

CJ / BVNJ:
05.05.2020

W.P. No.6435 of 2020
& Connected matters

ORDER

We have perused the written submissions filed by the State of Karnataka on 5th May, 2020. The first issue dealt with is regarding the hunger helpline and supply of food. The details of the calls received on the hunger helpline have been set out by the State Government. The details relate to the limits of the Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') and a detailed chart has been furnished along with the written submissions. The manner in which the requests received through the hunger helpline are dealt with in the City of Bengaluru is set out in detail from paragraph 3 onwards. In paragraph 2, the details of the calls received from the City of Bengaluru have been set out. Paragraph 8 deals with the number of cooked food packets supplied so far.

2. The learned counsel appearing for the People's Union for Civil Liberties (for short, 'PUCL')

states that as the written submissions are filed yesterday, he will respond to the same on the next date.

3. The learned Additional Advocate General pointed out that essentially this hunger helpline is for BBMP area. However, the calls from other districts and areas outside BBMP limits are also being received on the hunger helpline. Paragraph 12 of the written submissions record that the calls received from other districts are placed before the concerned district administration for further action to be taken. The callers are also informed that they should reach out to the concerned district administration or grama panchayat for necessary help.

4. We are of the view that what is stated in paragraph 12 needs an elaboration. The calls received on the hunger helpline for demanding food need to be dealt with immediately. The State Government will have to specify in what manner, the district administration acts after receiving the details of the

calls received on the hunger helpline as regards the districts. In short, the State Government must set out what action is taken by the district administration to ensure that the genuine demands received on the hunger helpline for supply of food are immediately attended to and food is supplied. The State Government shall elaborate on what is stated in paragraph 12 on or before the next date and place on record the data of the calls received district-wise and about the action taken by the district administrations on the basis of the calls received on the hunger helpline.

5. On the issue of food security, the learned counsel appearing for the PUCL pointed out that material has been placed on record to show that a survey was carried out by PUCL in 80 villages across 20 districts in the State and it was found that in many areas, the ration shops were not open. The State Government will deal with the report submitted on record on or before the next date.

6. The learned counsel appearing for the PUCL pointed out that so far, the supply of *dal* is not made as a part of ration supply to the ration card holders. The learned Additional Advocate General states that now the State has received supply of *dal* and the distribution of *dal* as a part of ration has already commenced.

7. Our attention is invited to a memo filed in Interlocutory Application No.1 of 2020 by the applicant therein. The memo is based on a survey conducted by Centre for Child and the Law, National Law School of India University Bangalore. It is stated that total 152 respondents were interviewed from 5 districts belonging to different categories. The districts are Bidar, Vijayapura, Koppal, Raichur and Ramanagara. Even the proforma of questions put to the respondents is also annexed. In the report annexed to the memo, the findings have been recorded. Our attention is invited to one of the findings that the Monitoring and Grievance Redressal System laid down in the National Food Security Act, 2013 has been rendered defunct during

the pandemic and lockdown. It is also pointed out that the State Food Commission is not functioning proactively to monitor the service delivery and its toll free number is not functional. The State Government must respond on this aspect about the functioning of the Monitoring and Grievance Redressal System on or before the next date and specifically come out with a case whether the Monitoring and Grievance Redressal System is functioning. Secondly, the State must also highlight on the aspect of the functioning of the State Food Commission and the toll free number. We also direct the State Government to look into the recommendations contained in the said report under 3 headings—immediate relief through schemes and services, health and social security and long term measures for sustainable food and nutrition security. The State must respond on this aspect on the next date.

8. On the issues of the Rural distress and farmers, paragraph 13 of the written submissions filed by the State Government on 5th May, 2020 set out the

mechanism constituted to redress the grievances of the farmers. In fact, in paragraph 20 of the order dated 28th April 2020, a suggestion was recorded that it will be appropriate if grass root level meetings are held by the State Government officials to enable the representatives of the farmers to submit their grievances. The learned counsel appearing for the Karnataka State Legal Services Authority (for short 'KSLSA') pointed out that a report has been received by KSLSA that excess stock of vegetables and onion is available at APMC, Mysuru and the farmers are willing to sell the same at a reasonable price. Similar issues must be arising at the grass root levels across the State. It is for this reason a suggestion was made for convening of the regular meetings with the representatives of the farmers at the district and taluk level.

