

[2020] 9 S.C.R. 1

IN RE : PROBLEMS AND MISERIES
OF MIGRANT LABOURERS

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(Suo Motu Writ Petition (Civil) No. 6 of 2020)

JUNE 09, 2020

[ASHOK BHUSHAN, SANJAY KISHAN KAUL
AND M. R. SHAH, JJ.]

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Cognizance – Suo motu cognizance – Covid-19 Pandemic – Movement/problems of migrant labourers – In addition to directions issued by order dated 28.05.2020, held: In view of certain lapses and short-comings in implementation of the schemes and policies, States and UTs to streamline the vigilance and supervision of actions of their officers and staff and take appropriate action where required – With respect to some instances of excess with regard to migrant labourers, the concerned DGP/Police Commissioner may issue necessary directions – State may also consider withdrawing prosecution/complaints lodged against migrant labourers for offences referred to in s.51, 2005 Act and other related offences lodged during lockdown – States/UTs to transport remaining stranded workers by train, bus or other mode within 15 days from today – Counselling centres be set up by the concerned State at block level and district level to provide information regarding government schemes and other avenues of employment to the workers who reached their native places – State may facilitate the return of workers who want to return to their employment – Further directions issued to ameliorate the conditions of migrant workers pending consideration of other issues – Disaster Management Act, 2005 – ss.6(2)(i), 12 & 51 – Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, 1979 – Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 – Unorganised Workers' Social Security Act, 2008.

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Issuing directions, the Court

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HELD: 1.1 The State and Union Territories in their affidavits have referred to various measures, the orders and guidelines issued by the Central Government, the orders issued by the National Executive Committee under the Disaster Management Act, 2005, policies and decisions taken by the

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- A concerned States. The States and Union Territories claimed to be following all directions and policies and taking necessary steps for running the relief camps, shelter camps, attending the needs of food and water of the migrants, attending the requirement of transportation of migrant workers to their native places. There can be no exception to the policies and intentions of the State but what is important is that those on whom implementation of circulars, policies and schemes are entrusted are efficiently and correctly implementing those schemes. Lapses and short-comings in implementing the schemes and policies have been highlighted by various intervenors in their applications and affidavits. It is impressed on States and Union Territories to streamline the vigilance and supervision of actions of their officers and staff and take appropriate action where required. It is further noticed from the materials on record that police officers of States, para-military forces wherever deployed are doing commendable job but some instances of excess with regard to migrant labourers are also there. The migrant labourers, who were forced to proceed to their native place, after cessation of their employment are already suffering. The financial difficulty being with all the migrant labourers invariably they have to dealt by the police and other authorities in a humane manner.
- E The concerned Director General of Police/Police Commissioner may issue necessary directions in this regard. [Para 26] [15-B-G]
 - 1.2 As far as transportation of migrant workers to their native places by train, road or other means are concerned,
- F substantial portion of stranded workers have already been accomplished by the State Governments, railways and other organisations. But still there are stranded migrant labourers in different States specially in State of Maharashtra, NCT of Delhi, State of West Bengal, State of Tamil Nadu and State of Gujarat.
- G The schedule of demand of train, as brought on the record, indicate that the total demand of trains by the States and Union Territories is 171 running from 03.06.2020 to 16.06.2020. All the States/Union Territories are directed to transport all stranded workers by train, bus or other mode within 15 days from today. [Para 28][16-C-E]
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1.3 For identifying the migrant workers in different States, the protocol of registration is already invoked. As already directed vide order dated 28.05.2020 that the process of registration be simplified. Identification of migrant workers be immediately completed by all the States/Union Territories and those migrant workers, who are not yet registered, immediate steps be taken by decentralising the process of registration by providing facility of registration to the migrant workers at nearby places including police stations and other places of local administration as may be notified. The information regarding journey by train and bus, which is to be undertaken by stranded workers should be publicise through local newspapers, local T.V. channels so that necessary information reaches to concerned migrant workers. [Para 30][16-G-H; 17-A] A

1.4 Majority of stranded workers have reached at their native places. The second major task which has now to be undertaken by the concerned States and Union Territories is of taking care of those migrant workers/labourers who have returned to their native places after cessation of their employment. The details of migrant workers, nature of their skill, place of their earlier employment be maintained in prescribed proforma to be formulated by the concerned State at village level, block level and the district level so that necessary helps can be extended by the State authorities and district authorities to these migrant labourers. Counselling centres be set up by the concerned State at block level and the district level to provide all information regarding Government schemes and other avenues of employment to these workers. The State may also provide necessary information and facilitate the return of the workers who want to return to their employment. Necessary information should be provided by the State in this regard by creating help desk with the help of railway authorities and road transport authorities. Apart from schemes, which are run by the Central Government for the benefit of people in the country, each State have also their own schemes taking care of different aspects including providing avenues for employment. All States and Union Territories should bring on record the different schemes which are enforced in the concerned State which may benefit these migrant labourers so that it may also be examined D E F G H

