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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 01ST DAY OF JULY 2020 / 10TH ASHADHA, 1942

WP(C).No.27148 OF 2015(S)

PETITIONER/S:

JANA SAMPARKA SAMITHY
ERNAKULAM DISTRICT COMMITTEE, REPRESENTED BY ITS
SECRETARY, E.K.ABDUL KHADER, AGED 56 YEARS,
S/O.KOCHUNNI, M.M ROAD, COCHIN - 682 018.

BY ADVS.
SMT.AYSHA YOUSEFF
SRI.JOBI.A.THAMPI
SMT.M.KABANI DINESH
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO
GOVERNMENT,SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 2 SECRETARY TO GOVT. HEALTH & FAMILY WELFARE
TRIVANDRUM - 695 001.
- 3 SECRETARY TO GOVT. HOUSING DEPT., KERALA
TRIVANDRUM - 695 001.
- 4 SECRETARY
LABOUR DEPARTMENT, TRIVANDRUM - 695 024.
- 5 SECRETARY
SOCIAL JUSTICE DEPARTMENT, KINFRA HOUSE,T.C. 31/2312,
SASTHAMANGALAM,THIRUVANANTHAPURAM - 695 010.
- 6 SECRETARY
LOCAL SELF GOVERNMENT, TRIVANDRUM - 695 033.

- 7 THE LABOUR COMMISSIONER
PATTOM, TRIVANDRUM - 695 024.
- 8 THE DISTRICT COLLECTOR
COLLECTORATE, CIVIL STATION, KAKKANAD,
ERNAKULAM - 682 030.
- 9 DISTRICT LABOUR OFFICER
COLLECTORATE, CIVIL STATION, KAKKANAD,
ERNAKULAM - 682 030.
- 10 MALAYALA MANORAMA NEWS CHANNEL REPRESENTED BY ITS
CHIEF EDITOR IST FLOOR, ROYAL PLAZA, PALACE ROAD, ALUVA,
KOCHI, KERALA - 683 101.
- 11 MEDIA ONE NEWS CHANNEL REPRESENTED BY ITS CHIEF EDITOR
3RD FLOOR, GALLERIA TRADE CENTRE, DOOR NO.5/3410-H7,
I.G.ROAD, CALICUT, KERALA - 673 004.

R1-9 BY SRI. SURIN GEORGE IPE, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.07.2020,
ALONG WITH WP(C).23724/2016(S), THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 01ST DAY OF JULY 2020 / 10TH ASHADHA, 1942

WP(C).No.23724 OF 2016

PETITIONER/S:

SUO MOUTU

BY

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
THIRUVANANTHAPURAM.
- 2 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF
GOVERNMENT DEPARTMENT, THIRUVANANTHAPURAM.
- 3 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT, HEALTH AND
FAMILY WELFARE DEPARTMENT, THIRUVANANTHAPURAM
- 4 THE DISTRICT COLLECTOR,
ERNAKULAM.
- 5 THE DISTRICT MEDICAL OFFICER,
ERNAKULAM.
- 6 THE SECRETARY
VADAVUKODE PUTHENCROUZ GRAMA PANCHAYATH.

- 7 THE SUB INSPECTOR OF POLICE
AMBALAMEDU POLICE STATION, KARIMUGAL, PUTHENCRUZ,
ERNAKULAM.

ADDL.R8 IS IMPEADED:

- 8 THE KERALA STATE LEGAL
SERVICE AUTHORITY, REPRESENTED BY ITS MEMBER SECRETARY,
NIYAMA SAHAYA BHAVAN, HIGH COURT COMPOUND,
ERNAKULAM-682 031.

(ADDL.R8 IS SUO MOTU IMPEADED VIDE ORDER DATED
18.07.2016)

ADDL. R9 TO 11 IMPEADED:

- 9 BHARAT PETROLEUM CORPORATION
LIMITED, KOCHI REFINERY, REPRESENTED BY ITS TERRITORY
MANAGER, AMBALAMUGAL, KOCHI-682302.
- 10 INDIAN RARE EARTHS
LIMITED, ERNAKULAM, REPRESENTED BY ITS HEAD, RARE EARTHS
DIVISION, UDYOGAMANDAL - 683 501.
- 11 FERTILISERS AND CHEMICALS
TRAVANCORE LIMITED, REPRESENTED BY ITS CHAIRMAN CUM
MANAGING DIRECTOR, UDYOGAMANDAL-683 501.

