

CJ & BNJ:

09.04.2020

W.P.Nos.6435/2020, 6671/2020,
6677/2020, 6678/2020,
6684/2020 and 6685/2020

ORDER

We direct the State Government to ensure that either the Home Department or the Director General and Inspector General of Police issues a circular to the police across the State communicating to them what is directed in paragraphs 24 to 26 of our last order dated 7th April 2020 which will facilitate implementation of the said order by the police across the State.

2. It is pointed out across the Bar that the Karnataka State Board of Wakfs on 6th April 2020 has issued an order prohibiting the visits on the occasion of Shab-e-Barat. We are sure that the Wakf Board will give wide publicity to the said direction so that the members of the public are aware about the said direction.

3. The next issue which we are considering today is about the relief to the migrants which will include homeless people and stranded people in various cities and other parts of the State. The Secretaries of the District Legal Services Authorities (for short 'DLSA') have submitted detailed reports after visiting some of the shelters provided to the migrants in

different parts of the State. The reports which are filed on record relate to 27 districts.

4. The learned counsel appearing for the Karnataka State Legal Services Authority (for short 'KSLSA') pointed out that except for the district of Mysuru which is one of the districts out of 27 districts, the Secretaries found that the facilities available were reasonable. She states that the Secretaries of DSLAs will continue their visits to the shelters for the migrants and in the next week, additional reports will be filed concerning the 27 districts and the remaining districts as well. The reports be filed by 15th April 2020.

5. In terms of the directions issued by this Court on 7th April 2020, the State Government has issued a circular dated 7th April 2020 directing the Municipal Authorities across the State to address all the basic needs of the migrants and construction labourers. A copy of the circular has been placed on record as Annexure-R13 along with the written submissions of the State Government filed on 9th April 2020. We hope and trust that all the Municipal Authorities implement the directions in the circular in its true letter and spirit.

6. Now we come to the directions issued under the last order dated 7th April 2020 to Bruhat Bengaluru Mahanagara Palike (for short 'BBMP'). The last order refers to the report of the Member Secretary of the DLSA, Bengaluru Urban District that around 2000 migrants and other people were found in the vicinity of Majestic. We had issued a direction that BBMP should be represented through an advocate. Accordingly, today, Sri B.V.Shankaranarayana Rao, the learned counsel appeared for BBMP and has submitted a report signed by the Municipal Commissioner. The report states that only 100 people were found in and around Majestic. The least we expected was that after the order dated 7th April 2020 was communicated to BBMP, appropriate officers will immediately contact the Member Secretary of the DLSA and make a joint visit to the spot. That has not been done. After having perused the report, we find that there is no real effort made by BBMP to address the issue.

7. Today, the learned counsel appearing for the KSLSA stated that at 9.30 a.m. when she passed through the same area, about 60 to 70 people were found standing in the same locality. Moreover, yesterday night, the Member Secretary of DLSA visited Mahadevapura area and found that

large number of people including children have taken a shelter under Mahadevapura flyover and some of them were getting food from NGOs. After this was pointed out, we orally directed the officer of BBMP who is present in the Court to contact an appropriate officer of BBMP with a view to ensure that the appropriate officer gets in touch with the Secretary of the DLSA, Bengaluru Urban District and immediately make a joint visit to the area and find out the plight of the persons who have taken shelter under the Mahadevapura flyover.

8. A document was provided by the learned counsel appearing for BBMP to the learned counsel appearing for the KSLSA, the copies of which are placed on record. The document records that there are 13 shelters established for the migrants and others having capacity of 652 and about 451 people have been accommodated therein at present.

9. However, we must note here that on 7th April 2020, a report was submitted by the Member Secretary of the DLSA of Bengaluru Urban District recording that out of 8 BBMP Zones, except in West Zone where there are 3 camps specified in the said report, no other shelter homes have been established by BBMP for the benefit of the migrants.

10. The learned counsel appearing for the KSLSA pointed that 3 shelters along with a shelter at Goods Shed Road which are incorporated in the list of 13 shelters are already existing and these are not the new shelters which are established by BBMP. The report dated 7th April 2020 creates a serious doubt whether there are 13 newly established shelters for migrants, homeless people etc., within the limits of BBMP. We direct BBMP to clarify this aspect by submitting a report in writing on or before 13th April 2020.