- A by this Court for issuing appropriate direction in that regard. Thus, further two weeks' time granted to all the States and Union Territories to submit additional affidavits in response to various aspects, as noticed in this order. The Central Government may also bring on record the different schemes which can be taken by migrant labourer which may also be taken by additional affidavit within two weeks. [Paras 31, 32][17-B-H; 18-A]

- 1.5 The migrant labourers on account of Lockdown measures enforced w.e.f. 25.03.2020, and due to closure of their place of work/source of employment started moving in several parts of the country to reach their hometown. Under the guidelines, movement by migrants also constituted an offence under Section 51 of Disaster Management Act, 2005. Police Authorities started stopping such movements and also registered certain First Information Reports against the migrant labourers. The movement of migrant labourers, tourists and students was permitted by the Government only w.e.f. 29.04.2020. There may be First Information Reports or complaints against migrant labourers alleging violation of Lockdown measures in moving on roads. The migrant labourers who were earning their bread by working in different establishments due to cessation of work were forced to move to their hometown. The action of movement of these migrant labourers after enforcement of the Lockdown measures was by force of circumstances. The State may consider withdrawing Prosecution/Complaints lodged against such migrant labourers for the offences as referred to in Section 51 of the Disaster Management Act, 2005 and other related offences lodged against the migrant labourers during the period of Lockdown under Disaster Management Act, 2005. [Para 33][18-D; F-H; 19-A]

- 1.6 Apart from what has been indicated above certain further directions are necessary to be issued to ameliorate the conditions of the migrant workers pending consideration of other issues. Thus, in addition to directions already issued by order dated 28.05.2020 and measures as directed above, further directions are issued to the Central Government, all States and Union Territories. [Paras 34, 35][19-B-C]

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CIVIL ORIGINAL JURISDICTION : Suo Motu Writ Petition A
(Civil) No. 6 of 2020

Under Article 32 of the Constitution of India

With

W.P. (C) Diary No. 11394/2020 and W.P. (C) No. 511/2020 B

Tushar Mehta, SG, K.M. Nataraj, Sanjay Jain, ASG, S.C. Verma, Amit Kumar, Atul Nanda, AGs., Prabhuling Navadgi, Abhinav Mukerji, Saurabh Mishra, Jayanth Muthuraj, Ashish Kumar, Ms. Aishwarya Bhati, Nalin Kohli, AAGs, Maninder Singh, Ranjit Kumar, Mrs. Manisha Lav Kumar, Aman Lekhi, Dr. Manish Singhvi, Vikramjit Banerjee, P.S. Narasimha, R. Balasubramaniam, Kapil Sibal, Ms. Indira Jaising, Abhishek Manu Singhvi, Colin Gonsalves, Jaideep Gupta, B.S. Patil, P. Chidambaram, Anand Grover, Sanjay Parikh, Gopal Sankarnarayanan, K.V. Vishwanathan, Sr. Advs., Abhimanyu Shrestha, Deepak Prakash, Ms. Nachiketa Vajpayee, Divyangna Malik, Rajat Nair, Saurabh Mishra, Kanu Agrawal, B.V. Balramdas, Abhimanyu Tiwari, Ms. Eliza Bar, Anil Shrivastav, Rituraj Biswas, Shuvodeep Roy, Prabhas Bajaj, Manish Kumar, Ms. Prachi Mishra, Sumeer Sodhi, Pranav Sachdeva, Arun Pedneker, Sachin Patil, Aniruddha P. Mayee, Mrs. Deepanwita Priyanka, Mrs. Bihu Sharma, Ms. Pratishta Vij, Tapesh Kumar Singh, Ms. Shashi Juneja, Ms. Pinky Behera, Vikram Huligoll, Shubhranshu Padhi, G. Prakash, Jishnu M.L., Rahul Chitnis, Sachin Patil, Pukhrambam Ramesh Kumar, Ms. Anupama Ngangom, Karun Sharma, Avijit Mani Tripathi, Ms. Rekha Bakshi, Shaurya Sahay, Arjun Garg, Ms. Rati Tandon, Siddhesh Kotwal, Ms. Astha Sharma, Ms. K. Enatoli Sema, Sibo Sankar Mishra, Karan Bharihoke, Ms. Uttara Babbar, Sandeep Kumar Jha, Narendra Kumar, M. Yogeshkanna, Ms. Garima Prashad, Dr. Abhishek Atrey, Shadman Ali, Ms. Vidyottma Jha, Ms. Ambika Atrey, Suhan Mukerji, Amit Verma, (for PLR Chambers), K.V. Jagdishvaran, Ms. G. Indira, Ms. Rangoli, Nikhil Goel, Naveen Goel, Dushyant Sarna, Prashant Singh B., M. Shoeb Alam, Mojahid Karim Khan, Raj Bahadur Yadav, V. G. Pragasam, Ms. Nupur Kumar, Sunil Fernandes, Avishkar Singhvi, Muhammad Khan, Varun Chopra, Omar Hoda, Prastut Dalvi, Ms. Aishwarya Mohapatra, Gurtejpal Singh, Nitin Mishra, Ms. Mitali Gupta, P.V. Surendranath, Biju P. Raman, Subhash Chandran KR, Alakh Alok Srivastava, Satya Mitra, Gunjan Singh, Siddharth Seem, Ms. Anupradha Singh, Ms. Harini Raghupathy, G