(ADDL.R9 TO 11 ARE IMPEADED VIDE ORDER DATED 21.10.2016)

- 12 M/S. HINDUSTAN ORGANIC CHEMICALS LIMITED, REPRESENTED
BY ITS EXECUTIVE DIRECTOR, KOCHI DIVISION, AMBALAMUGAL,
KOCHI-682 302.

- 13 IYPE MATHAI
S/O. IYPE, PERAMBIKUZHI HOUSE, AMBALAMEDU P.O.,
ERNAKULAM DISTRICT - 682 303.

- 14 JOSE
S/O. MATHAI, PERAMKUZHI HOUSE, AMBALAMEDU P.O,
ERNAKULAM-682 303

(ADDL. R13 AND R14 ARE IMPEADED VIDE ORDER DATED
16.12.2016 IN I.A. NO. 15910/2016)

- 15 DIRECTOR GENERAL OF POLICE

(KERALA), THIRUVANANTHAPURAM

- 16 THE SECRETARY TO GOVERNMENT
LABOUR AND REHABILITATION DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

(ADDL. R15 & R16 IMPEADED AS PER ORDER DATED 24.01.2018)

- 17 DELHI METRO RAIL CORPORATION LIMITED (DMRC)
REPRESENTED BY PROJECT DIRECTOR, DMRC GCDA, EASTERN
ENTRY TOWER, ERNAKULAM SOUTH RAIL WAY STATION,
COCHIN-16.
(ADDL.R17 IS SUO MOTU IMPEADED AS PER ORDER DATED
25/03/2019)

R1 BY ADV. SRI.BABU CHERUKARA
R1 BY ADV. SRI.P.BENNY THOMAS
R1 BY ADV. SRI.V.KRISHNA MENON
R1 BY ADV. SRI.E.K.MADHAVAN
R1 BY ADV. SMT.A.PARVATHI MENON
R1 BY ADV. SRI.D.PREM KAMATH
R1 BY ADV. SRI.P.SANJAY
R1 BY ADV. SMT.K.VIJAYAMMA
R6 BY ADV. BABU CHERUKARA
R8 BY ADV. A. PARVATHI MENON
R8 BY ADV. P. SANJAY
R9 BY ADV. M. GOPIKRISHNAN NAMBIAR
R9 BY ADV. P GOPINATH MENON
R9 BY SRI.BENNY P.THOMAS, SC, BPCL
R9 BY ADV. JOHN MATHAI
R9 BY ADV. JOSON MANAVALAN
R9 BY ADV. KURIYAN THOMAS
R12 BY ADV. P. VIJAYAMMA
R12 BY ADV. V. KRISHNA MENON
R12 BY ADV. E.K. MADHAVAN
R12 BY ADV. V KRISHNAMENON
R17 BY SMT.LATHA ANAND, SC, DELHI METRO RAIL CORPN.
R17 BY ADV. SRI.S.VISHNU (ARIKKATTIL)
SMT. PARVATHY SANJAY, AMICUS CURIAE

SR GP SRI.SURIN GEORG IPE FOR R1 TO R5, R7,R15 AND R16

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.07.2020,
ALONG WITH WP(C).27148/2015(S), THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

SHAJI P. CHALY, J

W.P.(C) No. 23724 of 2016 is a Public Interest Litigation *suo motu* registered by this Court on 17.06.2016 on the basis of the common judgment in W.P.(C) Nos. 31925 of 2015 and 15370 of 2016 of a learned single judge of this court portraying the pathetic conditions of migrant labourers in the Labour Camps situated within the State of Kerala. As per the judgment in W.P.(C) No. 31925 of 2015, the Secretary of the Vadavucode Puthencruz Grama Panchayat was directed to seal the buildings of the respondents in the said writ petition, and the District Administration along with the Local Self Government Institutions were directed to take immediate steps to avert nuisance caused by the property, remove the contaminants and restore it to ensure safe habitation of the nearby residents. Other requisite directions were also issued. One of the directions was to the District Collector, Ernakulam to depute an Officer sufficiently senior in the hierarchy to

conduct an inspection of the premises and close down the labour camp by providing alternate facilities for accommodating the migrant labourers and collect samples from the well water and to conduct analysis of the same. Since we found that the captioned writ petitions have intrinsic connection, we heard them together on agreement.

