

IN THE SUPREME COURT OF INDIA

Civil Original Jurisdiction

IA _____ of 2020

in

Suo Motu Writ Petition (Civil) No 6 of 2020

In the matter of:

In Re: Problems and Miseries of Migrant Labourers

And the matter of:

Aajeevika Bureau

Through its

Executive Director/Co-founder

39. Krishna Colony,

Near Khan Complex, Bedla Road, Udaipur,

Rajasthan 313 004

...Applicant/Intervenor

Paper Book

IA No _____ of 2020 : Application for Directions

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ADVOCATE FOR THE APPLICANT/ INTERVENOR:

SATYA MITRA

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New Delhi

Date: 27.05.2020

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Application for Directions

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND COMPANION JUSTICES OF THE HON'BLE

SUPREME COURT OF INDIA

THE APPLICATION OF THE

APPLICANT/ INTERVENOR ABOVE NAMED

Most respectfully showeth that:

1. The above mentioned Writ Petition is a Suo Motu Writ petition under Article 32 of the Constitution of India taken up by this Hon'ble Court in view of the problems faced by migrant workers throughout the country due to the lockdown restrictions imposed by the Government of India in lieu of COVID-19. This Hon'ble Court vide its order dated 26.05.2020 in Suo Motu Writ petition (Civil) 6 of 2020 took cognizance of the plight of migrant workers and issued notice to Union of India and all States/ Union Territories.
2. At present, thousands of migrant workers are still stranded on roads, highways, railway station, bus stands and state borders throughout the country without food, water, sanitation and other essential facilities.
3. The applicant has been working closely and providing services to the migrant workers during the COVID-19 lockdown and hence is astutely aware of the problems faced by the migrant workers. Due to their work on the field, they have certain suggestions which would aid this Court and hence seek this Court's direction to implead them in the Suo Motu Writ Petition 6 of 2020.

Right to Food campaign's statement

4. The Right to Food Campaign has also come out with a statement dated 27.03.2020, which is at **Annexure A1** at page 11 to 22, raising, inter alia, following demands:

- a) Open up the PDS entitlements to everyone who demands it on the basis of any identity card that they have (in line with Supreme Court order for drought, under the Swaraj Abhiyan case) and discontinue ePOS based verification mechanisms.
- b) Include cooking oil and increase the quantity of pulses in the PDS package.
- c) Make arrangements for distribution of cooked food, especially in urban areas through community kitchens, night shelters, schools and anganwadi centres. The more decentralized this facility is, the less crowded will be the feeding centres, making it possible to follow the norms of physical distancing.
- d) Make immediate arrangements for accommodation of migrant workers stranded in public places like bus stops and railway stations with nowhere to go during this lockdown
- e) Provide all MGNREGA workers full payment– at not less than the state minimum wage rate– for the three months lockdown period irrespective of work being available.
- f) Enhance the social security pension amounts to at least Rs. 2000 per month,

- g) Provide maternity benefits of at least Rs. 6000 to all pregnant women, immediately, without any conditionalities.
- h) Ensure unhindered inter/intra-state movement of goods transport vehicles carrying food and other essential items. The travel restrictions must not affect these items from reaching PDS shops or even regular grocery stores.
- i) Establish a system where civil society organisations can give feedback to the government on the effectiveness of these measures. A functioning grievance redress system must also be put in place – this could build on the existing toll-free help line numbers, DGROs and state food commissions under the NFSA.
- j) Households that have children who are school going/anganwadi beneficiaries should be given an equivalent amount of the meals as dry rations or food security allowance.
- k) As mentioned by the Finance Minister in her speech, works that can be undertaken under MGNREGA and otherwise while maintaining the norms of physical distancing should be identified. Such work if allowed to continue must ensure that adequate safety and sanitary measures are put in place.

- l) Mechanisms to help vegetables, fruits, milk etc. cultivated by farmers to reach consumers should put in place so that farmers do not suffer and consumers get food without price escalation. Otherwise, farmers are having to destroy crops.
- m) Action must be taken against formal sector declaring 'no work, no pay', and not paying workers for lockdown.

Government of India notification dated 30.03.2020

4. The Government of India issued a notification dated 30.03.2020, which stated that supplementary nutrition to be provided to every pregnant women and lactating mother till True copy of the relief package issued by the Central Government dated 26.03.2020 6 months after child birth, and every child in the age group of 6 months to 6 years (including those suffering from malnutrition).

