

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND B.V.NAGARATHNA	WP 6435/2020	12/05/2020	1. In response to the directions contained in paragraph 22 of the order dated 5th May 2020, the State Government has made submissions in the written submissions dated 12th May 2020. Paragraphs 34 and 35 are the relevant paragraphs. Though in the first part of paragraph 35, it is stated that the Deputy Commissioner, Ramanagar, while permitting marriage function, ought to have specified the number of persons permitted for the function keeping in view the object of ensuring that there is no crowding at any particular event, in the next sentence, the State Government has justified the action of the Deputy Commissioner on the ground that there was no specific prohibition on number of guests in the MHA notification. The State Government has not disclosed how many movement passes were issued to enable the guests to attend the function held on 17th April 2020. The learned Additional Solicitor General of India appearing for the Union of India seeks time to place the response of the Central Government on record. We grant time till next



SHOT ON MI A1
MI DUAL CAMERA

AND S VISHWA IITH SHETTY

30/04/2020

2020/5/13 21:12

2. In clause (v) of paragraph 34 of the written submissions, the State Government has made a policy statement regarding granting permissions for holding of marriages. It is stated in clause (iii) of paragraph 34 that in terms of the order of 1st May, 2020 of MHA, the marriages are allowed as of date so long as requirements of maintaining social distancing and maximum of fifty guests are fulfilled.

3. Now, we deal with the issue of transportation of the migrant workers who want to go back to their respective places outside the State. Reliance is placed on the order of the Ministry of Home affairs, Government of India at Annexure-R78 laying down the guidelines for transport of such migrant workers. The written submissions filed the State Government from paragraph 14 onwards deal with this issue. Though in the written submissions, the State Government has reiterated that the migrant workers from other States will be permitted to travel back to their respective States, even as of today, a large number of migrant workers are found on highways who are making an endeavor to walk upto their respective States. One reason

for this is that the assurance of the State Government that every migrant worker will be allowed to go back to his home State has not reached the migrant workers. They feel insecure about their prospects of returning to their respective homes and, therefore, in the entire State, we see a scenario of the migrant workers walking on the highways.

4. Our attention is invited to the protocol which is required to be followed between the States for transporting the migrant workers from one State to another. Our attention is invited to the correspondence made by the Nodal Officer for the Migrants appointed by the State of Karnataka with the Nodal Officer appointed by the Government of Bihar. Annexure-R87 is the letter dated 10th May 2020 addressed by the Officer on Special Duty of the Government of Bihar to the Nodal Officer appointed by the State of Karnataka. It records the consent of the Government of Bihar for allowing the transport of stranded persons from the State of Karnataka by special trains subject to the condition that two trains per day be scheduled starting from 16th May 2020 to 20th May 2020 and subject to the condition that the

respective passenger manifestos be shared in advance so that the arrival stations in Bihar can be fixed. This means that ten trains from the State of Karnataka will be arranged from 16th May 2020 to 20th May 2020 for the benefit of the migrant workers from Bihar to reach their State. By this time, the State Government must have taken a decision identifying the migrant workers who will travel by these ten trains. The question is whether those who have been identified to travel by these special trains are made aware about the facility which is extended to them.

5. Once there is a policy decision taken by the State Government that all the migrant workers from other States will be permitted to return to their respective States by the special trains, the assurance of the State Government must reach the migrant workers, who have applied for permission to travel. In fact, the entire list of the persons who have applied to travel to other States is available with the State Government as all the migrant workers have registered themselves on Seva Sindu portal.

6. As can be seen from the material placed on record, the migrant workers are in a desperate situation. As they have been deprived of livelihood, they have made up their mind to go back to their respective home States. The State Government must ensure that its assurance that every such migrant worker who has registered himself will be allowed to go back to his own State must reach the concerned migrant worker. Perhaps if such an assurance is communicated to the migrant workers, they will not be forced to make an attempt to travel by road to their respective States. The State Government must take the help of all the Trade Unions and Non Governmental Organisations (for short 'NGOs') who are working in the field to ensure that the assurance of the State reaches the migrant workers who have already registered with the State Government.

7. By way of a specific illustration, we may refer to the migrant workers who want to go to the State of Bihar. The State Government can always inform through its agencies or NGOs or the Unions to the migrant workers who are selected to travel by ten special trains starting from 16th March 2020 to 20th May 2020. The State must assure that if large number of migrant workers who wish to travel to a particular State are located in one City, the State Government will be arranging for transport from that City as well.

8. It is pointed out across the Bar that many of the migrant workers who want to move back to their respective States have not been paid wages. The grievance about the non-payment of the wages must be looked into by the State Government and its agencies.

9. Another important issue is of the migrant workers



SHOT ON MI A1
MI DUAL CAMERA

9. Another important issue is of the migrant workers requiring to pay the train fare. As per the order of the Ministry of Railways dated 2nd May 2020, the State Government which arranges for "Shramik" special trains is expected to pay the train fare. In the State of Karnataka, the policy of the State is to collect the train fare from the migrant workers. In case of some States, the concerned State Governments have agreed to pay the train fares of the migrant workers who are returning to the said States from the States in which they are working.

10. Prima facie, it appears to us that considering the constitutional rights of the migrant workers, no one should be deprived of an opportunity to go back to his own State only for the reason that he has no capacity to pay for the transport. The reason is that inability to pay is due to loss of livelihood.



