

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

PUBLIC INTEREST LITIGATION NO.13 OF 2020

[Shri Sanjay s/o Shankarrao Dharmadhikari .vs. The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.

Court's or Judge's orders

Mrs. Smita Deshpande, Advocate for the petitioner,
Shri S.Y. Deopujari, Government Pleader,
Ms N.P. Mehta, Assistant Government Pleader for the respondent nos.1, 2 and
4,
Shri C.S. Samudra, Advocate for the respondent no.3,
Shri S.M. Puranik, Advocate for the respondent no.5.
Shri Pratik Sharma, Advocate for the intervenor.

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CORAM : MADHAV J. JAMDAR, J.

DATED : 12.05.2020.

1) The present PIL is filed by the petitioner, who is associated with Social Organization, Akhil Bhartiya Grahak Panchayat, seeking relief that the respondents be directed to supply food-grains in equal quantity as supplied to ration card holders to the persons who are not holding ration cards and those who are having lapsed ration cards and further seeking that the facility under Government Resolution dated 29.3.2020 and 31.3.2020 issued by the respondent no.1 be extended to them.

2) It is the contention of the petitioner that there is endemic of Corona-virus spread and as a result of that thousands of people have died and lakhs of persons have been affected all over the world. It is the contention of the

petitioner that the persons of lower strata of society i.e. poor people or stranded migrants or needy persons are very gravely affected. It is the contention of the petitioner that in view of the lock down, all the business, manufacturing and commercial activities have come to standstill and, therefore, the daily wage earners who lead hand to mouth existence and are dependent upon only daily work and labour have been rendered jobless and they have no work at all. In view of this, they are now on the brink of starvation. It is the further contention of the petitioner that in the entire India and in particularly State of Maharashtra, lakhs of migrants workers are leaving from work place and going to their native place by any mode of transport available and in view of lock down, as mostly the transport is not available, they are going by walking. It has been widely reported in electronic media as well as in the print media that these migrant workers and others are walking even for 1500 to 2000 kms and they are expressing that as they are not able to earn daily wages, they are starving at the place where their work place is situated and, therefore, only alternative for them is to go to the native place, so that they will be able to survive. The factual position, which is emerging from all the press reports as well as electronic media, shows very pathetic situation. Lakhs of migrant workers and their families including children even of four or five years age are walking on the highway for going to their native place. Therefore, it is very clear that although all the statutory authorities i.e. Central as well as State Authorities are doing their best, still large number of population is deprived of basic necessity of food. Article 21 of the Constitution of

India guarantees right to life and, in fact, the said right to life includes right to life with dignity, but in the present situation, this lower strata of society is starving and, therefore, at least to ensure their survival, certain directions are required to be issued by this Court.

3) At the outset, it is to be stated that all the respondents and their counsels, who are appearing for the respective statutory authorities, have not considered the present PIL as adversarial litigation and rendered valuable assistance to this Court.

4) The advocate of the petitioner as well as the respondents have pointed out the order of the Hon'ble Supreme Court passed in **Writ Petition (Civil) Diary No.11031/2020 in the matter between Aayom Welfare Society and another .vs. Union of India and others.** The said order is reproduced herein below:

“The Court is convened through Video Conferencing.

Heard the learned counsel appearing for the petitioners.

During the course of hearing, learned counsel for the petitioners confines herself to the prayer clause at (a), i.e., for providing ration to those people who do not have any ration card and also for universalization of the Public Distribution System.

This being a policy issue, it is left open to the Government of India and also the

concerned States/Union Territories to consider such relief.

We direct the petitioners to serve a copy of the writ petition upon Mr. Tushar Mehta, learned Solicitor General appearing for the Union of India immediately.

With the afore-said observations, the Writ Petition is disposed of.

Pending application filed in the matter also stands disposed of.”

5) Therefore, it is clear that the relief sought before the Hon'ble Supreme Court was also seeking direction to provide ration to those people who do not have any ration card and also for universalization of the Public Distribution System and the Hon'ble Supreme Court has disposed of the petition by directing that as it is a policy issue, it is left open to the Government of India and also the concerned States/Union Territories to consider such relief.

6) In view of this position, it is necessary to find out what is the policy decision taken by the State of Maharashtra. The said policy decision is reflected in the Government Resolution, dated 29.3.2020. The relevant clauses of said Government Resolution are reproduced herein below :

शासन निर्णय: दि. 29 मार्च 2020.