2. The learned single Judge, taking into account the social ramifications emerged out of the specific instance brought before it in the writ petition, has directed as per an order dated 20.06.2016 to place the judgment before the then Acting Chief Justice requesting to take a decision as to whether a *suo motu* Public Interest Litigation was to be initiated, along with a memo filed by the learned Government Pleader in W.P.(C) No. 31925 of 2015 and the report of the District Collector with the photographs taken at the time of inspection. It was accordingly that the *suo motu* proceedings started. Thereafter, as per the order dated 18.07.2016, a Division Bench of this Court impleaded the Kerala State Legal Services Authority represented by its Member Secretary as an

additional respondent in the writ petition, in addition to the State, its various Departments, District Collector, Ernakulam, an official of the Labour Department, public sector undertakings, like Bharat Petroleum Corporation Limited, Indian Rare Earths Limited, Hindustan Organic Chemicals Ltd. etc. The member Secretary of KELSA was also directed to allot the *suo motu* case to Smt. Parvathy Sanjay, and with her consent she was appointed as *amicus curiae* on behalf of the Kerala State Legal Services Authority.

3. Thereafter, this Court was issuing periodical directions to the respondents as well as the *amicus curiae* to submit reports so as to issue directions to the State Government and the officials to take appropriate steps to protect the interest of the migrant labourers. The Secretary of KELSA has filed various reports before this Court pointing out the deficiencies existing in the labour camps, and the deplorable conditions of life of the migrant labourers who have been working in various establishments, especially at Perumbavoor, Ernakulam District where they were employed

by the Plywood Manufacturers. Along with the report, KELSA as well as the *amicus curiae* have produced photographs, which would speak in volumes the pathetic condition under which the migrant labourers were living and the difficulties faced by them due to lack of facilities. To combat these issues suggestions were also placed before this Court.

4. The *amicus curiae* has also produced before this Court emergent reports taking into account the urgent actions to be taken and also seeking appropriate directions to the State as well as the other authorities. Likewise, taking into account the report of the *amicus curiae*, directions were issued to the public sector undertakings who were found to be the principal employers. The reports also demonstrated the unhygienic conditions, and the poor maintenance of the bathroom and toilets in labour camps. Pollution problems were also reported to be persisting in the labour camps, however consequent to the successive orders issued by this Court, steps were taken by the authorities and the public sector undertakings to abate the nuisance. Steps were also

taken to decongest the labour camps consequent to such reports. The Panchayat as well as the other authorities were also given the liberty to inspect each of the labour camps and take appropriate decisions so as to ensure only a minimum number of labourers residing in such labour camps. In fact, on the basis of the report that there was exploitation of the migrant labourers, appropriate directions were issued by this Court, and due to the constant and frequent reports of KELSA, statement filed by the Government and its officials, as also the report of the *amicus curiae*, and the consequent monitoring by this court, many of the problems that were faced by those migrant labourers could be curbed and other situations were also able to be regulated to a considerable and satisfactory extent. While continuing so, situations have arisen due to the lock-down restrictions on account of the pandemic, Covid -19 *vis-a-vis* the difficulties faced by the migrant labourers. Due to the closure of the business establishments and the factories, the migrant labourers were faced with various difficulties, including loss of employment

and situations with respect to their day-to-day affairs. Thereupon, on the basis of the reports submitted by the KELSA and the *amicus curiae*, clarifications were sought by this Court from the Government and its officials and after considering the rival submissions, directions were being issued to sort out the difficulties faced by the migrant labourers. In fact, such reports filed by the KELSA and the *amicus curiae* were extending help to the State Government and its officials to identify the issues specifically, and to take urgent steps to abate the nuisances confronted by the migrant labourers, and also to alleviate the difficulties faced by them due to the unemployment, and the consequential unrest generated.