Relief package announced by the Finance Ministry

5. The Ministry of Finance by way of its notification dated 26.03.2020 announced a relief package under Pradhan Mantri Garib Kalyan Yojana for the poor. As per the relief package, 5 kilogram of wheat or rice and 1 kilogram of preferred pulses should be provided free of cost for the next three months.

True copy of the relief package issued by the Central Government dated 26.03.2020 annexed as **Annexure A2** at page 23 to 29.

Prayer

6. In light of the facts and circumstances of this case, the Petitioners pray before this Hon'ble Court as under for a Writ/Order or Direction to the Union of India and all States and Union Territories to with immediate effect;
 - a) Start Food Kitchens in all slums, all border points where workers have gathered, along road sides where workers are going home or are stranded;
 - b) To direct the police and ensure that no person in distress and no migrating person or person in search of food and employment is beaten by the police or treated with indignity;
 - c) That immediate arrangement be made for person to return home by buses and that be done so that workers can return home in a dignified manner, free of charge and with basic food and water provided to the passengers for their journey;
 - d) To immediately restart Anganwadi Centres in the country and the provision of the Midday Meal as before;
 - e) Provide HIV drugs and antibiotics immediately to all HIV positive persons by airlifting these medicines if necessary;
 - f) Ensure that all medicines in the National list of essential medicines (NLEM) are available in all the pharmacies and stockists;

- g) To direct all public hospitals to continue to remain open, keep their OPD's open and not to refuse new patients;
- h) To create an open, transparent and easy to access system including an online system for advocates and doctors to obtain curfew/travel passes when they propose to travel in the public interest to assist the general public in distress and to access the court;
- i) Not to insist on an Aadhar card or any form of identification while providing basic services such as food, water, shelter and medical attention;
- j) For an order in terms of the Note of the Right to Food Campaign dated 27.03.2020 at **Annexure P1** at page 11 to 22
- k) For an order directing the respondents that supplementary nutrition in accordance with provisions of the National Food Security Act, 2013, be provided to every pregnant women and lactating mother till 6 months after child birth and every child in the age group of 6 months to 6 years, in accordance with the GoI Circular dated 30.03.20 at the doorstep Further to provide Rs. 6000 to every pregnant women and lactating mother in accordance with section 4 of the Act immediately.
- l) For an order directing the respondents to ensure that all ration shops are kept open during the lockdown and that all beneficiaries to be given an additional entitlement of 5 kg wheat/rice and 1 kg preferred

pulses free every month for the next three months in addition to the existing entitlement in accordance with the announcement of the Relief Package by the Finance Minister dated 26.03.20 at **Annexure P2**. Additionally, no person be denied ration merely on account not holding a ration card/Aadhar card and ration be distributed based upon any identification proof in accordance with the directions passed by this Hon'ble Court in para 128.4 of Swaraj Abhiyan (II) case (2016) 7 SCC 498, 543.

- m) For an order directing the respondents to grant above mentioned benefits free of cost to all migrant workers, unregistered construction workers and the like for the next three months even in the absence of Aadhar identification.
- n) Pass any other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

And for this act of kindness petitioner shall ever humbly pray.

Delhi, 27 May, 2020

Filed by:



Satya Mitra

Advocate for the Applicant/ Intervenor
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Drawn by:
Harini Raghupathy

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...Applicant/Intervenor

Affidavit

I, Rajiv Khandelwal, S/o Vishwanath Khandelwal, Executive Director and Co-founder of Aajeevika Bureau with office at 39. Krishna Colony, Near Khan Complex, Bedla Road, Udaipur, Rajasthan 313 004

1. That I am the authorized signatory of the applicant/intervenor in the above captioned petition and I am conversant with the facts and circumstances of this case and hence competent to swear the affidavit.

2. That I have read the contents of the accompanying application along with annexure for intervention on pages 1 to 31 of paragraph 1 to 6 at pages 1 to 8 and I say that I have understood the contents thereof. I further state that the contents thereof are true and correct to the best of my knowledge and belief. I further state that no part of it is false and that nothing material has been concealed therefrom.
3. That the applicant has not filed any other or similar petition/application before this Hon'ble Court. That I have been have read over and explained the contents of this affidavit and I state that the averments made in this affidavit are true and correct to my knowledge and belief.