9. We, therefore, direct the State Government to ensure that the issue raised by the farmers at Mysuru which is noted above is immediately dealt with. Further, we direct the State Government to ensure that

at district level and at taluk level, the regular meetings are convened by the Deputy Commissioners/Officers of the Agriculture, Horticulture and Sericulture Departments for hearing the grievances of the farmers in the area. In the meetings, the representatives or the office bearers of the association of the farmers or the bodies of the farmers can be invited so that the grievances of the farmers can be discussed and even the grievances received through the grievance redress mechanism set out in paragraph 13 of the written submissions filed by the State Government are discussed. The State Government shall ensure that the meetings are immediately convened at district and taluk levels as directed above.

10. A grievance is made across the Bar that the farmers are still finding it difficult to transport the produce from one district to another. It is pointed out by the learned Additional Advocate General that there is no bar on such transport. It is necessary that the Agriculture and Horticulture Department of the State

must step in and ensure that the farmers do not face any hurdles in this regard.

11. It is submitted across the Bar that firstly, the farmers are finding it very difficult to get the goods vehicle for transporting the agriculture produce, horticulture produce and dairy products and secondly, in the present day situation, it is impossible for them to pay toll fee at various points.

12. The learned counsel appearing for the National Highway Authority of India is present, who invited our attention to the National Highways Fee (Determination of Rates and Collection) Rules, 2008 (for short 'the said Rules of 2008') and in particular, sub-rule (4) of Rule 3 of the said Rules of 2008 which provides that no fee shall be levied for the use of section of national highway, permanent bridge, by-pass or tunnel, as the case may be, by two wheelers, three wheelers, (tractors, combine harvesters) and animal drawn vehicles.

13. Our attention is also invited to the power of the Central Government under Sub-rule (1) of Rule 3 of the said Rules of 2008 to levy fees. The issue is about the payment of toll fees required to be paid by the farmers when they carry agriculture produce, horticulture produce and dairy products by a goods vehicle which is not covered under sub-rule (4) of Rule 3. It is pointed out that the farmers are forced to sell the produce at ridiculously low rates and that they are not in a position to recover even the cost of operations. We, therefore, direct the concerned Ministry of the Central Government to consider whether an exemption can be granted to the farmers for a limited period considering the exigencies which have arisen due to COVID-19. This will enable the farmers to transport the agricultural produce, horticulture produce and dairy products without payment of toll fee. The decision of the Central Government shall be placed on record on the next date of hearing.

14. Some concern is expressed about the directions contained in the order of the Central Government dated 15th April, 2020 regarding the supply of ration through *anganawadis* to those who are entitled to supply of cooked food and milk through *anganawadis*. The order of the Ministry of Home Affairs of the Central Government dated 15th April 2020 lays down that the *anganawadis* will not function in normal manner. The limited function of the *anganawadis* will be to supply dry ration to the beneficiaries once in a fortnight. The grievance made across the Bar is that the ration is not reaching the beneficiaries through the *anganawadis*.

15. The submission of the learned Additional Solicitor General of India is that in the light of the order dated 1st May, 2020 issued by the Ministry of Home Affairs of the Central Government, the State Government will have to take a call on commencing the normal functioning of the *anganawadis*. The response of the State Government shall be informed to the Court on the next date on the question whether regular

functioning of the *anganawadis* can commence in green zones. In this behalf, our attention is invited to various clauses of the order dated 1st May, 2020 including clauses 4, 7 and 10. The State Government's response shall be placed on record on or before the next date.

16. In paragraph 14 onwards of the written submissions filed by the State Government, the issue of marriage of Shri.Nikhil Kumaraswamy is dealt with. It is stated that a permission was granted by the Deputy Commissioner of Ramanagara District on 16th April, 2020. A copy of the permission is at Annexure 'R-56'. The permission does not impose ceiling on number of persons who can attend the marriage ceremony which was held on 17th April, 2020. The report of the Sub Inspector of Police, Bidadi Police Station indicates that 80-90 persons attended the wedding. It also sets out what precautions were taken such as, thermal screening the guests.

