

IN THE HON'BLE SUPREME COURT OF INDIA

M.A. NO. OF 2020

IN

WRIT PETITION (CIVIL) NO. 468 OF 2020

IN THE MATTER OF:

Alakh Alok Srivastava

....Petitioner/ Applicant

-Versus-

Union of India

....Respondent

APPLICATION ON BEHALF OF THE PETITIONER SEEKING URGENT APPROPRIATE DIRECTIONS

TO,

HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS LORDSHIP'S
COMPANION JUSTICES OF THE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:-

1. That the instant Application has been preferred by the humble Petitioner, as per the instructions given by a Bench of this Hon'ble Court comprising of Hon'ble the Chief Justice of India and Hon'ble Mr. Justice L. Nageswara Rao, during the hearing of the captioned PIL bearing WP (C) No.468/2020 held on 31.03.2020.
2. Vide instant Application, the humble Petitioner is, inter-alia, seeking Urgent Compliance of the Orders dated 31.03.2020 and 27.04.2020 passed by this Hon'ble Court, in the captioned PIL

bearing WP (C) No.468/2020, in the interest of the welfare of the stranded migrant labourers.

3. It is respectfully submitted that the relevant portion of the aforesaid Landmark Order dated 31.03.2020, read as under –

“In the instant writ petitions, we are concerned about the migrant labourers who have started leaving their places of work for their home villages/towns located at distant places. For example, thousands of migrant labourers left Delhi to reach their homes in the States Uttar Pradesh and Bihar, by walking on the highways.

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The Solicitor General of India made a statement on instructions that at 11 A.M. today, there is no person walking on the roads in an attempt to reach his/her home towns/villages. Advisories issued by the Ministry of Home Affairs on 27.03.2020 and 28.03.2020 have also been mentioned in the Status Report, according to which a direction was given by the Ministry of Home Affairs, to the State Governments/Union Territories to provide adequate facilities for migrant labourers.

The National Disaster Management Authority has also issued an advisory on 28.03.2020 suggesting various measures to be taken by the State and District Emergency Operation Centres. One of the 5 issues highlighted in the said advisory is that the police and the other administrative authorities have to adopt a humane approach in dealing with migrant workers and stranded tourists.

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We trust and expect that all concerned viz., State Governments, Public Authorities and Citizens of this country will faithfully comply with the directives, advisories and orders issued by the Union of India in letter and spirit in the interest of public safety.

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The anxiety and fear of the migrants should be understood by the Police and other authorities. As directed by the Union of India, they should deal with the migrants in a humane manner. Considering the situation, we are of the opinion that the State Governments/Union Territories should endeavour to engage volunteers along with the police to supervise the welfare activities of the migrants. We expect those concerned to appreciate the trepidation of the poor men, women and children and treat them with kindness.” (Emphasis Supplied)

A true copy of the Order dated 31.03.2020 passed by this Hon'ble Court in the captioned PIL bearing WP (C) No.468/2020, is enclosed herewith and marked as **Annexure A-1 (pg. 14 to 21)**.

4. The humble Petitioner wishes to express his most sincere gratitude to this Hon'ble Court for passing the landmark Order dated 31.03.2020 in the captioned Writ Petition, ensuring welfare and well-being of many poor migrant labourers. It is pertinent to mention here that **even United Nations High Commissioner for Human Rights, Ms. Michelle Bachelet, has also welcomed the said Order dated 31.03.2020 passed by this Hon'ble Court** and has stated as under -

“The Supreme Court’s order and its implementation will go a long way to ensuring the safety and rights of these vulnerable migrants” (emphasis supplied)

(News Link - <https://news.un.org/en/story/2020/04/1060922>)

5. It is respectfully submitted that during the hearing of the captioned PIL bearing WP (C) No.468/2020 held on 31.03.2020, the Petitioner herein had expressed his apprehension regarding possibility of non-compliance of the aforesaid directions issued by this Hon'ble Court resulting into unimaginable miseries of the migrant labourers and had accordingly sought permission of this

Hon'ble Court to implead all the states in the captioned WP (C) No.468/2020, in order to ensure strict compliance of the aforesaid Order dated 31.03.2020 passed by this Hon'ble Court.

6. To this, the Bench of this Hon'ble Court comprising of Hon'ble The Chief Justice of India and Hon'ble Mr. Justice L. Nageswara Rao, had verbally instructed the Petitioner to approach this Hon'ble Court as and when some non-compliance of the aforesaid Order dated 31.03.2020 is observed.

