

CJ & AKJ:
02.07.2020

W.P.No.6435/2020
& connected matters

Firstly, we deal with the issue of migrants. The State Government has filed written submissions today dealing with the issue. It is stated that till 24th June 2020, 4,10,689 migrant workers were transported from the State of Karnataka by 287 Shramik special trains. It is also noted in the written submissions that even subsequent to 24th June 2020, four Shramik trains operated as stated in paragraph 3 of the written submissions. In addition, it is stated in paragraph 4 that one Shramik train was scheduled on 1st July 2020 to Bihar via Odisha and Jharkhand. The figure of migrant workers transported up to 29th June 2020 is 4,69,914. There is a memo filed by the learned Central Government Counsel which gives the details of the Shramik special trains which operated from the State of Karnataka from 9th June 2020 to 1st July 2020.

2. The learned Additional Advocate General states that on 30th June 2020, SMSs were sent to 6,54,406 registered migrant workers informing them that if they still intend to travel, they should

immediately report at Tripuravasini Mustering Centre for Bengaluru or to the respective Deputy Commissioner Offices in the Districts. In paragraph 5 of the written submissions, it is stated that the SMSs sent on 30th June 2020 are intended to be the last SMSs sent to the migrant workers who have registered themselves on Seva Sindhu Portal. However, there is an assurance that if the migrant workers, on the basis of the SMSs sent on 30th June 2020, report at the designated places, the trains and transportation via buses from Bengaluru would be arranged for the migrant workers.

3. As regards the Mustering Centres, on 27th June 2020, the Principal Secretary to the Government, Revenue Department who is also the Nodal Officer for migrants has issued a direction to keep open all the Mustering Centres in the State.

4. The learned counsel appearing for the applicant – AICCTU states that as of today, there are about thousand migrant workers who are present at Tripuravasini Palace Grounds Mustering Centre. Looking to the stand taken in the written submissions, the

State is bound to arrange for transport of the said migrant workers who are present at Tripuravasini Mustering Centre.

5. A memo has been filed by the applicant –AICCTU which gives lists of workers who are desirous of returning to their respective home States. The list is of workers who contacted the volunteers of “Bengaluru for migrants” and the representatives of the applicant on phone. The learned counsel appearing for the applicant states that the list has been supplied to the concerned officers of the State Government.

6. As of today, the State Government has not discontinued the policy of providing transport facilities to the migrant workers to return to their respective States. Therefore, it follows that if the migrant workers whose details are set out in Annexure-7 of the memo filed by AICCTU report to the Mustering Centres or designated places, the State Government will have to arrange for their transport.

7. The learned Additional Advocate General states that though as of today, the Mustering Centres have been kept open and

the State is facilitating transport of the migrant workers to their respective States, some day in future, the State will have to stop this facility. However, the State must take a stand on this aspect in writing and place its policy decision on record on the next date.

8. In paragraph 11 of the order of this Court dated 18th June 2020, a direction was issued to the State Government to produce the action taken reports on implementation of the new policy on migrant workers. The learned Additional Advocate General states that by 8th July 2020, the action taken reports will be placed on record. While filing the action taken reports, the State Government shall also disclose whether the migrant workers who are present today at the Mustering Centres at Bengaluru were provided the facility of transport. It is obvious that while submitting the action taken reports, an exhaustive data of migrant workers present even as of today at the Mustering Centres will be placed on record.

9. If the submissions of the State Government are accepted, broadly it can be said that out of those migrant workers

who have registered themselves on Seva Sindhu Portal for returning back to their home States, about half of the migrant workers continue to stay in the State of Karnataka. The issue is of providing relief to them under the various welfare Legislations which are applicable to them. The learned counsel appearing for the applicant stated that he will place the necessary material in that behalf.

10. It is pointed out across the Bar that the scheme of the Central Government known as 'Atma Nirbhar Scheme' under which a person who is not holding a ration card of any State is entitled to get free ration of 5 kgs Rice and 1 kg Dal has been continued till November 2020. The learned Additional Solicitor General of India stated that within three days, he will place necessary material on record to show whether the scheme has been continued. If the scheme has been continued, it is needless to state that the same will have to be implemented scrupulously in the State of Karnataka.