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- A Ms. Pragya Ganjoo, Ms. Nanita Sharma, Prashant Bhushan, Ejaz Maqbool, Ms. Akriti Chaubey, Ms. Aishwarya Sarkar, Shadan Farasat, Raj Kishor Chourdhary, Shivam Sharma, Pradeep Kumar Mittal, Shakeel Ahmed, Sandeep Kumar Jha, Mohit Paul, Gautam Talukdar, Narendra Kumar, Chirag M. Shroff, Ms. Mithu Jain, Arnav Vidyarthi, Advs. for the appearing parties.

- B Applicant-in-person.

The following Order of the Court was passed:

ORDER

- 1. In pursuance of our order dated 28.05.2020 an affidavit, on behalf of Central Government sworn by Smt. Saheli Ghosh Roy, Joint Secretary, Ministry of Home Affairs, has been filed. Reply affidavits/reports have also been filed by different States as well as Union Territories giving details of measures taken by different States and facts claiming compliance of interim directions issued by this Court on 28.05.2020. An application has also been filed on behalf of National Human Rights Commission seeking intervention in this matter as well as praying for issuing various directions as indicated in the application. Various applications for intervention, on behalf of different individuals and organizations, have also been filed stating certain facts pertaining to problems of migrant labourers. Intervenors have also suggested various measures to redeem the situation.
- 2. We have heard Shri Tushar Mehta, learned Solicitor General of India, learned counsel appearing for different States, Shri Kapil Sibal, learned senior counsel, Dr. A.M. Singhvi, learned senior counsel, Smt. Indira Jaising, learned senior counsel, Shri K.V. Vishwanathan, learned senior counsel, Shri Colin Gonsalves, learned senior counsel and Shri Jaideep Gupta, learned senior counsel and other learned counsel who have made submissions to assist the Court in this proceeding.
- 3. Shri Tushar Mehta, learned Solicitor General submits that the Central Government, State Governments, all corona warriors and the whole nation have responded to and dealt with the unprecedented pandemic. He submits that initially on 25.03.2020, when the National lockdown was declared, the first priority was to contain the spread of virus and to ensure that no human movement took place to one area to another including the movement of migrant workers. However, after assessing the overall situation, decision was taken on 29.04.2020 by Government of India, Ministry of Home Affairs, allowing movement

of migrant workers, pilgrims, students and other persons, who were stranded at different places. Order dated 01.05.2020 was issued by the Government of India, Ministry of Home Affairs issuing new guidelines for movement. On 02.05.2020, Ministry of Railways issued order announcing running of special Shramik trains to take the migrant labourers to their destination. The Railway Ministry appointed nodal authorities for different States. On the requisition, received from the different States, Shramik trains were running to the destination. Shri Tushar Mehta, learned Solicitor General, submits that from 01.05.2020 to 03.06.2020 approximately 4228 Shramik trains were running from different States to carry the migrant workers to their destination. Shri Tushar Mehta, learned Solicitor General, submits that by Shramik special trains approximately 57.22 lakh migrants have been shifted to various destinations located in Uttar Pradesh, Bihar, Jharkhand, Odisha, Madhya Pradesh etc. It is further stated in the affidavit that nearly 80% of the trains are bound for Uttar Pradesh and Bihar and balance trains headed towards Eastern India. Shri Tushar Mehta, learned Solicitor General, further submits that about 41 lakh migrant workers have been taken from their respective places to their desired destination through road transport. Shri Tushar Mehta, learned Solicitor General, submits that Ministry of Railways has issued letters dated 29.05.2020 and 03.06.2020 to Chief Secretaries of all the States and Union Territories on the subject “projected demand for movement of stranded persons by Shramik rail”. In response to the aforesaid letters, request has been received from different States for trains from 03.06.2020 to 16.06.2020 which is the last date on which trains have been prayed for. He submits that there are no demands from various States for any train. He as referred to chart, brought on the record as Annexure R-6, to the affidavit where details of trains demanded from different States have been compiled with.