5. Anyhow, on identifying that the situations were grave, on the basis of the reports, inspections conducted by the officials, and the directions issued by this Court, the State Government appointed Nodal Officers at the Taluk and District levels to redress the grievances of the migrant labourers, and such adverse situations could be pacified to a

considerable extent. But KELSA as well as the *amicus curiae* were still receiving informations from various sources with respect to the alleged problems faced by the migrant labourers during the lock-down period and accordingly emergent reports were filed before this Court, and on receipt of the report, the Nodal Officers, as well as the dedicated machinery of the State employed for the purpose, were orally directed and thereupon immediate actions were taken. In fact, consequent to the lock-down restrictions that came into force on and with effect from 23.03.2020, the migrant labourers expressed their intention to go back to their native places. However, due to the guidelines and the standard operating procedures issued by the Government of India, trains as well as the other means of transport were not available at that point of time. Thus, migrant labourers became panic and they started agitations and thereupon, the Government have taken steps to resolve the issues by providing food and shelter to the labourers and issuing appropriate directions to the employers. Anyhow, the

Government was successful in pacifying the adverse situations that have cropped up by ensuring continuous supply of food materials to them. While so, the Government of India has relaxed the standard operating procedures and consequential guidelines were issued, taking into account the deplorable conditions of the migrant labourers, as also their intention to return to their native places. Thus, dedicated trains are being operated by the Railways, and consequent to which the State Government, through its Nodal Officers at the Taluk and District Level, conducted registration of the migrant workers who wanted to return to their native places and accordingly they are being sent back. Even while the transportation of the migrant workers were taking place, certain issues have developed with the labourers due to the delay in registration of their names to return to their native places, and the *amicus curiae* have received a communication from a source with respect to the unrest exhibited by the migrants, and the alleged action taken by the State officials. Based on the reports, directions were issued by this Court to correctly

identify the source information of the situation and if found correct to take necessary steps to douse the situation amicably. So much so, the *amicus curiae*, has also filed reports before this Court being satisfied of the steps taken by the State Government to tackle such developments.

6. In the meanwhile, the Hon'ble Apex Court having taken note of the miseries and the problems faced by the migrant labourers due to the restrictions to travel to their native places, has registered *suo motu* writ petition (civil) No(s) 6 of 2020 and has issued various directions so as to facilitate the transportation of the migrant workers, deployment of the trains, and the tariffs and fares to be borne by the State as well as the Central Governments and the Railways. We feel that the directions issued by the Apex Court are relevant to the context and they are as follows:

“1. No fare either by train or by bus shall be charged from any migrant workers. The railway fare shall be shared by the States as per their arrangement as submitted by the learned Solicitor General and in no case any fare should be asked or charged from any migrant workers by the States and the Railways.

2. The migrant workers who are stranded at different places in the country shall be provided food free of cost by the concerned States / Union Territories at different places which shall be publicized and notified to them during the period they are waiting for their turn to board the train or bus.

3. Initially, as stated by the learned Solicitor General, the originating State shall provide water and meal and during the journey, the railways shall provide meal and water to the migrant workers and same facilities shall be extended when the migrant workers are transported by bus. The State shall take care of providing necessities water and meal during the period of transportation either in the bus or in the camps on the way.

4. We further direct that the State shall simplify and speed up the process of registration of migrant workers and also provide help desk for registration at the places where they are stranded.

5. The State shall try to endeavour that after registration the workers should be asked to board the train or bus at the earliest and complete information should be publicized to all the concerned regarding mode of transport.

6. We further direct that those migrant workers who are found walking on the highways or roads shall be immediately taken care by the concerned State / Union Territories and they shall be provided the transport to the destination and all facilities including food and water be provided to those found walking on the road.