11. The Central Government through the Ministry of Railways will have to look into this issue, especially when the Home Secretary of the Government of India by his letter dated 11th May 2020 addressed to the Chief Secretaries of all the States has stated that the State Governments should cooperate with the Central Government for running more number of "Shramik" special trains so that the traveling of the migrant workers is facilitated at a faster rate. Even in the last paragraph of the said letter, the Home Secretary of the Central Government has urged the Chief Secretaries to receive all "Shramik" special trains without any hindrance and facilitate faster movement of the migrant workers to their native places. If the migrant workers are unable to pay the train fare, it will be impossible to facilitate their travel at a faster rate. Therefore, apart from the Central Government, even the State of Karnataka must look into the issue and take immediate decision on the question of paying railway fare of those migrant workers who are not able to travel due to their inability to pay.



12. The State Government and the Central Government, during this difficult time, must appreciate the major contribution made by the migrant workers in a large number of public projects as well as private projects which have contributed to the improvement of the infrastructure in all the States and the improvement of economy. At a time when the migrant workers who have made such a huge contribution are facing distress, both the Central and State Government must come forward to help them to ensure that at the earliest, they return back to their home States. Ideally, no migrant worker should be deprived of an opportunity to travel back to his home State if he wishes to do so. Therefore, it will be appropriate if the State Government immediately convenes a meeting of all the Trade Unions, Employers' Associations and NGOs in the State with a view to ascertain whether any contribution can come from the Employers' Association, Trade Unions and NGOs which can be used for bearing the Train fares of the migrant workers who are not in a position to pay the train fare.



13. Now that the migrant workers who wish to travel back to their respective States have registered themselves, the State Government is made aware how many migrant workers want to go back to different States. The State Government must, therefore, work out a time schedule for facilitating transport of these migrant workers to their respective States. The State Government should ensure that a broad time schedule is communicated to the migrant workers. The State can immediately do so in case of the migrant workers of the State of Bihar, who are going to be accommodated in the special trains which will be run from 16th May 2020 to 20th May 2020. The Central and State Government must find the solution on this issue which will ensure that the rights of those migrant workers who wish to go back to their respective States are not infringed only because they are in distress and are not in a position to pay the traveling charges.

14. The responses of the State and the Central Government

WWW.LEVELAW.IN
on these aspects shall be placed on record on the next date, that is, on 18th May 2020. The State Government must place on record the details of the special trains so far arranged from various places in the State of Karnataka and the special trains which are scheduled to run in near future.

15. Needless to add that considering the delay involved in making available the traveling facilities to the migrant workers, the State Government must ensure that so long as the migrant workers are not leaving the State, the supply of ration/food to them remains uninterrupted.

Necessary details such as requests received by the State of Karnataka, steps taken for repatriation of the migrant workers to Karnataka etc., shall be also placed on record.

17. Our attention is invited to the letter dated 7th May 2020 addressed by Shri Sharath Bachegowda, a Member of Legislative Assembly. The letter was addressed to the Chief Justice of High Court of Karnataka. A copy of the letter be supplied to the learned Additional Advocate General so that the State can address the Court on the next date.

18. Now turning to the issue regarding the workers working on the project of Bengaluru Metro Rail Corporation Limited (for short 'BMRCL'), a written response has been filed by the learned counsel appearing for the BMRCL. During the course of hearing, we have indicated to the learned counsel that better details are required to be placed before the Court such as the number of contractors engaged by BMRCL and how many workers were working under a

Court such as the number of contractors engaged by BMRCL and how many workers were working under a particular contractor immediately before the lockdown. Secondly, the figure of the number of workers engaged as on 24th March 2020 will have to be placed on record. Further, BMRCL must place on record whether food and other necessities of life are being supplied to those workers who were working prior to lockdown and who have not resumed the work.

19. Our attention is invited to a judgment of this Court dated 18th August 2014 in Writ Petition No.48094/2012 which specifically deals with violation of the rights of the workmen working on the metro rail project in Bengaluru. In paragraph 11 of the written submission filed by BMRCL, it is stated that the salaries have been paid to the workers for a certain period. BMRCL must also place on record compliance with the directions contained in clause III of paragraph 5 of the said judgment and order. We also direct BMRCL to state before the Court whether the Monitoring Committee constituted under clause I of paragraph 5 of the said judgment and order has discharged the functions and

19. Our attention is invited to a judgment of this Court dated 18th August 2014 in Writ Petition No.48094/2012 which specifically deals with violation of the rights of the workmen working on the metro rail project in Bengaluru. In paragraph 11 of the written submission filed by BMRCL, it is stated that the salaries have been paid to the workers for a certain period. BMRCL must also place on record compliance with the directions contained in clause III of paragraph 5 of the said judgment and order. We also direct BMRCL to state before the Court whether the Monitoring Committee constituted under clause I of paragraph 5 of the said judgment and order has discharged the functions and duties assigned to it in the context of what is stated in clause II of paragraph 5 and paragraph 6 of the said judgment and order.

20. The additional submissions shall be placed on record by BMRCL in terms of the above directions by 16th May 2020 so that this issue can be considered by this Court on 18th May 2020.



WWW.LIVELAW.IN

DMRCL to state before the Court whether the Monitoring Committee constituted under clause I of paragraph 5 of the said judgment and order has discharged the functions and duties assigned to it in the context of what is stated in clause II of paragraph 5 and paragraph 6 of the said judgment and order.

20. The additional submissions shall be placed on record by BMRCL in terms of the above directions by 16th May 2020 so that this issue can be considered by this Court on 18th May 2020.

21. The aforesaid issues as well as the rest of the issues involved in this public interest litigation will be considered on the next date, which is 18th May 2020.



SHOT ON MI A1
MI DUAL CAMERA

Close

Print

2020/5/