कोरोना विषाणुचा प्रादुर्भाव रोखण्यासाठी करण्यात आलेल्या

लॉकडाउन आदेशामुळे बंद झालेल्या उदयोग व्यवसायातील प्रभावित झालेले कामगार, परराज्यातील विस्थापित कामगार व बेघर व्यक्ती यांचेसाठी निवारागृह, अन्न, पाणी, वैद्यकीय देखभाल या सुविधा स्वयंसेवी संस्थांच्या सहाय्याने केंद्रीय किचन व्यवस्थेच्या माध्यमातून शिजविलेले/शिजविण्यासाठी तयार अन्नाचे पुरवठा करण्यात यावे असा निर्णय घेण्यात येत आहे.

2. वरील निर्णयाच्या अनुषंगाने ग्रामीण भागासाठी प्रत्येक जिल्हयात जिल्हाधिकारी स्तरावर आणि शहरी भागांमध्ये महानगरपालिका आयुक्त यांचे स्तरावर तातडीची उपाययोजना करण्यात यावी, सदर निर्णयाचे अनुषंगाने उपाय योजनांचे नियोजन करणे, अंमलबजावणी आणि संनियंत्रणासाठी राजयस्तरावर खालीलप्रमाणे “राज्यस्तरीय संनियंत्रण समिती”, गठीत करण्यात येत आहे.

राज्यस्तरीय संनियंत्रण समिती

मा.मुख्य सचिव	अध्यक्ष
अप्पर मुख्य सचिव (महसूल)	सदस्य
अपर मुख्य सचिव (नगरविकास)	सदस्य
प्रधान सचिव (अन्न व नागरी पुरवठा)	सदस्य
प्रधान सचिव (सहकार)	सदस्य
प्रधान सचिव (कामगार)	सदस्य
सचिव (आपत्ती व्यवस्थापन, मुदत व पुनर्वसन)	सदस्य. सचिव

3. उपरोक्त उपाययोजनाची जिल्हास्तरावर नियोजनपूर्वक अंमलबजावणी करण्यासाठी जिल्हाधिकारी यांच्या अध्यक्षतेखाली आवश्यक असलेल्या सदस्यांची “जिल्हास्तरीय संनियंत्रण” समिती, जिल्हाधिकारी यांनी गठीत करावी.

4. महानगरपालिका स्तरावर वरील उपाययोजनांची अंमलबजावणी करण्यासाठी महानगरपालिका आयुक्त यांच्या अध्यक्षतेखाली आवश्यक असलेल्या सदस्यांची “महानगरपालिका स्तरीय संनियंत्रण समिती” महानगरपालिका आयुक्त यांनी गठीत करावी.

5. लॉकडाउनच्या कालावधीत अडकलेल्या मजुर, विस्थापित व बेघर व्यक्तींना आवश्यकतेनुसार निवारागृह, अन्न, पाणी व वैद्यकीय देखभाल सुविधा उपलब्ध करून देण्याची संपूर्ण जबाबदारी जिल्हा स्तरावर जिल्हाधिकारी यांच्यावर राहिल. शहरी भागासाठी या सुविधा उपलब्ध करून देण्याची जबाबदारी संबंधित महानगरपालिका आयुक्त व जिल्हाधिकारी यांची संयुक्तरित्या राहिल. जिल्हास्तरीय समिती व महानगरपालिका संनियंत्रण

समिती या दोन्ही समित्या राज्यस्तरीय संनियंत्रण समितीच्या मार्गदर्शनाखाली आणि निर्देशाप्रमाणे कामकाज करेल.