17. Our attention is invited to the order of the Ministry of Home Affairs dated 15th April, 2020. The

learned Additional Advocate General relied upon Clause (4) of Annexure I to the order dated 15th April, 2020. Annexure I is of "National Directives for COVID-19 Management". Clause (4) is under title "PUBLIC SPACES" which provides that "Gatherings such as marriages and funerals shall remain regulated by the District Magistrate". Further, our attention is also invited to clause (1) of the main order dated 15th April, 2020 issued by the Ministry of Home Affairs which gives a list of prohibited activities across the country till 3rd May 2020. Sub-clause (xii) of Clause (1) provides that all social/political/sports/entertainment/academic/cultural/religious functions/other gatherings fall in the category of prohibited activities. The stand of the State is that in view of Clause (4) of Annexure-I to the order dated 15th April, 2020, the District Magistrate has been authorized to grant permission to hold marriages and funerals, as Clause (4) grants 'Power to Regulate' to the District Magistrate. We may also make a reference to the order dated 1st May, 2020 which continues all the social/political/sports/entertainment/academic/cultural/

religious functions/other gatherings as prohibited activities.

18. Assuming that the District Magistrate had power to grant permission for holding of marriage ceremony on 17th April, 2020, we are surprised to note that he has omitted to mention in the purported permission any ceiling on number of guests attending the marriage function.

19. In the face of prohibition contained in the orders dated 15th April, 2020 and 1st May, 2020, both the Central Government and State Government shall make a categorical policy statement before the Court on the next date, whether in the face of the orders dated 15th April, 2020 and 1st May, 2020, it is open for the District Magistrates to grant permission for holding of marriage ceremonies and other gatherings which are prohibited, irrespective of number of guests attending the function.

20. We may note here that the Clause (5) of Annexure-I of the order dated 1st May 2020, specifically records that marriages related gatherings shall ensure social distancing, and maximum number of guests allowed shall not be more than 50. It is relevant to note that in Annexure-I to notification dated 15th April, 2020, there was no such relaxation granted allowing attendance of not more than 50 guests, which is now found in Annexure-I in the order dated 1st May, 2020.

21. The Central Government and State Government will make categorical statements before the Court whether on 17th April, 2020, a marriage function could have been allowed to be officially held, by the Deputy Commissioner by granting permission to hold marriage ceremony which was to be attended by 80-90 persons. The State Government will also place on record how many Movement Passes for inter district travel of the vehicles were granted to enable the guests to attend the function held on 17th April, 2020.

22. We make it clear that we are not on one individual function already held on 17th April 2020. But we are on the question of State Government permitting such functions which *prima facie* will defeat the very object of imposing lockdown and introducing several prohibitions. If the policy of the Central Government and State Government is to permit holding of such marriage functions which can be attended by more than 50 persons, the Government must say so in writing so that all the citizens will be entitled to benefit of the said facility. The response of the Governments shall be filed on the next date of hearing.

23. As regards providing gas cylinders free of cost or at subsidized rates, in paragraph 20 of the written submissions of the State Government, it is stated that the State Government has taken a decision that it is not in a position to supply gas cylinders free of cost or at subsidized rates to the persons other than those who are covered by specific Schemes. We direct

the State Government to place a copy of the decision on record.

24. Our attention is invited to the order of the State Government dated 29th March, 2020 which contains a direction of not to recover rent from workers. The State Government will clarify whether the said order will apply even to transgenders and sex workers. If the said order is not applicable to transgenders and sex workers, the State Government shall consider of taking a similar decision as regards these two categories of persons. The order dated 29th March, 2020 is applicable for a period of one month. We call upon the State to take a decision whether the period of said order can be extended.

25. Now coming to the migrants, firstly, we deal with the written submissions submitted by the State Government on behalf of the BBMP. After several orders of the Court, as late as 30th April, 2020, now for the first time, an effort is made in the form of the order passed by the Chief Marshal Officer of the BBMP to

make some systematic efforts to find out homeless people. The order dated 30th April, 2020 indicates that till that date, notwithstanding several orders of the Court and order of the State Government contained in the Circular dated 11th April 2020, the Marshals who are supposed to identify the homeless people were not told what they are expected to do. We are informed across the Bar that now six teams constituted in terms of the said order are making visits as scheduled in the said order. Our attention is also invited to the Policy annexed to the letter dated 18th April, 2020, in particular Clause 1.4 of the policy annexed to the said letter.