11. We have carefully perused the report submitted by BBMP today. The report indicates that there is no systematic effort made by BBMP to ascertain how many migrants, homeless people and stranded people are on the streets or are squatting on the public places such as below the flyovers in the city. The data which is set out in paragraphs 4 and 5 of the report regarding the workers on the construction sites in the city is full of inconsistencies. One of our earlier orders specifies three categories of migrants. The first category will be of the migrants on streets who are without shelters. The second category of migrant workers is of those migrants who are staying on the sites of public projects or private projects. The third category is of few

migrant workers who may be occupying the houses taken on rental basis.

12. In paragraph 3 of the report, the Commissioner has stated that nearly 1/3rd of the total positive cases of corona virus in the entire State are from Bengaluru Urban District. Apart from performing the mandatory duties of BBMP under clauses (29), (30) and (31) of Section 58 of the Karnataka Municipal Corporations Act, 1976 (for short 'the said Act of 1976') by taking measures to protect the citizens who are affected by the calamity, it is also necessary for BBMP to ensure that the migrants, homeless and stranded people who are on the streets or who are squatting on the public property are accommodated in the shelters with a view to ensure that all of them maintain social distancing. Even some measures will have to be taken in respect of the workers on the sites of public projects which are large in number within the limits of BBMP to ensure that the workers follow safety measures.

13. Even under clause (22) of Section 58 of the said Act of 1976, it is the obligatory duty of BBMP to prevent and check the spread of the dangerous diseases. Unless the issue of migrant workers, homeless people and people

stranded on the streets is properly taken care of, we fail to understand how BBMP will perform its statutory and mandatory duties and functions under clauses (22), (29), (30) and (31) of Section 58 of the said Act of 1976. As no effort is made to ascertain the number of migrants who fall in the first two categories, the efforts which are tried to be projected are of no help. BBMP has relied upon three helplines. We are not sure whether the people who are stranded on the streets will be in a position to access these helplines and therefore, the availability of helplines will not help BBMP in addressing this issue.

14. Since it is pointed out that 1/3rd of the affected persons in the State are from Bengaluru Urban District, it is of great deal of importance that all the measures undertaken by the State Government are implemented within the limits of BBMP. Therefore, it will be appropriate if the Additional Chief Secretary of the Urban Development Department issues appropriate directions to BBMP. The learned counsel appearing for BBMP states that BBMP will come out with a better report if 48 hours' time is granted. We, accordingly, grant time to BBMP till Sunday (12th April 2020) to submit additional report containing the details of the action taken by it. The report will be submitted online and the copies thereof

will be forwarded by BBMP to the learned Additional Government Advocate, the advocate representing the KSLSA and the advocate representing People's Union for Civil Liberties so that the advocates can share copies of the same with the other members of the Bar who are appearing today. We hope and trust that with the intervention of the Additional Chief Secretary of the Urban Development Department, BBMP will take immediate steps in right direction. We will consider the report which may be submitted by BBMP on the next date.

15. Before we go to the next issue which is required to be addressed, we must note here that on the basis of the report published in Deccan Herald of 8th April 2020 about the plight of Devadasi women in a village near Koppal Town, as per the directions of the Executive Chairman of the KSLSA, the Member Secretary of the DLSA, Koppal visited the place and has submitted a report to the Secretary of the KSLSA. We are not deliberately referring to the name of the village in which the Devadasis who are under distress were found to be residing. We are only recording that after the visit of the Member Secretary, ration has been made available to them and a local Merchants' Association even supplied utensils to the Devadasis in the particular colony. A suggestion has

been made by the Secretary of DLSA to establish a sub-branch of ration shop near the colony which will facilitate the Devadasis to approach the said sub-branch and take their ration.

16. At this stage, the learned counsel appearing for the KSLSA invited our attention to the report in Deccan Herald of 8th April 2020 which records the plight of the residents of Kariyammanna Agrahara slum near Bellandur lake in South Eastern Bengaluru. It is pointed out that the action of demolition was carried out by BBMP three months back and the residents are being deprived of food and other reliefs. Even they are not getting milk for the babies. We are sure that BBMP will look into this aspect and respond while submitting the report as directed above.

17. We have considered the issues raised in W.P.No.6685/2020. As far as the first prayer is concerned, it is taken care of by the directions contained in paragraphs 2 and 3 of the order of the Apex Court passed yesterday (8th April 2020) in W.P. (Civil) Diary No.10795/2020. The directions in paragraphs 2 and 3 are against the State Government and therefore, the State must respond by 15th

April 2020 by pointing out in what manner the said directions will be implemented in the State.