6. जिल्हास्तरीय संनियंत्रण समिती खालील प्रमाणे कार्यवाही करेल
- (i) जिल्हायातील विविध भागामध्ये विविध घटकातील जीवनावश्यक सुविधा उपलब्ध न झालेले मजूर, विस्थापित व बेघर व्यक्ती यांची निश्चिती करणे.
- (ii) सदर गरजू व्यक्तींची तालुकानिहाय आणि भागनिहाय यादी तयार करणे.
- (iii) या यादीच्या आधारावर तालुकानिहाय आणि भागनिहाय लागणारी अन्नधान्याची आवश्यकता व उपलब्धता निश्चित करणे.
- (iv) सदर कामे पार पाडण्यासाठी क्षेत्रीय स्तरावर काम करणा-या स्वयंसेवी संस्था, खाजगी संस्था, धर्मादाय संस्था, सहकारी संस्था, तसेच CSR मधून मदत उपलब्ध करून देण्या-या संस्था, दानशूर व्यक्ती यांची यादी तयार करणे.
- (v) उपरोक्त स्वयंसेवी संस्था, खाजगी संस्था, धर्मादाय संस्था, सहकारी संस्था, तसेच CSR मधून निधी उपलब्ध करून देणारी संस्था, दानशूर व्यक्ती यांना अन्नधान्य व निधी स्वरूपात मदत करण्याबाबत जाहीर आवाहन करणे.
- (vi) शिजविलेले/शिजविण्यासाठी तयार असलेले अन्न वितरीत करण्यासाठी यंत्रणा कार्यान्वित करणे.
- (vii) स्थानिक पातळीवर अन्नधान्य स्वरूपात मिळालेली मदत मागणी प्रमाणे किती लोकांकसाठी पुरेशी असेल याची निश्चिती करणे.
- (viii) एकूण मागणी पैकी सर्व मागणी स्वयंसेवी संस्थामार्फत मिळणा-या मदतीमूधन पूर्ण होणार नसल्यास, पुढील काळात राहिलेली मागणी पूर्ण करण्याकरिता अन्न व नागरी पुरवठा विभागाकडून मिळणारे अन्नधान्य, तसेच, मदत व पुर्नवसन विभागामार्फत मिळालेल्या निधीतून ही मागणी कशी पूर्ण करता येईल याचे नियोजन करणे.
- (ix) महानगरपालिका क्षेत्रासाठी/जिल्हा स्तरावर कामगाज पार पाडण्यासाठी आवश्यकतेनुसार एक किंवा अधिक नोडल अधिकारी यांची नेमणूक करण्यात यावी, जेणेकरून संबंधीत नोडल अधिकारी आपल्या क्षेत्रातील स्वयंसेवी संस्था, धर्मादाय संस्था, दानशूर व्यक्ती यांचेशी समन्वय साधून अन्नधान्य स्वरूपात मदत प्राप्त करतील.
- (x) कारोना विषाणूचा प्रादुर्भात होउ नये यासाठी **Social Distancing Protocol** पाळणे आवश्यक असल्या कारणाने, तसेच अनावश्यक गर्दी टाळण्यासाठी महानगरपालिका क्षेत्रात कामकाजाचे संनियंत्रण

करण्यासाठी वॉर्ड स्तरावर एका किंवा एका पेक्षा अधिक नोडल अधिकारी यांची नेमणूक करणे आणि नोडल अधिकारी यांची माहिती शासनाला उपलब्ध करून देणे (परिशिष्ट 1)-

(xi) या यंत्रणेमध्ये काम करणा-या सर्व व्यक्तींना स्वच्छता व कोराना विषाणु प्रतिबंधाबाबतच्या सुचना व निर्देश देणे.

(xii) सर्व जिल्हाधिकारी यांनी स्थापित केलेल्या जिल्हस्तरीय नियंत्रण कक्षाचे दूरध्वनी क्रमांक तातडीने प्रसिध्द करावेत.

7. वरील अंमलबजावणी करताना जिल्हाधिकारी/महानगरपालिका आयुक्त यांची कर्तव्ये व जबाबदा-या खालील प्रमाणे राहतील:

(अ) महानगरपालिका क्षेत्र/जिल्हयात तात्पूरते निवारागृह उपलब्ध करून देणे:

(i) लॉकडाउनमुळे बहुतांश लोकांची राहण्याची, खाण्याची व आरोग्याची असुविधा निर्माण झालेली आहे. अशा लोकांना अन्नाची सुविधा उपलब्ध करण्याबरोबरच त्यांची तात्पूरती राहण्याची सुविधा उपलब्ध करून देणे आवश्यक झाले आहे. यास्तव केंद्र शासनाने त्यांचे आदेश क्रमांक 33-04'-2020 NDM- 1, दि. 28 मार्च 2020 अन्वये, राज्य आपत्ती प्रतिसाद निधी (SDRF) च्या निकषा संदर्भात COVID-19 Virus Outbreak संदर्भात सुधारीत सुचना व त्या अनुषंगाने शासनाने दिनांक 28 मार्च, 2020 रोजी शासन निर्णय निर्गमित केला आहे. त्यानुसार या निधीमधून बेघर, तसेच विस्थापित झालेले आणि लॉकडाउनमुळे अडकलेल्या व्यक्तींसाठी मदत छावण्या स्थापित करणे आणि अन्न, पाणी वस्त्र व वैद्यकीय देखभाल. स्वच्छतागृह इत्यादी अत्यावश्यक सुविधा त्यांना उपलब्ध करून देण्यास अनुमती देण्यात आली आहे. सबब सर्व महानगरपालिका आयुक्त व जिल्हाधिकारी यांनी त्यांचे स्तरावर तातडीने “निवारागृह” स्थापित करावीत. यासाठी स्थानिक पातळीवर शाळा, महाविद्यालये, समाजमंदीर,मंगल कार्यालय व इतर निवास योग्य इमारती/ हॉल अशी योग्य ती ठिकाणे निवडून प्राधान्याने जिल्हयाच्या मुख्यालयी व आवश्यकतेनुसार इतर सर्व ठिकाणी स्थानिक पातळीवर विशेषतः औदयागिक वसाहतीनजीक निवारागृहाद्वारे तात्पूरत्या राहण्याची सोय करावी.

(ii) उसतोड कामगारांच्याकरिता संबंधित साखर कारखान्यांनी त्यांचेकरिता आवश्यक असलेली वरील सुविधा देण्यासाठी निवारागृहाची व्यवस्था करावी. ज्या साखर कारखान्यांना अशी निवारागृहे कार्यान्वित करण्यास अडचणी आल्यास त्याबाबतीत जिल्हाधिकारी/महानगरपालिका आयुक्त यांचेमार्फत सहाय्य करण्यात यावे.

(iii) लोकांना अशाप्रकारच्या सोयी महानगरपालिका/जिल्हास्तरावर किंवा स्थानिक पातळीवर उपलब्ध आहेत हे माहित होण्यासाठी स्थानिक प्रसार माध्यमातून प्रसिधी द्यावी.

(Emphasis supplied)

7) A perusal of the said policy clearly shows that a broad policy is formulated for providing various benefits to the persons from the lower strata of the society like jobless workers, migrant and homeless persons and the policy further provides that such needy persons be provided shelter, food, water, medical assistance etc. A perusal of the policy clearly shows that nowhere the policy states that the persons to whom the benefit is to be given of the said policy dated 29.3.2020 should be the ration card holder. In fact, the clauses 7 (B) (viii) regarding community kitchen specifically provides that it is not the requirement to produce ration card or any other identity card. Even the other part of the policy does not show that the requirement of providing food-grains is that such benefitted persons should be the holder of ration card.

8) In fact, it appears that all the statutory authorities of the State of Maharashtra has implemented the said policy dated 29.3.2020 by giving benefit to the persons who are not holding ration cards and such persons are also given food-grains. The same can be seen from the affidavit dated 2.5.2020 of Bhaskar Fattuji Tayade working as District Supply Officer, Nagpur filed on behalf of respondent no.2 i.e. The State of Maharashtra, through its Secretary, Food, Civil Supplies and Consumer Protection Department, Mantralaya, Mumbai. Paragraph 7 of the said affidavit is very important and the same is reproduced herein-below for ready reference:

“I further humbly submit that the District Administration has collected data of non-ration card holders collecting Aadhar Cards, other details like number of members in the family and their address for the purposes of distribution of ration. However, under present pandemic circumstances and in particular taking into consideration the fact of prevailing lockdown, the industries are affected and migrant labourers from other States have been rendered jobless and therefore it has become necessary on the part of the District Administration to make arrangement for their shelter, water, food and meals and medical facilities, the fund has been sanctioned from District Mineral Foundation (DMF) as per the guidelines contained under G.R. dated 29.03.2020 (Annexure-B) and through such arrangement District Level Food Kits consisting Wheat-10 kg., Rice-10 kg., Toor Dal-1 kg., Channa Dal-1 kg., Sugar-1 kg., Tea-250 gm, and Edible Oil-1 ltr are being distributed in all Tahsil places in the area of Nagpur District (Rural) to the poorest of the poor people and needy persons other than the ration card holder in order to give relief and render help to the poor migrant labourers and persons, who are affected by the spread of Corona virus. I humbly submit that there are total 34, 487 beneficiaries’ families having Aadhar card lacking ration card and there are total 5,248 poorest of the poor and needy families lacking Aadhar card and ration card. Thus, there are total 39,735 families being beneficiaries have been selected to provide Food Kits out of which work orders are already issued for 39735 food kits to forthwith make available and distribute to the poorest of the poor and needy people. I humbly submit that as of now total 33,122 Food Kits