7. The receiving State, after the migrant workers reach his native place, shall provide transport, health screening and other facilities free of cost. ”

7. The Apex Court has also directed the State as well the Central Governments to file affidavits in the *suo motu* writ petition furnishing all necessary details regarding the number of migrant labourers, the plan to transport them to their destination, the mechanism of registration and other details. The time required for completing the transportation of the workers was also directed to be furnished to the Apex Court. Other directions taking into account the situations in each State was also issued by the Apex Court. Thus, taking stock of the entire situation, a statement was placed before this Court, from where it is evident that altogether there were 4,34,280 guest workers, and 21,556 labour camps functioning, out of which 68% of the labour camps were being used by the guest/migrant workers. Anyhow, consequent steps were taken, sufficient trains were deployed by the Railways, and accordingly directions were issued by the Apex

Court in the aforesaid *suo motu* proceedings on 09.06.2020.

They read thus:

“1. All the States/Union Territories shall take all necessary steps regarding identification of stranded migrant workers in their State which are willing to return to their native places and take steps for their return journey by train/bus which process may be completed within a period of 15 days from today.

2. In the event of any additional demand, in addition to demand of 171 Shramik trains, as noticed above, railway shall provide Shramik trains within a period of 24 hours as submitted by learned Solicitor General to facilitate the return journey of migrant workers.

3. The Central Government may give details of all schemes which can be availed by migrant workers who have returned to their native places.

4. All States and Union Territories shall also give details of all schemes which are current in the State, benefit of which can be taken by the migrant labourers including different schemes for providing employment.

5. The State shall establish counselling centres, help desk at block and district level to provide all necessary information regarding schemes of the Government and to extend helping hand to migrant labourers to identify avenues of employment and benefits which can be availed by them under the different schemes.

6. The details of all migrant labourers, who have reached their native places, shall be maintained with details of their skill, nature of employment, earlier place of employment. The list of migrant labourers shall be maintained village wise, block wise and district wise to facilitate the administration to extend the benefit of different schemes which may be applicable to such migrant workers.

7. The counselling centres, established, as directed above, shall also provide necessary information by extending helping hand to those migrant workers who have returned to their native places and who want to return to their places of employment.

8. All concerned States/UTs to consider withdrawal of prosecution/complaints under Section 51 of Disaster Management Act and other related offences lodged against the migrant labourers who alleged to have violated measures of lockdown by moving on roads during the period of Lockdown enforced under Disaster Management Act, 2005.”

8. In the context of the financial difficulties faced by the migrant workers, it was pointed out by the State Government that financial assistance was provided and adequate steps are also being ensured for transportation in accordance with the registration done. So said, statements made by the learned

amicus curiae as well as the learned Government Pleader on the basis of the report and instructions respectively, were recorded by this Court in the order dated 16.06.2020 and on that date, it was submitted that as on 14.06.2020, 2,86,489 guest workers were sent to their native places in 203 trains. While so, an e-mail communication was received by the *amicus curiae* from a social worker in respect of the difficulties faced by the migrant workers due to the delay in their transportation, and it was also pointed out in the email that since the industries were facing shortage of workers, the employers were desperate to retain the available workers, and accordingly instances of forced detention were alleged, to be remaining in the State. It was also pointed out thereunder that in order to retain the workers, the industrialists were not releasing the wages, original identity cards, such as Aadhaar card, voter's identity card etc. and thereby, curtailing the freedom of movement and using physical violence to attain and satisfy their vested interest. So also, a specific instance of detention of 10 workers from Odisha was pointed out, along

with the other difficulties faced by them, and accordingly emergent report No. (5) dated 12.06.2020 was filed. Thereupon, we directed the learned Government Pleader to verify the situations pointed out in the report and to rectify the same, if they are existing. After taking instructions, it was submitted that 10 migrants in the Malappuram District as pointed out in the emergent report were sent to their native places from the Palakkad Railway Station on their turn, and therefore, the specific instance pointed out by the learned *amicus curiae* was sorted out. With respect to the other aspects, it was submitted by the learned Government Pleader that in spite of earnest efforts and enquiries made through the Nodal Officers and District Collectors, the forcible detention of the labourers by any employer could not be located and if any such instances are pointed out, quick action will be taken to ventilate the grievances of the migrants, and against such employers. We find force in the said submission made by the learned Government Pleader because in the email sent by the social worker to the *amicus curiae*, details of such forcible

