneficiaries under the NFSA also have increased. It is submitted that therefore many eligible and/or needy beneficiary in the Rural and Urban areas will be deprived of the benefit under the NFSA.
- B It is also pointed out that in some of the cases, because of not having the ration cards, the migrants/unorganised labourers/workers are deprived of the benefit of the food/foodgrains under the NFSA.

8. The aforesaid grievance seems to be genuine and justified. The Union of India to look into the same and come out with a formula and/or appropriate policy/scheme, if any, so that the benefits under NFSA are not restricted as per the census 2011 and more and more needy persons/
- C citizens get the benefit under the National Food Security Act, keeping in mind what has been observed and held by this Court in a catena of decisions that “Right to Food” is a fundamental right available under Article 21 of the Constitution of India. The Union Government may look
- D into the same by considering the figures/projection of population increase during the decade 2011-2021, which would be on an assessment of increase in population and file their response on the next date of hearing.

Put up on 27.09.2022.

Bibhuti Bhushan Bose
(Assisted by: Shubhanshu Das, LCRA)

Directions issued.