have been distributed to the poorest of the poor and needy people other than the ration card holders staying in the area of Nagpur District (Rural) and the rest of food kits 6613 are being distributed in remaining area of Nagpur District (Rural) as early as possible”
(Emphasis supplied)

9) Thus it is clear that it is specifically mentioned in the said affidavit that on the basis of the guidelines contained in Govt. Resolution dated 29.3.2020, Food Kits consisting Wheat-10 kg., Rice-10 kg., Toor Dal-1 kg., Channa Dal-1 kg., Sugar-1 kg., Tea-250 gm, and Edible Oil-1 ltr are being distributed in all Tahsil places in the area of Nagpur District (Rural) to the poorest of the poor people and needy persons who are not holding ration cards in order to give relief and render help to the poor migrant labourers and persons, who are affected by the spread of Corona-virus. Thus, it is clear that the policy of the Government of Maharashtra is to give food kits to the needy poor persons as well as the migrants, even if they are not the ration card holders.

10) It is also relevant to note the affidavit/written submission dated 19.4.2020 of Babarao Maroti Raut, who is working as Divisional Manager in the office of Food Corporation of India at Nagpur. The relevant paragraphs 4 and 5 are reproduced herein-below for ready reference:

“4. The Respondent No.3, however, submits that so far Maharashtra Regions is concerned, it caters to all the Districts of the State. The FCI is maintaining adequate supply chain of food grain

in the entire State during this emergent situation caused due to Covid-19 endemic. It has enough stock of Wheat 11.33 Lakhs MT and Rice 5.35 Lakh Mts of available in its godowns at various places in Maharashtra State during the lockdown period. The FCI is committed towards smooth and uninterrupted supply of food grain under PDS and other Welfare Scheme of the Govt. of India.

It is to submit that the NFSA card holders are being further benefited in the recently implemented Pradhan Mantri Garib Kalyan Anna Yojana PMGKAY vide Ministry of Consumer Affairs, Food and Public Distribution order No.7-1/2019 (ii)-BP.III dated 30.03.2020 ANNEXURE-R-3-1 by giving 5 kg. Free rice to all cover under NFSA-2013 (AAY-PHH). The FCI is also taking all proactive measures in continuous inductions and supply of good grains in Maharashtra Region and has sufficient and enough stock available to meet any emergency situation. That the Collector and other Agencies are also lifting the food grains from FCI for supply under National Food Security Act-2013 (NFSA-AAY (Antoday Anna Yojana) / NFSA-PHH (Priority Household). Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY-AAY (Antoday Anna Yojana)/PMGKAY-PHH (Priority Household) and additional allocation @ economic cost for drought district.

Further during COVID-19 period, Ministry of Consumer Affairs, Food and Public Distribution vide order No.7-1/2019-BP.III (Pt.) dated 09.04.2020 has come out with a Scheme for Persons not covered under NFSA (during COVID-19 period. ANNEXURE-R-3-II (Colly).

It is to again submit that State Government can lift Foodgrains under OMSS (D) through FCI without e-auction vide FCI, Hqrs Order No.J.1 (1) 2019-20/OMSS (D)/BC/S.III/ Vol.III dated 25.03.2020 ANNEXURE-R-3-III.

There is also another Scheme of Sale of food grains to charitable NGO's under OMSS (D) without e-auction vide Ministry of Consumer Affairs, Food and Public Order No.1-4/2020/PY-IV (371246) dated 08.04.2020 and 09.04.2020 in which there is no upper limit on the quantity of Food grains that can be lifted from FCI. ANNEXURE-R-3-IV-a.(Colly.)