26. We direct the State Government to place on record the steps taken in terms of the order dated 30th April, 2020 passed by the Chief Marshal Officer. It must also be placed on record whether in relation to the persons who have refused to go to the shelters, compliance has been made with Clause 1.4 and

especially sub-clause (iii) of Clause 1.4 of the policy dated 18th April, 2020.

27. Details of the exercise done every day in terms of the order dated 30th April, 2020 from 30th April, 2020 shall be placed on record. The BBMP through State Government will also state whether the process undertaken in terms of the order dated 30th April, 2020 is a one time exercise or it will be a continuous exercise.

28. Our attention is also invited to Clause (e) of paragraph (3) of the Order dated 30th April, 2020. Necessary data in terms of Clause (e) of paragraph (3) shall be placed on record on the next date.

29. Now, we come to the issue of migrants in the light of the permission granted by the Central Government to enable the migrant workers to travel back to their respective homes. There are two categories of migrant workers. The first category is of the migrant workers who want to go back to their respective homes within the State and the second

category is of those migrant workers who want to go back to their respective houses in other States. As far as the second category is concerned, guidelines have been issued by the Government of India.

30. The learned counsel appearing for the PUCL pointed out that in the absence of clarity, the migrant workers are gathering at various places in large numbers. In fact, he pointed out that just now it is reported that about four thousand migrant workers have assembled at Bangalore International Exhibition Centre (BIEC) ground on Tumkur Road in the city.

31. The State Government must place on record in what manner they will facilitate the traveling of migrant workers outside the State and also a policy decision taken by the State Government as regards the cost of traveling. The State Government must also ensure that this process must be conducted smoothly by ensuring that the migrant workers who wish to move outside get proper assistance in terms of the procedure for Registration. The State Government must ensure

that the entire process is smoothly conducted so that the migrant workers do not commit breach of the rules of social distancing. The State Government must also place on record whether the process of screening of the migrant workers who wish to travel outside the State is being undertaken.

32. As regards the traveling inside the State, a report has been submitted by the KSLSA stating that the Secretary along with other Officers visited Majestic area yesterday (4th May, 2020) night and learnt that on 3rd May, 2020 about sixteen thousand persons have traveled from Bengaluru in the buses provided by Karnataka State Road Transport Corporation (KSRTC). It is stated that on 4th May, 2020 by 12.30 p.m., twelve thousand persons have traveled by buses.

33. We are informed by the learned Additional Advocate General that free transportation is provided to the migrant workers by KSRTC buses within the State. The State Government will also specify whether the workers who are permitted to travel from one district to

another are subjected to medical check up regarding symptoms of COVID-19.

34. The Secretary of KSLSA has also invited our attention to the issue of Metro workers in the city of Bengaluru which is reported in newspaper reports on 4th May, 2020. It is stated in the reports that there was a clash between the Metro workers and Police, and the Metro workers are not being paid wages.

35. It must be borne in mind by all concerned that it is not mandatory for the migrant workers to travel back to their respective homes and therefore, it is the duty of the State Government and other entities of the State Government to ensure that so long as the migrant workers who do not wish to go back to their respective homes are not getting employment, they should be provided with food in the form of cooked food or ration kits, etc.

36. Considering the fact that serious issue about the workers employed in the project of the Bangalore

Metro Rail Corporation Limited (BMRCL) has arisen, we direct the Registrar (Judicial) to issue notice by email to BMRCL at its official e-mail address, calling upon the said Corporation to remain present through its learned counsel on the next date of hearing on 12th May, 2020 by 11.00 a.m. The BMRCL shall state before the Court whether the workers who are working on Metro project are being regularly paid wages by the respective contractors and whether the Metro workers who wish to go back to their respective homes are allowed to do so.

37. Interlocutory Application has been filed by the learned counsel for All India Central Council of Trade Unions (AICCTU) raising the issue of facilitating the return of migrant workers to their respective homes. The State Government will respond to the Interlocutory Application, which will be considered on the next date, which is 12th May, 2020.

38. Let Writ Petition No.6435 of 2020 and the matters which are ordered to be heard together be

listed on 12th May, 2020 at 11.00 a.m. for video conference hearing.

**(Sd/-)
CHIEF JUSTICE**

**(Sd/-)
JUDGE**

AHB
RK/-