7. Keeping in mind the aforesaid instructions, on 08.04.2020, the humble Petitioner filed **IA No.48427/2020** in the captioned WP (C) No.468/2020, inter-alia, praying for the following -

“Additional Prayer D- Issue urgent appropriate Writ, Order or Direction to the Respondent Union of India to–

- (i) **After Lockdown is over, provide Free Transportation to each migrant labourer from the respective shelter homes to his/ her destination, through Special Train/Bus;**
- (ii) **Prepare in advance and effectively implement a composite Plan for the effective Rehabilitation of such migrant labourers after Lockdown is over;”**

8. Thereafter, on 19.04.2020, the humble Petitioner filed another **IA No.48428/2020** in the captioned WP (C) No.468/2020, inter-alia, praying for the following –

“Allow the instant Application and thus issue appropriate Writ, Order or Direction to the Respondent Union of India, to in-turn direct the District Magistrates of each and every district of India to conduct daily inspection of the migrant labourers’ shelter homes/ camps situated within their respective districts and to personally ensure that sufficient food, drinking water, medical aid and proper counselling is provided to each of such migrant labourers, till the present lockdown continues;”

9. It is respectfully submitted that both of the aforesaid **IA No.48427/2020** and **IA No.48428/2020** filed by the humble Petitioner in the captioned WP (C) No.468/2020, came up for hearing before this Hon’ble Court on 27.04.2020, wherein this Hon’ble Court passed the following Order –

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“During the course of hearing, learned Solicitor General has agreed that the interim directions passed by this Court on 31.03.2020 will be continued and that the suggestions made in Interlocutory Application will be examined and appropriate action will be taken on such suggestions.

Ordered accordingly. With the above observation, the Writ Petition is disposed of.” (Emphasis Supplied)

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A true copy of the Order dated 27.04.2020 passed by this Hon’ble Court in the captioned PIL bearing WP (C) No.468/2020, is enclosed herewith and marked as **Annexure A-2 (pg.22-23)**.

10. However, it is respectfully submitted that, it seems that the aforesaid crucial suggestion made by the humble Petitioner, to direct each District Magistrate to identify stranded/ walking

migrant labourers in their respective areas and to take them to the nearest relief camp, was not properly examined and no appropriate action was taken by the Respondent Union of India, which resulted into death, injury and starvation of many stranded migrant labourers.

11. Subsequently, the Petitioner filed another Miscellaneous Application bearing MA No.11214/2020 in the captioned WP (C) No.468/2020, inter-alia, praying for the following –

- a) *“Issue appropriate Writ, Order or Direction to the Respondent Union of India to show cause as to despite the Orders dated 31.03.2020 and 27.04.2020 passed by this Hon’ble Court in the captioned Writ Petition (C) No.468/2020, why no concrete action has been taken to avert the heart wrenching train accident, which took place at Gadhejgaon village in Aurangabad District (Maharashtra) on 26.05.2020 (Friday) at about 5.30 AM (Morning) in which at least sixteen (16) migrant workers, who were walking on foot from Maharashtra to Madhya Pradesh, have been killed; and/or*
- b) *Issue appropriate writ, order or direction to the Respondent Union of India to in-turn URGENTLY direct the District Magistrates of each and every district of India to immediately identify such moving/ stranded migrant workers in their respective Districts, immediately shift them to the nearest shelter homes/ camps, provide them sufficient food, water, medicines and counselling etc. and upon proper medical examination, ensure to send them to their respective native villages, with utmost dignity.”*

However, the said MA No.11214/2020 was dismissed by this Hon’ble Court vide Order dated 15.05.2020.

12. Be that as it may, the humble Petitioner has preferred the instant Application seeking a direction from this Hon'ble Court to the Respondent Union of India and to the every State Government to ensure strict compliance of the aforesaid Orders dated 31.03.2020 and 27.04.2020 in the captioned WP (C) No.468/2020, in its letter and spirit, as there are multiple instances of non-compliance of the said Orders by the Respondent Union of India and by the State Governments, still being reported across India.

13. It is pertinent to mention here that vide Order dated 11.05.2020 passed in WP PIL No.42/2020, a Division Bench of the Hon'ble High Court of Gujarat at Ahmedabad, has held as under –

“Everyday hundreds of migrant workers with small children are to be seen at different parts of the State more particularly on the highways. Their condition is pathetic. As on date, they are living in the most inhumane and horrendous conditions. As we have observed earlier, although all the necessary steps are being taken by the State Government, yet we are of the view that few more modalities need to be worked out at the earliest to ease the suffering of the people at large.” (Emphasis Supplied)

14. It is further pertinent to mention here that, vide Order dated 15.05.2020 passed in H.C.P. No.738/2020, a Division Bench of the Hon'ble High Court of Judicature at Madras, held as under –

“One cannot control his/her tears after seeing the pathetic condition of migrant labourers shown in the media for the past one month. It is nothing but a human tragedy. When the lock down was

announced at the end of March 2020, lakhs and lakhs of migrant workers were stranded throughout the country. Most of the workers lost their jobs, no shelter is said to have been provided apart from lack of supply of adequate food. After waiting for a considerable time, they started migrating to their native states by foot. It is very unfortunate that those persons were neglected by all the authorities” (Emphasis Supplied)