Therefore, State Government - Collector can take any desired quantity and cover any population who are not card holders as there is no restriction on whom it has to be covered. Besides, NGO/Charitable trust can also take food grains to meet requirements of stranded labour, migrant labour, etc. without any maximum cap and minimum 1 Mt. at the same rate allowed to state government under OMSS (D). Here is also no limit on whom to cover is prescribed and filed herewith as ANNEXURE-R-3-IVb (Colly). These schemes are all floated to tackle corona situation.

5. The respondent no.3, therefore, submits that the perusal of the above statements clearly reveals the availability of sufficient stock of food grains with it to meet any eventuality. The relief sought by the petitioner as to distribution of food grains to the non-ration card holders is being done through the above measures to be undertaken by the State Authorities using these schemes, they being executory body. All these schemes are subsidized

rate schemes of Government of India and can cover the entire population since most of the schemes have been developed in wake of Covid-19 situation only.” (Emphasis supplied)

11) The said affidavit filed on behalf of Food Corporation of India clearly states that enough stock of Wheat and Rice is available in the godowns at various places in Maharashtra State and further states that Collector can take any desired quantity and cover any population who are not ration card holders, as there is no restriction on whom it has to be covered. Thus, it is clear that even the stand of the Food Corporation of India is also consistent with the policy of the Government of Maharashtra and, in fact, it supports the policy of the Government of Maharashtra that the food-grains can be supplied to the persons who are belonging to the weaker section of the society, even if they are not the ration card holders.

12) In this behalf, it is also significant to note affidavit dated 17.4.2020 of Ravindra Hanumantrao Thakare, Collector, Nagpur. The relevant paragraphs are 18 to 21 which are reproduced hereinbelow for ready reference:

“18. I humbly submit that the citizens who have ration cards will get the benefits from the administration. Antoday Card holders will get 15 kg. Wheat, 20 kg. Rice and other items for three consecutive months from ration shops available in the district. Administrations have the data of ration card holders and they will get the benefits.

There are 1.23 lakh ration card holders in the district in which 46078 are in Nagpur city and the rest are in Nagpur District Rural area. The ration card holders will get wheat at Rs.2 and rice at Rs.3 under this facility.

19. *I further humbly submit that the District Administration has collected data of non-ration card holders collecting Aadhar cards, other details like number of members in the family and their address for the purposes of distribution of ration.*

20. *I humbly submit that as per the Prime Minister Poor Welfare Food Scheme the beneficiaries under Public Distribution Scheme falling under Antoday and Priority Family Scheme shall get additional 5 kg. Rice per member free for April, May and June.*

21. *I humbly submit that in District Nagpur (Rural) total Number of 77,567 AAY cards have been issued and total number of 2,99,734 PHH (Priority House Hold) cards holders are there. Ration has been given to all the AAY & PHH cards holders regularly in lockdown period. I humbly submit that as per the prevailing Government direction foodgrains are being provided to ration card holders through fair price shop regularly. Foodgrains for the month of April 2020 is being distributed to ration card holders and till date distribution is 94.51%. *In so far as the persons not holding ration card is concerned there is no guidelines to provide ration to such persons. However, under present pandemic circumstances and in particular taking into consideration the fact of prevailing lockdown, the industries are affected and migrant labourers from other States have been rendered jobless and**

therefore it has become necessary on the part of the District Administration to make arrangement for their shelter, water, food and meals and medical facilities, the fund to the tune of Rs.5 Crores has been sanctioned from District Mineral Foundation (DMF) as per the guidelines contained under G.R. dated 29.03.2020 (Annexure-B) and through such arrangement District Level Food Kits consisting Wheat-10 kg., Rice-10 kg., Toor Dal-1 kg., Channa Dal-1 kg., Sugar-1 kg., Tea-250 gm. and Edible Oil-1 ltr. are being distributed in all Tahsil places in the area of Nagpur District (Rural) to the poorest of the poor people and needy persons other than the ration card holder in order to give relief and render help to the poor migrant labourers and persons, who are affected by the spread of Corona virus. I humbly submit that there are total 34,487 beneficiaries' families having Aadhar card lacking ration card and there are total 5,248 poorest of the poor and needy families lacking Aadhar card and ration card. Thus there are total 39,735 families being beneficiaries have been selected to provide Food Kits out of which work orders are already issued for 20,000 Food Kits and work orders are issued for remaining Food Kits 19,735 to forthwith make available and distribute to the poorest of the poor and needy people. I humbly submit that as of now total 2,768 Food Kits have been distributed to the poorest of the poor and needy people other than the ration card holders staying in Umred, Parshivani and Ramtek Taluka of area of Nagpur District (Rural) and the rest of food kits are being distributed in rest of area of Nagpur District (Rural) as early as possible.”