11. At this stage, the learned Additional Solicitor General of India states that the name of the scheme is not "Atma Nirbhar Scheme", but it is "Pradhan Mantri Garib Kalyan Anna Yojana".

12. Now, coming to I.A.No.11/2020, under the order dated 25th June 2020, several directions were issued to Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') after noting that more than 400 areas in the city of Bengaluru were declared as containment zones. After having perused the Circular dated 17th April 2020 issued by the State Government and the order of BBMP dated 19th April 2020, this Court observed that it is the obligation of BBMP to comply with all the clauses of the Standard Operating Procedure (for short 'SOP') incorporated in the circular dated 17th April 2020 and especially, regarding supply of food packets and ration for the needy. It is the responsibility of BBMP to ensure that supply of ration through Fair Price Shops is made at the door steps of the ration card holders. The response of BBMP is in the form of a report dated 2nd July 2020 signed by the Commissioner of BBMP.

Paragraphs 3 and 4 of the said report read thus:

"3. During the process of the implementation of the measures, it appears there has occurred certain unavoidable shortcomings and the Commissioner, BBMP is reviewing the entire matter on 06.07.2020 and to take corrective measures in the matter where ever necessary, more particularly in view of the Circular No.UDD

95 MNG dated 30.06.2020 issued by the Additional Chief Secretary, UDD. The BBMP has put all the resources at its command to handle the "Health Emergency" prevailing in the City. The obligations cast on the BBMP to provide food etc. to the "Needy" persons who are living in the containment zone/s is being attended to as far as practicable.

4. The enquiries at the ground level have revealed that most of the "Containment Zones" in the city have not gone for total lockdown/seal down to completely restrict the movement of the people living in the containment zones in obtaining essential supplies on their own. Therefore, no serious adverse consequences have emerged as a result of the declaration of containment zones within the city which are primarily declared by the BBMP to handle the existing and potential health crisis which are being attended to with utmost priority by the BBMP officers."

(underline supplied)

13. Today, the learned counsel appearing for BBMP states that there may be 500 containment zones in the city. Strangely, in the report, the Commissioner has taken a stand that the obligation cast on BBMP to provide food etc., to the needy persons who are living in the containment zones is being attended to "as far as practicable". This statement means that even if a person staying in

a containment zone is needy and is not able to procure food for himself and his family, BBMP will supply food packets and ration to such person only if it is practicable. As observed in paragraph 18 of the order dated 25th June 2020, the failure of BBMP to abide by its own order as well as the SOP will amount to violation of fundamental rights of the citizens guaranteed under Article 21 of the Constitution of India. Paragraph 3 of the report of the Commissioner suggests that notwithstanding the said observations, BBMP is supplying ration/food to the needy persons as far as practicable.

14. Secondly, the stand taken in paragraph 4 of the report of the Commissioner indicates that the containment zones in the city have not gone for total lock down/seal down to completely restrict the movement of people living in the containment zones even for obtaining essential supplies on their own. The learned counsel Sri Shridhar Prabhu who appears in the companion petition (W.P.No.6685/2020) states that he himself is residing in a containment zone and in the containment zone, it is not possible for anyone who is residing in the containment zone to leave the containment zone. The report of the Commissioner is completely

silent about providing ration at the door steps of the ration card holder.

15. The sum and substance of the above discussion is that there does not seem to be any desire on the part of BBMP to comply with the important clauses in the SOP in the circular dated 17th April 2020 and its own order dated 19th April 2020. We may note here that the State Government has issued a Circular dated 30th June 2020 which reiterates the obligation of BBMP and other Local Authorities to provide water, food packets and ration on regular basis to those who are needy till the area is decontaminated.

16. In I.A.No.11/2020, the applicant has specifically come out with the case that in certain containment zones, the citizens are not getting food. BBMP has not responded to that case.