4. Shri Tushar Mehta, learned Solicitor General, submits that Railway Ministry has made it clear that any demand for Shramik special train shall be met within 24 hours by the Railway Ministry and total demand, which is now pending is only 171 trains whereas Ministry has earlier run 250 trains in one day. Shri Tushar Mehta submits that for the train travel no fare is being asked from the migrant labourers and the same is borne as per arrangement between originating State and receiving State. He submits that in train journey food and water is provided by the originating State and in journey for a period of more

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- A than 12 hours one meal is also provided by railways. Shri Tushar Mehta submits that Central Government with the support of National Highway Authority of India is facilitating the shifting of migrant workers, who were found walking on the roads, by providing them with the requisite transport to the nearest railway stations. Shri Tushar Mehta submits
- B that on account of opening of various industries, factories etc., in pursuance of decision taken by Central Government and the guidelines issued thereunder, several migrant workers, who were earlier willing to return to their native place have changed their mind and some of them have joined their places of work and are working. Shri Tushar Mehta has also submitted that in view of the fact that since several
- C States were not giving consent for accepting Shramik special train, despite demand, Ministry of Home Affairs issued an order on 19.05.2020 removing need for consent. Shri Tushar Mehta submits that under various Central Government schemes like Antyodaya Anna Yojana food grains have been provided for every household. He submits
- D that under Pradhan Mantri Garib Kalyan Anna Yojana @ 5 kg per person per month for a period of three months (April-June, 2020) is distributed free of cost. Shri Tushar Mehta submits that demands, which are already with the railways, shall be provided as prayed by the different States and if any further demand is received, the same shall be met within 24 hours by the railways.
- E 5. The State of Maharashtra, State of NCT of Delhi and the State of Gujarat are the States from where substantial number of migrant workers were sent to their native places. These States have also filed their replies which we shall notice hereinafter. An affidavit has been filed on behalf of State of Maharashtra. The affidavit states
- F that Government of Maharashtra has taken a policy decision on 29.03.2020 to provide free of cost immediate relief to the persons, labourers, displaced workers including migrant labourers, who are affected due to lockdown by way of establishing relief shelter camps. It is stated that Committees were constituted to provide and supervise the work. These Committees also identify the non-governmental
- G organisations and other groups of persons engaged in social work, who are willing to help migrant labourers. Shri Chitnis, learned counsel, appearing for the State of Maharashtra submits that about 12 lakhs migrant labourers have been sent to their native places. More than 5 lakhs passengers have been ferried free of cost by buses of
- H Maharashtra Road Transport Corporation. On a query by the Court,

as to how many stranded migrant labourers are still in the State of Maharashtra, Shri Chitnis submits that about 37,000 are still waiting to return. He submits that State of Maharashtra has requested for only one train to the railways. He further submits that registrations of migrant workers are being done and a list of migrant labourers have been prepared by the State and most of the labourers have been shifted to relief shelters where they are waiting for their turn to board the buses and trains. We may notice, at this stage, that although in the affidavit, the State claims that it is providing food and shelter to migrant workers and list of entire workers is prepared, such claim has been refuted in different affidavits and materials brought on the record by intervenors and various individuals. It is submitted that there is no proper arrangement of food to the migrant labourers nor there is any simple manner of registration of the workers. There are huge lapses on the part of the State authorities in implementing State policies and decisions and most of the claims are only on paper causing great miseries and hardship to the migrant workers.

6. We are of the view that State has to take a more vigilant and concentrated effort in identifying the migrant workers, who are still stranded in State of Maharashtra and who are willing to return to their native places. The Government should publicise and announce the places i.e police stations or any other suitable place for identifying/registering the workers, who have not yet been provided any train or bus journey. The State Supervisory Committee, District Supervisory Committee and its officials should ensure that all migrant labourers, who are willing to go to their native place, should be identified, provide them food and shelter and no complaint is received of not providing facility of journey or food by the stranded migrant labourers.

7. Shri Sanjay Jain, Additional Solicitor General, has appeared for NCT of Delhi. Shri Jain submits that from NCT of Delhi about 3 lakhs migrant workers have been sent to their native places by 236 trains and about 12,000 have been sent by buses. He submits that about 6.5 lakh persons have already registered themselves at the web portal of the Government of NCT of Delhi. SMS and IVRs have been sent to these registered persons for their travel back to their native place. He submits that about 2 lakhs migrant labourers have chosen to not to go to their native places, presumably due to the fact that after opening of the industry and establishment they have reengaged themselves to the

