

Daily Order

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CHIEF JUSTICE AND B.V.NAGARATHNA	WP 6435/2020	04/06/2020	The applicant appearing in person in I.A.No.7/2020 states that the said application has become infructuous with the passage of time. Accordingly, the same is disposed of. 2. By the order dated 24th March 2020, a direction was issued regarding extension of the interim orders. The directions are contained in clauses (i) to (iii). Clause (iv) is regarding the agencies and instrumentalities of the State Government taking action of demolition and eviction. The said order was extended by further order dated 16th April 2020. The material part of the said order dated 16th April 2020 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

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			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

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			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. ” 3. The Courts have resumed only partial functioning with effect from 1st June 2020. Moreover during the last 15 days, the number of positive cases in the State of novel corona virus have increased in a rapid speed. Therefore, we direct that the interim order/orders mentioned in clauses (i) to (iii) of the order dated 24th March 2020 quoted in paragraph 2 above shall stand extended till 6th July 2020. Even the observation made in clause (iv) will continue to operate till then. 4. Paragraphs 2 and 3 of this order shall be published on the official website of this Court. A soft copy of the same 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, the State Public Prosecutors 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. 5. Now, coming to the issue of migrants, in terms of the order dated 28th May, 2020, written submissions have been filed by the State Government. In the written submissions, it is contended that all migrant workers registered on Seva Sindhu portal are being informed by sending SMS about the assurance of the State to make arrangements to enable them to reach their home States. 6. The contention of the learned Additional

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			Advocate General is that now the number of takers for Shramik Special trains has been reduced. In the written submissions, reliance is placed on the decisions taken in a high level meeting convened on 30th May, 2020 and the Circular dated 03rd June, 2020. In our last Order, we have indicated that there is no policy placed on record to choose the migrants who were registered on the portal to go back to their home States by a particular Shramik train. 7. In the minutes of the meeting held on 30th May 2020, it is noted that about 9,13,742 migrant workers have registered themselves, as on that date, to go back to their respective home States. Again, even in the minutes, the policy decision taken about the priority to be given while choosing the migrant workers to travel by a particular Shramic train is not mentioned. On the basis of the decision taken in the said meeting, a Circular has been issued on 03rd June, 2020. Even in Clause (v) of the said Circular, no such policy has been laid down. On the contrary, it indicates that there is a choice given to pick and choose the migrant workers for putting them on a particular Shramik train. It is brought on record that Mustering Centers have been set up in the city of Bengaluru and the migrant workers who have been chosen to travel by a particular Shramik train are being instructed to go to the Mustering Centers. It is stated in the Circular that as and when accumulated figure of migrants in Mustering Centers reaches 1,500, the migrants will be transported through Shramik trains and till this figure reaches, they will be housed at Mustering Centers and all facilities will be provided to them. 8. The learned counsel appearing for the applicant has welcomed the decision taken of establishing Mustering Centers. But he pointed out that these

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			Mustering Centers are confined only to the capital city of Bengaluru. Our attention is invited to the figures which are mentioned in the Circular dated 03rd June, 2020, which show that out of 7,04,799 stranded migrant workers, between 92,000 and 93,000 are in Bengaluru Rural and Urban Districts. Others are spread over in various districts. The Mustering Centers have not been established in other districts. 9. In the written submissions, it is sought to be contended that SMSs are being sent to all the migrant workers who have registered on Seva Sindhu portal going by the date of registration. By sending SMSs, they are informed about the availability of a particular Shramik train. However, no such policy is recorded in the minutes of the meeting as well as Circular dated 03rd June, 2020. Even assuming that what is mentioned in the written submissions on this aspect is taken as a policy which is being implemented, there is no guarantee that the SMS generated will reach migrant workers who had registered on Seva Sindhu portal. Therefore, it may not be proper to draw a conclusion that when a migrant worker to whom SMS has been sent does not remain present either at the station or at the Mustering Center in the city, he is not interested in going back. As pointed out by the learned Additional Advocate General, it will be difficult to ascertain whether 25,000 SMS sent at a time have reached the destination. If that be so, as indicated earlier, firstly, there has to be a transparent and fair policy for choosing the registered migrants to travel by a particular train. Secondly, before arriving at the conclusion that the migrant workers who have registered on the portal are not interested in going back to their respective states, a rational method will have to be evolved to ensure that no migrant worker is denied opportunity to travel by Shramik trains only on the ground that he has not