18. The second issue is regarding availability of N-95 Masks, Triple Layer Masks, PPE Kits and Sanitizers. In fact, clause (1) of the aforesaid order of the Apex Court deals with this issue as far as Metro cities, Tier-2 and Tier-3 cities are concerned. As far as the availability of masks and sanitizers is concerned, the State Government will have to ensure its availability across the State. In fact, today, the learned counsel appearing for the KSLSA has tendered a report dated 8th April 2020 submitted by the Member Secretary of the DLSA, Yadgir which records that on 8th April 2020, along with the Member Secretary, the learned Principal District Judge visited the Primary Health Centres (PHCs) at four places in Yadgir District. It is recorded that PHCs were manned only by nurses and a few staff members. The duty doctors were absent. They were undergoing training. It is stated in the report that no masks and sanitizers were supplied to the staff of PHCs. The State Government needs to take care by ensuring that masks and sanitizers are made available at the grass-root level in PHCs and other public health facilities.

19. Annexure-R.23 to the additional written submissions filed by the State Government dated 9th April 2020 is an Excel Sheet giving the District-wise breakup of the available Isolation Beds, Intensive Care Unit beds and Ventilators as well as other materials. The learned counsel appearing for the petitioner seeks time to respond to the said details. The Registry will download Annexure-R.23 and keep a copy of the same with the additional written submissions.

20. The State Government has estimated the requirement of procuring N-95 masks, Triple Layer masks, PPE Kits and sanitizers based on projections as per the contingency plan and the requirement of these materials is being worked out. The State Government is working on the estimated projection of 10,000 COVID-19 cases till the end of April 2020. We find that from the figures given in paragraph 4 of the additional written submissions, there is a lot of shortfall of N-95 masks, Triple layer masks and PPE kits.

21. The State has pointed out that the manufacture of sanitizers has been increased to more than 50,000 litres per day. If that be so, all that the State needs to ensure is equitable distribution and availability of sanitizers to the medical and paramedical workers as well as to the citizens.

22. The State Government must also respond to the last order which directs the State to point out whether to the private clinics, PPE Kits can be made available at cost.

23. On the issue of the availability of the PPE Kits, clause (4) of the aforesaid order of the Apex Court issues a direction to the State Governments to explore all the alternatives including enabling and augmenting domestic production of protective clothing and gear for the medical professionals. The direction is to explore alternative modes of production of masks, suits, caps, gloves etc., and permitting movement of raw materials. The State Government will have to respond even on the said direction. The further hearing on this aspect will be conducted on the next date that is, 16th April 2020.

24. Our attention is invited to the report of the Expert Committee submitted to the Government of Karnataka on 8th April 2020 where one of the suggestions is that number of Garment Industries in the State can be roped in for production of PPEs in mass scale which will also create additional employment. This suggestion is in conformity with the direction contained in clause (4) of the order of the Apex Court. At this Stage, the learned counsel appearing for the

petitioner in W.P.No.6685/2020 urged that the State Government must ensure that masks and sanitizers are available to common man at a reasonable price.

25. We may note that though our order of 30th March 2020 deals with the issue of measures to be taken by the State Government for preventing hoarding of essential goods, there is no specific response by the State on this aspect. Our attention is invited to the letter dated 7th April 2020 issued by the Secretary of the Ministry of Home Affairs of the Central Government to all the State Governments which deals with this issue. Secondly, our attention is invited to the Notification dated 21st March 2020 issued by the Ministry of Consumer Affairs, Food and Public Distribution of the Government of India laying down the outer ceiling on the prices of masks and hand sanitizers. We grant time to the State Government to respond on the issue of hoarding and especially, in the light of the aforesaid letter dated 7th April 2020 and the notification dated 21st March 2020. The State must file its response by 15th April 2020 which will be considered on 16th April 2020.

26. In the written submissions filed by the State Government on 9th April 2020, it is pointed out that 50 foreign Tablighi Jamaat members were traced in the State of

Karnataka and they have been placed in institutional quarantine. The learned AGA who is present in the Court states that now the number has gone up to 57 members and the nationality of some of the members have been also set out. It is stated that 269 Indian Nationals who attended the event during the crucial period have been identified in Bengaluru City and have been quarantined. It is further stated that 482 Indian Nationals who attended the event during the crucial period have been identified in other parts of the State and all of them have been quarantined in the respective districts. Thus, total 808 persons have been identified and quarantined. It is also stated that this number is dynamic and is subject to changes as more and more information is being gathered by the State Government. It is also pointed out that 581 members of Tablighi Jamaat who are from the State of Karnataka have been identified to be in other States and the respective States have been accordingly informed.