- A work. Shri Jain, however, submits that NCT of Delhi shall identify the migrant workers, who are willing to go to their native place and provide necessary rail and road transport facility to them. Shri Jain also submits that there are medical, screening and help desk centres to facilitate the migrant workers.
- B 8. A status report has also been filed on behalf of the State of Gujarat. Shri Maninder Singh, learned senior counsel, submits that till 01.06.2020, more than 14 lakhs migrant workers have been sent to their native places by 999 Shramik trains. From 24.05.2020, no train fares for Shramik trains are being charged from the migrant workers. He submits that in Gujarat there were approximately 23 lakhs migrant workers, who were working at different places. Approximately 5,75,000 workers have been sent by road transport to other States. He submits that out of 23 lakhs about 20,50,000 have already been sent. No bus fare has been charged from inter-state migrant workers and shall not be charged. The directions issued by this Court on 28.05.2020 are being complied with by the State. For registration an online portal “Digital Gujarat” has been set up by the Government and also a parallel, effective, decentralized system has also been worked out. Learned counsel for the State submits that once the name of migrant worker is included in the list, he or she gets to depart for the native State within 4-5 days and they are informed accordingly. Several advisories were issued by the Labour Commissioner. The Government of Gujarat has decided to transfer Rs.1000/- directly to the account of workers including migrant labourers registered under the Building and other Constructions Workers Welfare Board. Food is also provided under different scheme. Shri Maninder Singh also submits that only some of the workers may be willing to go to native place, others have re-joined their employment.
- C 9. The State of Uttar Pradesh has filed its detailed response in pursuance of our order dated 28.05.2020. Shri P.S. Narsimha, learned senior counsel, has appeared on behalf of State of Uttar Pradesh. Shri Narsimha submits that 25 lakh workers have successfully and safely returned to their homes in the State. Shelter homes for migrant labourers have been set up. Uttar Pradesh State Road Transport Corporation by its buses ensuring that all migrant labourers reach their homes safely and free of cost. The migrant labourers are sent for home quarantine for 15 days and while leaving centre he is provided one ration kit as well as a cash amount of Rs.1000/-. He submits that apart from
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receiving migrants from other States special trains are also operated for sending migrant labourers from State of Uttar Pradesh and more than 1 lakh migrant labourers have safely deported to the concerned States. Shri Narsimha submits that at present there is no migrant labour left in the State of Uttar Pradesh, who has to go to any State. Apart from Shramik trains, migrants have been brought by buses by the State of Uttar Pradesh from Delhi-U.P border as well as form other States i.e. from Rajasthan, Haryana, Uttarakhand, Madhya Pradesh. Buses have also been sent to Rajasthan, Haryana, Madhya Pradesh, Bihar, Uttarakhand, Jharkhand and Chhattisgarh. Health and medical facilities have also been provided and shelter home arrangements for food is also been made by the State Government and there is inspection and supervision to all facilities. With regard to those migrants, who were found walking on the road, pick-up and drop points have been made on National Highways and the migrants are taken to shelter homes or quarantine centre. With regard to interim directions, issued by this Court on 28.05.2020, details of compliance have been incorporated in the reply. Shri Narsimha further submits that the State Government is also taking steps for providing more and more employment to migrant labourers who have come in the State. Several institutions have proposed to provide opportunity for employment in their industrial units of about 11 lakh migrants.

10. Shri Ranjit Kumar, learned senior counsel, has placed response on behalf of State of Bihar. It is submitted that about 28 lakh migrants have returned to the State of Bihar. The migrants have returned both by train as well as by road transport. The State has set up camps. The State is in the process of setting up District Counselling Centre for migrant labourers, who shall examine the skill level of the skilled/ unskilled labourers and suggest the options of employment available in the State. The State has also provided Rs.1000/- to each migrant of Bihar stranded outside the State.

11. A status report on behalf of State of Madhya Pradesh has also been filed. It is submitted by learned counsel that about 14 lakh migrant labourers have returned to the State and there are only 25,000 workers, who remained to come back in the State of Madhya Pradesh. Government has deployed buses to bring migrant labourers from other States. The State proposed to undertake survey of migrant labourers and the labourers will be registered under different schemes to provide