Deponent

Verification

Verified and signed at New Delhi on this the 27th day of May 2020 that the contents of para no 1 to 8 of the above said affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.



Deponent

Annexure A1

Right to
Food
Campaign
(Secretariat
)

24, Block A, Adhchini, Sarvodaya
Enclave, New Delhi

– 110017, India

27 March, 2020

Right to
Food and
Covid-19

After three days of the nation-wide lockdown, the Finance Minister yesterday announced an economic package aimed at providing some relief and social security to the poor and informal sector workers whose livelihoods have been affected as a result of the hit on economic activity following the COVID 19 pandemic. The sudden closing down of all establishments and the suspension of most activities in order to maintain physical distancing has meant that millions of informal sector workers are left jobless. Many of these people depended on daily wages to meet

even their most basic needs including food. In fact, even formal sector has been badly affected with a ‘no work, no pay’ situation now. Workers in factories, plantation units, handloom and crafts businesses, and so on have been facing the brunt. Although delayed, it is welcome that the Government has finally woken up to the mass hunger and displacement that the lockdown is causing.

However, the measures announced are very inadequate in the context of the challenges that people are facing.

The package of measures under the Pradhan Mantri Garib Kalyan Yojana (PMGKY), mostly identify the correct schemes and programmes through which relief could be provided to people. But much more needs to be done. Doubling the foodgrains given under the Public Distribution System (PDS) and including pulses is something that the Right to Food Campaign had also been demanding, and if delivered effectively will

definitely contribute to mitigating some of the hunger. However, this benefit is still restricted to those who already have ration cards under the National Food Security Act (NFSA) which would leave out many who are excluded. There are a number of exclusions in the PDS, especially of people belonging to very vulnerable communities such as migrant workers, homeless populations, nomadic tribes and so on. The need for biometric authentication mechanisms add to the problem by not only disallowing a lot of people from accessing these entitlements, but also require multiple people to touch the same scanner. For this reason, states like Kerala, Chhattisgarh, Jharkhand and Odisha have already stopped or limited their use of Aadhaar based biometrics. Further, since the ration cards were distributed based on the 2011 Census numbers, the coverage is also lower than what is deemed under the NFSA due to increase in population.

We demand that the PDS entitlements be available to anyone who demands it, at least for the next three months. Simple measures of transparency and accountability can be put in place to ensure that there is no pilferage or stocking up of grain by the PDS dealers. One important measure would be to widely publicise the entitlements through various media. The delivery mechanism can be worked out to ensure that people arrive at the ration shops and other collection points in turns so as to not crowd. The ration for three months can also be given in advance.

The increase announced in the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) wages cannot really be considered as part of the special package. The MGNREGA wages are routinely updated every year keeping in line with the consumer price index. Over the last many years, the wages have not been rising sufficiently and are now much below the

statutory minimum wage rates as well as the market wage rates in most states. This increase had already been announced on 23 March 2020, is grossly inadequate and not part of any additional measure. Further, currently due to the lockdown all MGNREGA worksites are closed. The announcement stated that a Rs. 20 increase in wage rate will result in additional Rs. 2000 income for all MGNREGA households in 2020-21. This assumes that all households will get 100 days of work which does not happen

even during normal times. Over the past five years, only 8 per cent of all households that could access any MGNREGA work got 100 days of work. What would be required is to clear all pending wages under MGNREGA immediately, and give a cash transfer to all the MGNREGA job card holding households to help tide through these months of slowdown.

Similarly, while the increases announced in the old age, widow and disabled pensions are

welcome, as these are the most vulnerable groups, the amount is very meagre. Rs. 1000 over three months is hardly enough to cover for their basic needs. The central contribution to these social security pensions is as low as Rs. 200 and has not been enhanced since 2006. As a regular measure the central contribution should be increased to at least Rs. 1000 per month. The cash transfer to Jan DhanYojana bank accounts are also very small, of Rs. 500 a month. The PM-KISAN announcement also only involves payment of the benefit in advance but not an increase in the amount.