detentions were not provided. Anyhow, it is submitted that on receipt of any reliable information from any source regarding the difficulties faced by the migrants, after verification, immediate response would be made by the officials deployed at Taluk and District Levels in each of the District and the issues will be sorted out appropriately. We are also satisfied from the statement that the State Governments are also issuing circulars/orders/notifications appropriately rising to the occasions and taking adequate care and measures so as to protect the life and liberty of the migrant workers. It is significant to point out that all the workers, who expressed their intention to go back to their native places, are being provided with all help and assistance by the State Government.

9. On 23.06.2020, a statement is filed by the learned Senior Government Pleader for and on behalf of the State and its officials in pursuance to the order passed by this Court on 16.06.2020, and on the basis of the report of the *amicus curiae*, stating that as on 23.06.2020, 216, Sramik Trains

were operated and 3,07,138 guest workers went back to their native places and the split up of 216 Sramik Trains shown therein are as follows:

1. 94 trains to West Bengal
2. 33 trains to Bihar
3. 20 trains to Uttar Pradesh
4. 19 trains to Odisha
5. 16 trains to Jharkhand
6. 20 trains to Assam
7. 5 trains to Rajasthan
8. 4 trains to Madhya Pradesh
9. One each to Uttarakhand, Chhattisgarh, Tripura, Nagaland and other north eastern states

10. That apart, it is submitted that all basic needs conducive for guest workers/labourers to stay back in the State have been provided by the Government and the steps taken by the Government of Kerala sets an example for the rest of India with its exceptional treatment to the guest workers. The action taken by the Government to sensitise the

guest workers are also recited therein and it is evident that posters, announcements and messages were issued in various languages, such as Odishiya, Hindi and Bengali. It is also pointed out that further attempts are made to maintain cleanliness, and to impart awareness to the workers regarding social distancing and the use of masks etc. It is also submitted that the two tier mechanism introduced by the State Government at District Level reduces the grievances of the migrant workers and the Government is taking adequate steps for coordinating at the District Level also by employing a quick response team. The District Labour Officers and Assistant District Labour Officers are directed to coordinate the quick response team and to take adequate action.

11. Learned *amicus curiae* has also submitted an emergent report No.6 on 23.06.2020 stating the communications are received from various officials of the Government of India to ensure timely alerts etc. The video of some detained labourers belonging to Odisha received by the Executive Director, Centre for Migration and Inclusive

Development (CMID) in a Whatsapp group of persons involved in the relief operations of the interstate migrant workers is also produced. The details of the workers involved in that incident is produced as Annexures A22(a) and A22(b). It is pointed out therein that attempts are being made to detain the migrants in Perumbavoor, Ernakulam District. Certain photographs are also produced with respect to the transportation of migrant workers without following any pandemic protocols. Annexures A23 and A23(a), e-newspaper of the New Indian Express dated 21.06.2020, is produced as Annexure A24. In the statement, vulnerable situations existing in some of the places are also pointed out. The statement of the CMID dated 23.06.2020 and the communication dated 30.03.2020 were perused by us, and we find that the sum and substance of the communication is with regard to the responsibility to be undertaken for shelter and food of the migrant workers by the State and its officials. Anyhow, these are all matters to be taken care of by the State Government through the Nodal Officers appointed and also by

conducting frequent inspections for ensuring the life and liberty of the migrant workers.