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- A possible employment to them. Control room has been established for helping migrant labourers. With regard to direction issued by this Court on 28.05.2020, details of steps taken by the State has also been enumerated.
12. Dr. Manish Singhvi, learned senior counsel appearing for the State of Rajasthan, submits that about 13.6 lakh migrant labourers have returned back and there are not many migrant labourers, who are left in the State of Rajasthan to awaiting return to their native places.
13. Learned counsel for the State of Karnataka submits that there are less than 1 lakh stranded migrant workers, who are still awaiting return. He further submits that due to opening of the industries in the Bangalore and other areas, most of the workers have re-joined their employment.
14. Learned counsel for the State of Kerala submits that 1.53 lakh workers have been transferred to 100 Shramik trains. There are 1.2 lakh workers still awaiting for return.
15. State of West Bengal has also filed affidavit in compliance of order dated 28.05.2020. Learned counsel submits that 6,82,558 workers are still to come to West Bengal, who are in different States. Learned counsel for the State has stated that State is willing to accommodate as many special trains as are further required by originating State. For travel by special trains, the entire cost, on behalf of the migrants, is being borne by the State of West Bengal. State has further stated that despite severe cyclone AMPHAN and the disaster caused by the natural calamity, Government of West Bengal remains committed to steadily bring back the migrant workers through a systematic process. Learned counsel submits that Government of West Bengal demanded 17 trains for migrant workers, who are stranded there. Learned counsel submits that in a short period, not more than two weeks, all stranded workers shall be send to their native places.
16. We have also heard learned counsel appearing for the other States as well as Union Territories. More or less similar submissions have been made except the difference in figures of migrant workers stranded and those, who have come to States.
17. After hearing the learned Solicitor General as well as learned counsel appearing for the different States and Union Territories, we have also heard some of the learned counsel, who have appeared to

assist the Court by giving their suggestions to ameliorate the conditions A
of the migrant workers.

18. Shri Kapil Sibal, learned senior counsel, made two submissions. He submits that the Central Government may be directed to bring on record the guidelines for the Minimum Standards of Relief to be provided to the persons effected by the disaster as contemplated in Section 12 of the Disaster Management Act, 2005. With regard to the migrant workers, who are still stranded in different places, Shri Sibal submits that States should evolve decentralised process for registration of migrants so that their request for return to their native place be immediately attended to. He submits that the migrants can be asked to register at police station in whose jurisdiction they are residing for the time being. B

19. Mrs. Indira Jaising, learned senior counsel, submits that tens of thousands of workers are yet to return. She submits that number of trains which are sought at different States are not sufficient whereas number of workers are much more and State should demand more trains to facilitate immediate transportation of workers. She submits that registration process should be simplified i.e. it is submitted that State of Tamil Nadu has hired a third-party contractor to do the registration. It has come with a form requiring filling of 21 answers in English, which is causing great difficulties to the migrants, most of whom are illiterate. The shortage of trains and buses should be immediately taken care by the State. It is submitted that workers spent significant money to reach home. Mrs. Indira Jaising further submits that throughout the country quarantine centres were reported to be filthy, unclean toilets with medical facilities missing, food distribution is also not happening as claimed. She submits that cash assistance be given to migrant workers at least of Rs.7500/- Information of train by publicising on T.V., All India Radio and Newspapers so that there is no confusion about the time, place and destination of the trains. Compensation be also provided to the migrant workers. It is further submitted that in view of the Finance Minister's announcement on 14.05.2020, promising 5 kgs of grain per person and 1 kg of Chana Dal to per family per month free of cost for two months, the said be directed to be implemented within two weeks. C

20. Shri Collin Gonsalvis, learned Senior Counsel submits that states should allow the migrant workers to register at Police Stations/ D

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- A Railway stations. He further submits that migrant workers who reach to their native place if found Asymptomatic should not be quarantined and Quarantine Centres be used only for symptomatic migrants only.
 - 21. Dr. Abhishek Manu Singhvi, learned senior counsel, has also made suggestions regarding identification of stranded migrant labourers,
- B setting up of reception/facilitation centres, formulation of Nation-Wide plan, formulation of scheme for medicine, food & shelter, release of financial relief announced, formulation of scheme for employment, education, well-being and launch awareness programmes.
- C to NLS-Migrant Mazdoor Program. Under which 180 migrants were air lifted from Mumbai to Jharkhand. He submits that NLS-Migrant Mazdoor Program, is an initiative by few alumni of the National Law School of India University, Bengaluru.
- D 22. Shri K.V. Vishwanathan, learned senior counsel, has referred to NLS-Migrant Mazdoor Program. Under which 180 migrants were air lifted from Mumbai to Jharkhand. He submits that NLS-Migrant Mazdoor Program, is an initiative by few alumni of the National Law School of India University, Bengaluru.
- E 23. Mr. Jaideep Gupta, learned senior counsel, has also prayed for direction for direct transfer by Central Government. He submitted about payment of compensation by railways on account of death.
- F 24. An application was filed by National Human Rights Commission for intervention, which has been allowed. In the application the National Human Rights Commission has referred to six instances where the National Human Right Commission has taken suo motu cognizance of the issues and had issued notices to various Government departments. We have no doubt that National Human Rights Commission shall take those proceedings to its logical end. National Human Rights Commission has also suggested certain short-term measures and long-term measures to ameliorate the conditions of the migrant workers. Reference of enactments, namely, Inter-state Migrant Workmen (Regulations of Employment and Conditions of Service) Act, 1979 as well as Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 have been made to. Reference has also been made to Unorganised Workers' Social Security Act, 2008.
- G 25. It has also been brought before us that various High Courts have also taken notice of cases of migrant labourers. High Courts being
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constitutional Courts are well within their jurisdiction to take cognizance of violation of fundamental rights of migrant workers and we have no doubt that those proceedings shall proceed after considering all aspects including the response of concerned authorities.