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			responded to SMS. The reason is that the State has no machinery to verify whether the SMS has reached each migrant worker. In the capital city of Bengaluru, the Mustering Centers have been established and once a migrant worker, who wishes to go back to a particular State reaches the Center, he will be provided facility of stay and food till he is actually given entry in a Shramik train. However, such facility is not available in districts where there are large numbers of migrant workers. 10. There is one more important aspect of the matter. There are number of migrant workers who wish to go back to smaller States and especially States in North-East. There are migrant workers who wish to go back to Arunachal Pradesh, Assam, Mizoram, Meghalaya, Manipur, Nagaland and Tripura. There are large number of migrant workers from these States who have registered on Seva Sindhu portal. For example, 14,149 migrant workers from Assam have registered themselves on Seva Sindhu portal. 5,869 migrant workers from Tripura have registered on Seva Sindhu portal. Though learned Additional Advocate General submits that ten Shramik trains have been operated to Assam and other areas in North-eastern region, the State will have to ensure that adequate opportunities are available to the migrant workers from these States to reach their destination. 11. There are few migrant workers from Andaman and Nicobar Islands, Lakshadweep and some of the Union Territories like Dadar and Nagar Haveli, and Daman and Diu. Even 187 migrant workers from Sikkim have registered themselves on Seva Sindhu portal. The State will have to also take care of such migrant workers from these smaller States/Union Territories as the migrant workers will need help of the State Government to reach to these far away

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			and remote places. The State will have to respond by stating in what manner, all the migrant workers from Andaman Nicobar and Lakshdweep Islands etc. will be transported. 12. As the State has established five Mustering Centers in the city of Bengaluru, it will be appropriate if such mustering centers are established at major district places where there are large numbers of migrant workers who have registered themselves on the portal. On establishing Mustering Centers, the same can be notified in the same way in which the same have been notified for the city of Bengaluru so that the State can ensure that every migrant worker who reaches Mustering Center is able to reach his home State. Apart from coming out with a fair and transparent policy which will ensure that all migrant workers who are willing to go back to their respective home States get a chance to go back, the State Government must also specify what efforts will be made to make available transport to North-Eastern States as well as other remote States or Union Territories. 13. The State must also explain how a migrant worker who is located in a district from which there is no arrangement for providing Shramik train can be reach the place from which Shramik train departs. In what manner transport arrangements are made must be placed on record. 14. Before the State Government comes to a conclusion that a large number of migrant workers have changed their mind and now they are not willing to go back, the State Government will have to conduct a fair and transparent process which

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			enables every migrant worker who is registered on Seva Sindhu portal to go back to the State of his origin. 15. The State Government shall place on record all the aforesaid factual aspects including policy decision before the next date, which will be on 11th June, 2020 at 2.30 p.m. 16. The State Government shall respond to I.A.No.10/2020 by filing submissions on or before 10th June 2020. 17. As regards the issue of availability of adequate quota of kerosene in the State which may be distributed through Public Distribution System (for short 'PDS'), the learned Additional Advocate General states that sufficient stock is available. However, the learned counsel appearing for the petitioner in W.P.No.729/2020 counters the submission by stating that in Tumakuru and Chitradurga districts, adequate supply of kerosene is not available and, therefore, all the beneficiaries are not getting kerosene through PDS. The response of the State on this aspect shall be filed on or before 10th June 2020. Even the Government of India must respond to the order of this Court which directs consideration of the suggestion that as a one time measure, kerosene at subsidized rates could be supplied to those consumers of cooking gas who are unable to buy gas cylinders. The Central Government must respond on this aspect on the next date.

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			18. List these petitions on 11th June 2020 at 2.30 p.m.

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