27. In paragraph 20 of the written submissions, the State Government has dealt with the issue of transgender community. It is stated that 1657 persons of transgender community are getting monthly pension of Rs.600/- under

Mythri Scheme and on considering the current situation, two months' pension is being paid to them in advance.

28. If the transgenders who are covered by *Mythri* Scheme make an application for grant of the benefits under the *Mythri* Scheme, the State Government or the concerned Authorities will have to dispose of those applications immediately considering the prevailing situation and extend the benefits under the *Mythri* Scheme to all the eligible members of the transgender community.

29. In paragraph 11 of the order dated 30th March 2020, we had called upon the State Government to take a decision on the issue of supplying ration to the persons who do not have the ration cards. The suggestion was to supply ration on production of the identity documents.

30. A large section of the citizens have been adversely affected by the lockdown who are deprived of food. Only by way of an illustration, we are referring to beggars, transgenders and sex workers. Moreover, there may be a category of people like persons who have been deprived of their daily earnings. Many of the people belonging to this marginalized category may not be having the ration cards. Therefore, as directed under the order dated 30th March 2020,

the State Government shall immediately take a decision on the question of providing the ration to this category of citizens on production of an authenticated proof of identity. While the State Government takes its decision, it will have to bear in mind that those who belong to the marginalized category may not be in a position to pay for the ration.

31. Our attention is invited to the statement made by the Hon'ble Chief Minister which is reported in a daily "the Hindu" that free ration will be supplied to those who are not possessing BPL cards. The persons who are holding BPL cards are being given free food grains as stated in paragraph 14 of the written submissions. The State Government must immediately address itself to the issue of supplying the ration on the basis of the identity documents and the issue of supplying the ration free of cost to those who cannot afford to pay for the ration but are not having the BPL cards. On this aspect, the State must respond on 13th April 2020.

32. At this stage, we may point out that 1.27 crore families which are referred in paragraph 14 (i) of the written submissions of the State Government are the families in priority households which are covered by Section 3 of the National Food Security Act, 2013 (for short 'the said Act of

2013'). The 'priority household' has been defined under Section 10 of the said Act of 2013. Thus, we clarify that the benefits under the said Act of 2013 has no nexus with the availability of BPL cards and therefore, it is all the more necessary that the State Government immediately acts and takes a decision. This aspect of food security will be considered by the Court on 13th April 2020.

33. As regards the grievance made in one of the IAs regarding the short supply of medicines, in paragraphs 8 and 9 of the additional written submissions filed on 9th April 2020, the State Government has assured that there is no impediment in the way of regular supply of medicines as the same are classified as essential goods and that passes are being issued for movement of the persons working in the pharmaceutical industries.

34. In paragraph 16 of the same written submissions, helpline numbers have been provided namely, 104 – *Arogya Sahayavani* or 97456 97456. If any of the citizens has any grievance about non-availability of the medicines in any particular area or areas, he is free to complain on the helplines so that the State Government can take care of the issue of short supply of the medicines in a particular locality.

The State Government shall give adequate publicity to the availability of both the helpline numbers in the media so that the citizens are made aware of it.

35. In the written submissions filed by the State of Karnataka dated 9th April 2020, in paragraphs 2 to 6, the State Government has set out the measures taken for protecting the animals in Zoos. Paragraphs 7 and 8 deal with the measures for protection of elephants. Clause (x) of paragraph 7 contains a direction that DCF/CF shall check the availability of food supplies to private temple and mutt elephants. This direction means that DCF/CF will have to find out whether there is adequate food supply to the captive elephants in possession of private individuals and temples and mutts. In case DCF/CF find that the captive elephants are not getting adequate food supply, they will immediately endeavour to contact the NGOs working in the field with a view to make available the food supply to the captive elephants. The data of such captive elephants in private custody shall be made available to DCF/CF. Except for these directions, at this stage, no other directions are required to be issued regarding protection to animals in Zoos and elephants.

36. For hearing the submissions of BBMP on the issue of migrants and for considering the issues of food security which are raised in this order, the petitions shall be listed on 13th April 2020 at 11.00 a.m.

(Sd/-)
CHIEF JUSTICE

(Sd/-)
JUDGE

AHB/BKV