26. As noted above, the State and Union Territories in their affidavits have referred to various measures, the orders and guidelines issued by the Central Government, the orders issued by the National Executive Committee under the Disaster Management Act, 2005, policies and decisions taken by the concerned States. The States and Union Territories claimed to be following all directions and policies and taking necessary steps for running the relief camps, shelter camps, attending the needs of food and water of the migrants, attending the requirement of transportation of migrant workers to their native places. There can be no exception to the policies and intentions of the State but what is important is that those on whom implementation of circulars, policies and schemes are entrusted are efficiently and correctly implementing those schemes. Lapses and short-comings in implementing the schemes and policies have been highlighted by various intervenors in their applications and affidavits. The responsibility of the States/Union Territories is not only to referring their policy, measures contemplated, funds allocated but there has to be strict vigilance and supervision as to whether those measures, schemes, benefits reaches to those to whom they are meant. We impress on States and Union Territories to streamline the vigilance and supervision of actions of their officers and staff and take appropriate action where required. We also have no doubt that most of the officers, staff of administration and police are discharging their duties with devotion and hard-work but the lapses have to be taken note of and remedial action be taken. We further notice from the materials on record that police officers of States, para-military forces wherever deployed are doing commendable job but some instances of excess with regard to migrant labourers are also there. The migrant labourers, who were forced to proceed to their native place, after cessation of their employment are already suffering. The Financial difficulty being with all the migrant labourers invariably they have to dealt by the police and other authorities in a humane manner. The concerned Director General of Police/Police Commissioner may issue necessary directions in this regard.

27. We may also notice one more fact. Although it is the responsibility and duty of the States and Union Territories to take care

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- A of all the needs of migrant labourers but in this difficult time non-governmental organisations and individuals have also contributed and played an important role in extending helping hand to the migrants. The society as a whole was moved by miseries and difficulties of migrant labourers and it exhibited its passion and devotion by way of individuals.
- B Non-governmental organisations coming forward to help the migrant workers and to fight the pandemic and extend help by providing food, water and transportation at their cost which deserves all appreciation.

28. The foregoing discussions reveal that as far as transportation of migrant workers to their native places by train, road or other means

- C are concerned, substantial portion of stranded workers have already been accomplished by the State Governments, railways and other organisations. But still there are stranded migrant labourers in different States specially in State of Maharashtra, NCT of Delhi, State of West Bengal, State of Tamil Nadu and State of Gujarat. The schedule of demand of train, as brought on the record by learned Solicitor General,
- D indicate that the total demand of trains by the States and Union Territories is 171 running from 03.06.2020 to 16.06.2020. The process of transportation by rail and road has to be completed by all States and Union Territories so that the next stage of attending the needs of migrant labourers be looked into i.e. source of employment and providing food and ration for them. All the learned counsel for the States are agreeable
- E that within maximum 15 days, all stranded workers will be transported from places where they are stranded.

29. We, thus, direct that all the States/Union Territories to transport all stranded workers by train, bus or other mode within 15 days from today.

- F 30. For identifying the migrant workers in different States, the protocol of registration is already invoked. We are further of the view as already directed vide order dated 28.05.2020 that the process of registration be simplified. We are of the view that identification of migrant workers be immediately completed by all the States/Union Territories and those migrant workers, who are not yet registered, immediate steps be taken by decentralising the process of registration by providing facility of registration to the migrant workers at nearby places including police stations and other places of local administration as may be notified. The information regarding journey by train and bus, which is to be undertaken by stranded workers should be publicise
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through local newspapers, local T.V. channels so that necessary A information reaches to concerned migrant workers.

31. As noted above, majority of stranded workers have reached at their native places. The second major task which has now to be undertaken by the concerned States and Union Territories is of taking care of those migrant workers/labourers who have returned to their native places after cessation of their employment. The first step in this regard is to maintain record of all such migrant workers, who have arrived at different places, towns in different States. The details of migrant workers, nature of their skill, place of their earlier employment be maintained in prescribed proforma to be formulated by the concerned State at village level, block level and the district level so that necessary helps can be extended by the State authorities and district authorities to these migrant labourers. Counselling centres be set up by the concerned State at block level and the district level to provide all information regarding Government schemes and other avenues of employment to these workers and where possible to expand the avenues of employment to these workers so that they may not sit idle and they may be utilised as a resource by the State. Various counsel appearing for the States and other counsel have also submitted that some of the migrant labourers, who got themselves registered to return to their native place have changed their mind and after reopening of the industries and factories they have re-joined employment and are not willing to return. It is further submitted that some of the migrant workers who have returned to native place, now are willing to come back to their place of employment and are ready to undertake return journey in search of the employment. The State may also provide necessary information and facilitate the return of the workers who want to return to their employment. Necessary information should be provided by the State in this regard by creating help desk with the help of railway authorities and road transport authorities. Apart from schemes, which are run by the Central Government for the benefit of people in the country, each State have also their own schemes taking care of different aspects including providing avenues for employment. Migrant labourers and other needy persons should be made aware of all schemes through counselling centres and help desk which may be established by the States at district levels and block levels to extend helping hand to large number of migrant workers. We are also of the view that all States and Union Territories should bring on record the different schemes which are H