(Emphasis supplied)

13) The said averments in the affidavit of the Collector of Nagpur clearly shows that although it is tried to be contended that there is no guidelines to issue ration to the persons who are not holding ration card, however, thereafter, reliance is placed on guidelines contained under guidelines/G.R. dated 29.3.2020 and it is specifically mentioned that food-grains as set out thereunder are made available to the needy persons even if they are not the ration card holders. It is also placed on record that the District Mineral Foundation has sanctioned the fund as per the guidelines contained in G.R. dated 29.3.2020. Thus, it is clear that the policy of the State Government as reflected in the G.R. dated 29.3.2020 is regarding the affected needy persons who are from lower strata of society and to give benefit to them including the food-grains even if they are not the ration card holders.

14] In this behalf, it is significant to note the manner in which the Nagpur Municipal Corporation is implementing the said policy of the Government of Maharashtra. In that behalf, it is relevant to note additional affidavit dated 4.5.2020 of Milind Kawaduji Meshram working as Deputy Commissioner with respondent no.5-Nagpur Municipal Corporation. The relevant paragraphs 11 and 12 of the said affidavit are reproduced herein below:

“11. It is further submitted that the State of Maharashtra vide G.R. dated 29.3.2020 directed the state machinery and the district administration for supply the ration to the needy person without demanding ration card or any document of identity, however, vide G.R. dated

31.3.2020 particularly directed that ration shall be issued only to those having valid ration card. Though it is not the domain of the answering respondent but it can be safely concluded that such revised guidelines were issued just to avoid mal-distribution of food grains which may results to hoarding of ration by non-needy persons and to constraint the needy persons to face the short-fall of food grains/ration. Thus, on the basis of above submissions it can be safely concluded that NMC and all the other respondent authorities are implementing the G.R. dated 29.3.2020 and 31.3.2020 in their letters and spirit.

12. It is further submitted that respondent nos.1 to 3 are taking care to supply ration to those who are having ration cards whereas NMC is feeding those who might not have ration cards or in need of cooked food for one and the other reasons. Thus, it can be safely concluded that all the authorities are taking utmost care and all effective measures to feed each and every needy person of the city and hence needs no interference of this Hon'ble at this juncture.”

15) The N.M.C. has stated that the respondent nos.1 to 3 are taking care to supply ration to those who are having ration cards, whereas N.M.C. is taking care of the persons, who are not having ration cards. It is to be noted that although it is stated in the affidavit dated 4.5.2020 filed on behalf of the N.M.C. that the G.R. dated 29.3.2020 contemplates supply of ration to the needy persons without demanding ration cards or any document, however, the same was modified by G.R. dated 31.3.2020 specifically providing that ration shall be issued only to those only

having valid ration cards, but the said contention is not correct.

16) A bare perusal of both the Government Resolutions, dated 29.3.2020 and 31.3.2020 clearly show that they are applicable to the persons falling under different category. It is correctly stated by the N.M.C. that G.R. dated 29.3.2020 contemplates supply of food-grains to the persons who are not having ration cards. However, the statement in the affidavit made on the basis of G.R. dated 31.3.2020 is not correct. It cannot be said that the G.R. dated 29.3.2020 is amended by G.R. dated 31.3.2020. It is very clear that when one G.R. is amended by another G.R., reference is given to the G.R. which is sought to be amended. The G.R. dated 31.3.2020 makes reference to the G.R. dated 17.3.2020 and it is clear that the same is applicable to the ration card holders and, therefore, what is contemplated by G.R. dated 31.3.2020 is to avoid the mal-distribution of food-grains which may result to hoarding of ration, therefore, it is specifically mentioned that the ration to be supplied only to the holder of ration cards and to be supplied if such ration card holder is personally present. It is rightly pointed out by Ms. N.P Mehta, learned AGP appearing for the State of Maharashtra that the G.R. dated 29.3.2020 is issued by the Revenue and Forest Department, Government of Maharashtra, whereas G.R. dated 31.3.2020 is issued by Food, Civil Supplies and Consumer Protection Department of the State of Maharashtra. Thus, it is very clear that G.R. dated 31.3.2020 is with respect to the persons who are having ration card and G.R. dated

29.3.2020 is applicable to all needy persons even including who are not ration card holders.