15. It is respectfully submitted that recently vide Order dated 15.05.2020 passed in WP PIL No.101/2020, a Division Bench of the Hon'ble High Court of Andhra Pradesh, Amaravathi, held as under –

“This Court notices that the labour who have left their ancestral homes and villages and moved to the cities for better livelihood to ensure that all of us live in comfort are on the roads today. They represent the people who are working in hundreds of different trades, callings etc., and all of them together ensure that we lead a happy and comfortable life. If at this stage, this Court does not react and pass these orders, this Court would be failing in its role as a protector and alleviator of suffering. Their pain has to be alleviated at this stage. The ever expanding scope of ‘Life’ under Article 21 of the Constitution of India will take into account this situation also. They deserve more help particularly when they are trekking back with their heads high instead of living at someone’s mercy.

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The summer heat, particularly in the State of Andhra Pradesh is growing and despite the summer, this Court notices that hundred of migrant labours with their children and baggage are walking on the National Highway. (Emphasis Supplied)

16. It is pertinent to mention here that even this Hon'ble Court has taken a suo-motu cognizance of the problems and miseries of

migrant labourers vide Order dated 26.05.2020 passed in Suo Motu Writ Petition (Civil) No.6/2020 and has held as under-

“The crises of migrant labourers is even continuing today with large sections still stranded on roads, highways, railway stations and State borders. The adequate transport arrangement, food and shelters are immediately to be 1 provided by the Centre and State Governments free of costs.” (Emphasis Supplied)

A true copy of the Order dated 26.05.2020 passed by this Hon’ble Court in the Suo Motu Writ Petition (Civil) No.6/2020, is enclosed herewith and marked as **Annexure A-3 (pg.24-26)**.

17.It is quite axiomatic from the above that the Respondent Union of India and the State Governments have utterly failed to comply with the aforesaid Orders dated 31.03.2020 and 27.04.2020 passed by this Hon’ble Court in the captioned PIL bearing WP(C) No.468/2020 in its letter and spirit.

18. The apathy shown by the government agencies towards the plight of the migrant labourers, who are the most vulnerable members of our society, has resulted in an unprecedented humanitarian crisis. There has been a large scale violation of the fundamental rights of live with dignity’ of lakhs of such migrant labourers, as enshrined within the ambit of Article 21 of the Constitution of India.

19. It is pertinent to mention here that the Respondent Union of India has submitted two detailed Status Reports before this Hon'ble Court in the captioned PIL bearing WP (C) No.468/2020, detailing out various measures already taken to combat COVID-19 and further detailing out certain measures, which the Respondent Union of India is scheduled to take in future. In order to avoid repetition of any such humanitarian crisis in future, the humble Petitioner/ Applicant is most humbly praying this Hon'ble Court to continue to monitor the various steps being taken by the Respondent Union of India for the welfare of migrant labourers.

20. Hence, considering the seriousness of the situation and further considering the fact that anymore inaction or lack of appropriate action on the part of the Respondent Union of India and the State Governments, **may lead to loss of several precious lives of the migrant labourers.** the humble Petitioner is once again seeking kind indulgence of this Hon'ble Court towards the heart wrenching plight of the stranded migrant labourers.

21. Hence, the present Application which is bonafide and in the interest of justice.

22. **PRAYER**: In view of the above, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to –

- a) **Allow the instant Application, which has been filed by the humble Petitioner as per the verbal instruction given to him by a Bench of this Hon'ble Court comprising of Hon'ble the Chief Justice of India and Hon'ble Mr. Justice L. Nageswara Rao during the hearing of the captioned PIL bearing WP (C) No.468/2020 held on 31.03.2020; and/or**
- b) **Issue Show Cause Notice to the Respondent Union of India and also to every State Government of India as to why the directions issued by this Hon'ble Court in the Orders dated 31.03.2020 and 27.04.2020 in the captioned PIL bearing WP (C) No.468/2020, were not complied in its letter and spirit, which resulted into deaths, injuries, starvation and miseries of the stranded migrant labourers; and/or**
- c) **Issue appropriate Writ, Order or Direction to the Respondent Union of India and every State Government of India to comply with the Orders dated 31.03.2020 and 27.04.2020 passed by this Hon'ble Court, in the captioned PIL bearing WP (C) No.468/2020, in its letter and spirit; and/or**

- d) **Issue appropriate Writ, Order or Direction to the Respondent Union of India and every State Government of India to treat the stranded migrant labourers with KINDNESS, in terms of the Order dated 31.03.2020 passed by this Hon'ble Court in the captioned PIL bearing WP (C) No.468/2020; and/or**
- e) Pass any other order or direction as this Hon'ble Court may deem fit and proper in in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE PETITIONER AS IS DUTY BOUND SHALL EVER PRAY.

Drawn and Filed by:

ALAKH ALOK SRIVASTAVA
PETITIONER-IN-PERSON

NEW DELHI
DRAWN ON: 26.05.2020
FILED ON: 26.05.2020