There have been some other measures announced such as using the construction workers welfare funds, district mineral fund and so on. Many of these are funds that have been by contribution from employers and employees in any case. Overall, it is not clear how the figure of Rs. 1.7 lakh crore worth of relief measures has been arrived at. Schemes that already existed and have

not seen any major enhancements cannot be counted under relief measures. In fact, our estimates suggest that the additional spending taking into account

cash transfers to the Jan Dhan Yojana accounts, additional amount through social security pensions for old, widows and disabled, additional grain and pulses under PDS, cylinders under Ujjwala Yojana and EPFO contributions would come to less than Rs. 1 lakh crore. Expenditure on MGNREGA and PM-KISAN are already reflected in the Annual Budget and using construction worker welfare board funds, district mineral funds or giving additional loans to SHGs we believe cannot be included in the estimates of what the government is spending for relief measures.

In many places across the country, there are reports of people already being on the verge of starvation and desperately looking for food and other support. In the light of this, the measures

that have been announced are lackluster and do not show the urgency required to respond to the gravity of the situation. Rather what we are witnessing is increased police repression where people, especially vendors and migrant workers, are being beaten up and humiliated in many ways for even being seen out on the roads. In these times of distress, the reports of food supplies being wasted and/or limited are severely disturbing, to say the least. We demand that the following measures be announced immediately:

1. Open up the PDS entitlements to everyone who demands it on the basis of any identity card that they have (in line with the Supreme Court order for drought, under the Swaraj Abhiyan case) and discontinue ePOS based verification mechanisms.
2. Include cooking oil and increase the quantity of pulses in the PDS package.
3. Make arrangements for distribution of

cooked food, especially in urban areas through community kitchens, night shelters, schools and anganwadi centres. The more decentralized this facility is, the less crowded will be the feeding centres, making it possible to follow the norms of physical distancing.

4. Make immediate arrangements for accommodation of migrant workers stranded in public places like bus stops and railway stations with nowhere to go during this lockdown.
5. Provide all MGNREGA workers full payment– at not less than the state minimum wage rate– for the three months lockdown period irrespective of work being available.
6. Enhance the social security pension amounts to at least Rs. 2000 per month,
7. Provide maternity benefits of at least Rs.

6000 to all pregnant women, immediately, without any conditionalities.

8. Ensure unhindered inter/intra-state movement of goods transport vehicles carrying food and other essential items. The travel restrictions must not affect these items from reaching PDS shops or even regular grocery stores.
9. Establish a system where civil society organisations can give feedback to the government on the effectiveness of these measures. A functioning grievance redress system must also be put in place – this could build on the existing toll-free help line numbers, DGROs and state food commissions under the NFSA.
10. Households that have children who are school going/anganwadi beneficiaries should be given an equivalent amount of the meals as dry rations or food security

allowance.

11. As mentioned by the Finance Minister in her speech, works that can be undertaken under MGNREGA and otherwise while maintaining the norms of physical distancing should be identified. Such work if allowed to continue must ensure that adequate safety and sanitary measures are put in place.
12. Mechanisms to help vegetables, fruits, milk etc. cultivated by farmers to reach consumers should put in place so that farmers do not suffer and consumers can get food without price escalation. Otherwise, farmers are having to destroy crops.
13. Action must be taken against the formal sector declaring 'no work, no pay', and not paying workers for lockdown.

It is also important that the delivery mechanisms for all these schemes are put in place in a sensitive manner. Accessing banks will be almost impossible for most of the beneficiaries. Some way of

making the cash available at the community will need to be worked out – through gram panchayats and banking correspondents.

(True Copy)

Annexure A2

Finance Minister announces Rs 1.70 Lakh Crore relief package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus

Posted On: 26 MAR 2020 5:12PM by PIB Delhi

- Insurance cover of Rs 50 Lakh per health worker fighting COVID- 19 to be provided under Insurance Scheme.
- 80 crore poor people will get 5 kg wheat or rice and 1 kg of preferred pulses for free every month for the next three months.
- 20 crore women Jan Dhan account holders to get Rs 500 per month for next three months.
- Increase in MNREGA wage to Rs 202 a day from Rs 182 to benefit 13.62 crore families
- An ex-gratia of Rs 1,000 to 3 crore poor senior citizen, poor widows and poor disabled
- Government to front-load Rs 2,000 paid to

farmers in first week of April under existing PM Kisan Yojana to benefit 8.7 crore farmers

- Central Government has given orders to State Governments to use Building and Construction Workers Welfare Fund to provide relief to Construction Workers
- The Union Finance & Corporate Affairs Minister Smt. Niramla Sitharaman today announced Rs 1.70 Lakh Crore relief package under Pradhan Mantri Garib Kalyan Yojana for the poor to help them fight the battle against Corona Virus. While addressing the press conference here today, Smt. Sitharaman said “Today’s measures are intended at reaching out to the poorest of the poor, with food and money in hands, so that they do not face difficulties in buying essential supplies and meeting essential needs.”