- A enforced in the concerned State which may benefit these migrant labourers so that it may also be examined by this Court for issuing appropriate direction in that regard.
 - 32. We, thus, grant further two weeks' time to all the States and Union Territories to submit additional affidavits in response to various aspects, as noticed in this order. The Central Government may also bring on record the different schemes which can be taken by migrant labourer which may also be taken by additional affidavit within two weeks.
 - 33. The National Disaster Management Authority in exercise of power under Section 6(2)(i) decided to direct the Ministries/Departments of Government of India, State Governments and State Authorities to take measures for ensuring Social Distancing so as to prevent the spread of Covid-19 in the country w.e.f. 25.03.2020 for twenty-one days. Necessary guidelines were also issued on 24.03.2020 by the Government of India, Ministry of Home Affairs. The migrant labourers on account of Lockdown measures enforced w.e.f. 25.03.2020, and due to closure of their place of work/source of employment started moving in several parts of the Country to reach their hometown. The Government of India, Ministry of Home Affairs noticed this fact on 29.03.2020 in following words: -
 - E "Whereas, movement of large number of migrants have taken place in some parts of the country so as to reach their hometown, this is the violation of Lockdown measures of maintaining Social Distance."
 - F Under the guidelines, movement by migrants also constituted an offence under Section 51 of Disaster Management Act, 2005. Police Authorities started stopping such movements and also registered certain First Information Reports against the migrant labourers. The movement of migrant labourers, tourists and students was permitted by the Government only w.e.f. 29.04.2020. There may be First Information Reports or complaints against migrant labourers alleging violation of Lockdown measures in moving on roads. The migrant labourers who were earning their bread by working in different establishments due to cessation of work were forced to move to their hometown. The action of movement of these migrant labourers after enforcement of the Lockdown measures was by force of circumstances. We are of the view that the State may consider withdrawing Prosecution/Complaints
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lodged against such migrant labourers for the offences as referred to in Section 51 of the Disaster Management Act, 2005 and other related offences lodged against the migrant labourers during the period of Lockdown under Disaster Management Act, 2005.

34. In view of the foregoing discussions, we are of the view that apart from what has been indicated above certain further directions are necessary to be issued to ameliorate the conditions of the migrant workers pending consideration of other issues as noticed above.

35. We, thus, in addition to directions already issued by our order dated 28.05.2020 and measures as directed above, issue following further directions to the Central Government, all States and Union Territories:

- (1) All the States/Union Territories shall take all necessary steps regarding identification of stranded migrant workers in their State which are willing to return to their native places and take steps for their return journey by train/bus which process may be completed within a period of 15 days from today. D
- (2) In event of any additional demand, in addition to demand of 171 Shramik trains, as noticed above, railway shall provide Shramik trains within a period of 24 hours as submitted by learned Solicitor General to facilitate the return journey of migrant workers. E
- (3) The Central Government may give details of all schemes which can be availed by migrant workers who have returned to their native places. F
- (4) All States and Union Territories shall also give details of all schemes which are current in the State, benefit of which can be taken by the migrant labourers including different schemes for providing employment. G
- (5) The State shall establish counselling centres, help desk at block and district level to provide all necessary information regarding schemes of the Government and to extend helping hand to migrant labourers to identify avenues of employment and benefits which can be availed by them under the different schemes. H

- A (6) The details of all migrant labourers, who have reached their native places, shall be maintained with details of their skill, nature of employment, earlier place of employment. The list of migrant labourers shall be maintained village wise, block wise and district wise to facilitate the administration to extend benefit of different schemes which may be applicable to such migrant workers.
- B (7) The counselling centres, established, as directed above, shall also provide necessary information by extending helping hand to those migrant workers who have returned to their native places and who want to return to their places of employment.
- C (8) All concerned States/UTs to consider withdrawal of prosecution/complaints under Section 51 of Disaster Management Act and other related offences lodged against the migrant labourers who alleged to have violated measures of Lockdown by moving on roads during the period of Lockdown enforced under Disaster Management Act, 2005.

36. List the matter on 08.07.2020.

Divya Pandey

Directions issued.