17. The minimum which is expected from BBMP was an assurance to make every endeavour to abide by its obligations under the SOP forming part of the Circular dated 17th April 2020. Even that assurance is completely missing in the report submitted by the Commissioner. Therefore, it is necessary for the State

Government to step in and ensure that BBMP complies with the requirements of the Circular dated 17th April 2020.

18. Going by the stand taken by the Commissioner in his report, it is obvious that BBMP is not supplying food and ration to all the needy persons in all the containment zones.

19. We, therefore, direct the Commissioner of BBMP to file a statement on oath recording compliance with the requirement of providing food, ration and other necessities of life to the needy persons in the containment zones.

20. In the said affidavit, the Commissioner of BBMP will also place on record approximate extent of the population which is affected by the containment zones and the extent of area affected by the containment zones. The affidavit of the Commissioner of BBMP shall be filed on record by 8th July 2020.

21. BBMP has not reported compliance with the availability of machinery to enable the citizens to make a grievance regarding

non-compliance of the order dated 19th April 2020. As regards this direction, BBMP must report compliance by 7th July 2020.

22. We will continue hearing of W.P.No.6685/2020 on 7th July 2020 at 2.30 p.m. when other issues which are not touched today will be considered.

23. W.P.No.8536/2020 shall also be listed on 7th July 2020 at 2.30 p.m.

24. Our attention is invited to the orders dated 24th March 2020 and 4th June 2020. The material part of the order dated 16th April 2020 is in paragraph 35 which reads thus:

“Our attention is invited to our Order dated 24th March, 2020 and in particular, the direction regarding extension of interim orders. The directions are contained in clause (i) to (iii). Clause (iv) is regarding agencies and instrumentalities of the State Government taking action of demolition and eviction. The material part of the said order read thus:

“ Only with the view to ensure that citizens are not deprived of their right to approach the Courts of law, we propose to exercise our jurisdiction under Articles 226 and 227 of the Constitution of India by issuing certain directions. The directions are required to be issued to ensure that litigants should not suffer

on account of their inability to approach the Courts of law. We issue the following directions:

- (i) All interim orders passed by the Karnataka High Court, all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial Tribunals and all other Tribunals in the State over which this Court has power of superintendence, which are due to expire within a period of one month from today, will continue to operate for a period of one month from today. We, however, make it clear that those interim orders which are not of a limited duration and are to operate till further orders will remain unaffected;*
- (ii) If the Criminal Courts in the State have granted bail orders or anticipatory bail for a limited period which are likely to expire in one month from today, the said orders will stand extended for a period of one month from today;*
- (iii) If any orders of eviction, dispossession or demolition are already passed by the High Court, District or Civil Courts, the same shall remain in abeyance for a period of one month from today;*
- (iv) Considering the fact that it will be practically impossible for the citizens to approach the Courts for redressal of their grievances for a period of twenty-one days specified in the order of the Ministry of Home Affairs dated 24th March 2020, we sincerely hope that the State Government, Municipal Authorities and the agencies and instrumentalities of the State Government will be slow in taking action of demolition and eviction of persons.*

This order be published in the official website of this Court. A soft-copy of this order shall be sent to all concerned Courts and Tribunals; the learned Advocate

General; the learned Additional Solicitor General of India; the learned Assistant Solicitor General of India; State Public Prosecutor and the Chairman of Karnataka State Bar Council. We request the Chairman of the Bar Council to circulate this order to all the Bar Associations in the State. ”

25. Though the Courts have resumed partial functioning with effect from 1st June 2020, considering the prevailing situation where the number of COVID-19 positive cases in the State are constantly increasing in a rapid speed, we direct that the interim order/orders mentioned in clauses (i) to (iii) of the order dated 24th March 2020 quoted above shall stand extended till 7th August 2020. Even the observations made in clause (iv) which are quoted above will continue to operate till 7th August 2020. The Registry shall publish this part of this order on the website of this Court.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

bkv/sp
AHB/DR