The Minister of State for Finance & Corporate Affairs Shri Anurag Singh Thakur was also present besides Shri Atanu Chakraborty, Secretary, Department of Economic Affairs and Shri Debashish Panda, Secretary, Department of Financial Services. Following are the components of the Pradhan Mantri Garib Kalyan Package: —

PRADHAN MANTRI GARIB KALYAN PACKAGE

I. Insurance scheme for health workers fighting COVID-19 in Government Hospitals and Health Care Centres

Safai karamcharis, ward-boys, nurses, ASHA workers, paramedics, technicians, doctors and specialists and other health workers would be covered by a Special insurance Scheme.

Any health professional, who while treating Covid-19 patients, meet with some accident, then he/she would be compensated with an amount of Rs 50 lakh under the scheme.

All government health centres, wellness centres and hospitals of Centre as well as States would be covered under this scheme approximately 22 lakh health workers would be provided insurance cover to fight this pandemic.

II. PM Garib Kalyan Ann (अन्न) Yojana

- The Government of India would not allow anybody, especially any poor family, to suffer on account of non-availability of foodgrains due to disruption in the next three months.
- 80 crore individuals, i.e, roughly two-thirds of

India's population

would be covered under this scheme.

- Each one of them would be provided double of their current entitlement over the next three months.
- This additionality would be free of cost.

Pulses:

- To ensure adequate availability of protein to all the above mentioned individuals, 1 kg per family, would be provided pulses according to regional preferences for next three months.
- These pulses would be provided free of cost by the Government of India.

III. Under Pradhan

Mantri Garib Kalyan

Yojana, Benefit to

farmers:

- The first instalment of Rs 2,000 due in 2020-21 will be front- loaded and paid in April 2020 itself under the PM KISAN Yojana.
- It would cover 8.7 crore farmers

IV. Cash transfers Under PM Garib Kalyan Yojana:

Help to Poor:

- A total of 20.40 crores PMJDY women account-holders would be given an ex-gratia of Rs 500 per month for next three months.

Gas cylinders:

- Under PM Garib Kalyan Yojana, gas cylinders, free of cost, would be provided to 8 crore poor families for the next three months.
- Help to low wage earners in organised sectors:
- Wage-earners below Rs 15,000 per month in businesses having less than 100 workers are at risk of losing their employment.
- Under this package, government proposes to pay 24 percent of their monthly wages into their PF accounts for next three months.
- This would prevent disruption in their employment.
- Support for senior citizens (above 60 years), widows and Divyang:

- There are around 3 crore aged widows and people in Divyang category who are vulnerable due to economic disruption caused by COVID-19.
- Government will give them Rs 1,000 to tide over difficulties during next three months.
- MNREGA
- Under PM Garib Kalyan Yojana, MNREGA wages would be increased by Rs 20 with effect from 1 April, 2020. Wage increase under MNREGA will provide an additional Rs 2,000 benefit annually to a worker.
- This will benefit approximately 13.62 crore families.

V. Self-Help groups:

- Women organised through 63 lakhs Self Help Groups (SHGs) support 6.85 crore households.
- Limit of collateral free lending would be increased from Rs 10 to Rs 20 lakhs.

VI. Other components of

PM Garib Kalyan package

Organised sector:

- Employees' Provident Fund Regulations will be amended to include Pandemic as

the reason to allow non-refundable advance of 75 percent of the amount or three months of the wages, whichever is lower, from their accounts.

- Families of four crore workers registered under EPF can take benefit of this window.
- Building and Other Construction Workers Welfare Fund:
- Welfare Fund for Building and Other Constructions Workers has been created under a Central Government Act.
- There are around 3.5 Crore registered workers in the Fund.

- State Governments will be given directions to utilise this fund to provide assistance and support to these workers to protect them against economic disruptions.

District Mineral Fund

The State Government will be asked to utilise the funds available under District Mineral Fund (DMF) for supplementing and augmenting facilities of medical testing, screening and other requirements in connection with preventing the spread of COVID-19 pandemic as well as treating the patients affected with this pandemic.

(True copy)