17) Thus, it is very clear that the policy of the State of Maharashtra is to provide food-grains even to the persons who are not having ration card and who are from lower strata of the society i.e. poor persons, needy persons, stranded migrants etc.

18) However, there is one more aspect which needs attention. Although G.R. dated 29.3.2020 clearly provides that very wide publicity be given to the said policy of the Government of Maharashtra, however, the said policy is not published properly and, in fact, the same is not even implemented to the full extent, so that all the affected persons are provided with food-grains. It is true that all the state authorities including the State Government and Nagpur Municipal Corporation and other local bodies are doing their best to give relief to the needy persons. However, the factual position which shows that for last few days lakhs of migrants are travelling to their native place by any mode of transport and if the same is not available, then by walking the distance of more than 500, 1000 or 2000 kms which clearly shows that the food-grains have not been supplied to the needy persons in various parts of Maharashtra and therefore they have no alternative but to go to their native place.

19) Ms. N.P. Mehta, learned AGP appearing for the State Government points out that for last two days under

the instructions of the Collector, Nagpur, food-grains are provided to about 1000 migrants and that an amount of Rs.7,25,000/- has been spent for purchasing tickets for them i.e. railways, private vehicles and private buses etc.

20) By order dated 5.5.2020, the Advocate of the petitioner was directed to submit information regarding the needy persons to whom food-grain is not provided as the NMC has taken stand that all the needy persons are provided with the food-grains. The Advocate of the petitioner has accordingly given information regarding number of needy persons to whom food-grain is not provided. Shri Pratik Sharma, Advocate for the intervenor has also given information of various persons to whom food-grain is not provided. The facts that food-grains are provided to 1000 migrants in last two days also show that food-grains are not provided to all the needy persons.

21) In view of this position, the following directions are required to be issued to protect the right to life guaranteed under Article 21 of the Constitution of India of such persons who are from lower strata of society and who required for their survival food-grains.

- (i) The various committees constituted under G.R. dated 29.3.2020 shall take immediate steps to publish in print as well as electronic media and by other methods and to give wide publicity to the policy of the Government of Maharashtra of

providing food-grains free of costs to the needy persons, poor persons and migrants etc. who are not the holders of ration card.

- (ii) The State of Maharashtra and various committees constituted are further directed to carry out immediate survey of the persons to whom the food-grains are to be supplied for their survival and for that purpose, if required, number of staff members, who are not reporting to their duties in view of the guidelines issued in lock-down period be also called for the duties and survey be conducted on large scale within a period of three days.
- (iii) Immediately after the persons are identified to whom the food-grains are to be provided, the required quantity of food-grains be provided to them i.e. food kits consisting of Wheat-10 kg., Rice-10 kg., Toor Dal-1 kg., Channa Dal-1 kg., Sugar-1 kg., Tea-250 gm, and Edible Oil-1 ltr.
- (iv) The Authorities constituted under G.R. dated 29.3.2020 are directed to take review of the situation, at least once in three days, so that the persons, who are in need of the food-grains are quickly identified and the food-grains are supplied

to them.

- (v) The Authorities under the G.R. dated 29.3.2020 are also directed to keep complete record of all the needy persons to whom the food-grains are provided and further directed to take utmost care, so that the said supply will not result into hoarding of ration by some persons/family.

22) I must record that all the authorities and their respective Advocates have not considered this litigation as adversarial litigation and assisted the court in passing the order keeping in mind the interest of needy and poor persons. I may mention that Shri S.Y. Deopujari, learned Government Pleader appearing for State of Maharashtra, has also addressed the court and has assisted the court for passing the order.

23) I also place on record gratitude for the assistance rendered to the court by Mrs. Smita Deshpande, Advocate for the petitioner, as well as Ms .N.P. Mehta, learned AGP appearing for respondent nos.1, 2 and 4. It is to be noted that Ms. Mehta has assisted the court by completely keeping in mind her duty as the Advocate appearing for the State and has fairly pointed out the relevant material and also assisted the court by keeping in mind that the present PIL is to be considered as non adversarial litigation.

24) The PIL is adjourned for a period of **two weeks**.

JUDGE