12. W.P.(C) No. 27148 of 2015 is a writ petition filed by a charitable society registered under the Travancore Cochin Literary Scientific and Charitable Societies Registration Act, 1955, wherein they seek directions to respondents 1 to 9, who are various Departments of the State Government, the District Collector, Ernakulam and the District Labour Officer, Ernakulam respectively to take appropriate steps to implement Ext.P1 recommendations made by an independent agency of the state government, appointed to study the plight of the migrant labourers within the State of Kerala and for other related reliefs. On going through the pleadings put forth thereunder, the contention is that there are about 25 lakhs migrant labourers in the State of Kerala from various States and they are being exploited by various builders and other employers in the State of Kerala and particularly in Ernakulam District. It is also pointed out thereunder that the migrant labourers are living in very pathetic conditions and

their social and health conditions are very poor, apart from not provided with proper shelters with air and light and a decent living atmosphere. Other deplorable conditions allegedly exist, like insufficient toilet facilities, and unhealthy background under which they reside are all pointed out. That writ petition was pending before this Court for the past 5 years.

13. It is true, the said writ petition was tagged on with the *suo motu* writ petition and the orders were being issued mostly taking into account the pleadings put forth in the said Public Interest Litigation also. Therefore, we are convinced that the situations in both the writ petitions are of similar nature, if not typical. However the steps that are to be taken on the basis of Ext.P1 report to improve the living conditions of the migrant labourers are all matters to be considered by the State Government after analysing the facts of the situation prevailing in each of the locations where the migrant labourers are residing and employed. Merely because Ext.P1 report was drawn and submitted to the Labour and

Rehabilitation Department, Government of Kerala, the petitioner could not point out any specific instances of adverse conditions, enabling this Court to issue directions to the State and its officials to carry out the same.

14. After hearing the learned counsel for the petitioner in the said writ petition, learned Sr. Government Pleader, Sri. Surin George Ipe, and the learned *amicus curiae* smt. Parvathy Sanjay representing the KELSA, we are of the view that the writ petition can be disposed of with appropriate directions taking into account the present situations prevailing in the State of Kerala. Needless to say, the State Government is duty bound to protect the health and welfare of the migrant workers in accordance with the mandate contained under Article 21 of the Constitution of India and the obligations and duties contained under the directive principles which are fundamental in the governance of the State and also the fundamental duties imbibed in every citizens under Article 51-A of the Constitution of India.

15. On a conjoint reading of the said provisions of the

Constitution of India, we are of the view that, the State has an onerous duty to ensure the well being, and life and liberty of every citizen, which includes the migrant workers also.

16. Therefore, the State Government has a duty to ensure that the employers are providing appropriate shelter to the migrant workers, a clean environment and a healthy living condition with sufficient ventilation, light etc. along with other basic amenities. It is also the duty of the State Government to see that employers are satisfying the requirements in accordance with the prevailing laws with respect to the wages, contribution to welfare funds etc. of the migrant labourers. So also, adequate measures shall be taken for curbing ill-treatment of the labourers in any manner, by the employers.

17. In that view of the matter, there will be a direction to the State Government to ensure that the life and liberty of the migrant labourers are protected envisioned by the framers of the Constitution of India and bearing in mind the responsibilities and the fundamental duties and obligations of

the State Government in doing so. If any information is received by the State Government and its officials in respect of any ill-treatment of the migrant labourers from any responsible corners, quick action shall be taken for ensuring their well being and life and liberty. It is also made clear that if any of the migrant labourers expressed his intention to go back to his native State, adequate steps shall be taken by the State Government through its Offices to ensure return of such migrant workers subject to the lockdown restrictions and consequential SOPs issued by the respective Governments. So also, the Government shall always be watchful to ensure that no forcible detention are made by the employers of any migrant workers so as to cause any prejudice to the migrants, and if any such action on the part of the employers are noted by the Government, adequate steps shall be taken to initiate appropriate action against such persons. We also make it clear that the State Government is at liberty to implement the suggestions in Ext.P1 report in W.P.(C) No. 23724 of 2016, if they are genuinely required to improve the health and welfare

of the migrant labourers.

18. Be that as it may, the influx of the migrant workers to the State of Kerala in large numbers started about two decades back, however, the State authorities were not having the identity and details of such workers. Consequent to which various problems arose, especially, when some of such migrants involved themselves in serious criminal activities. Anyhow taking cue from such incidents Police and other State Authorities started gathering the details of the migrant workers and we are informed now by the learned Senior Government Pleader that the details of the migrant workers are available with the Police and the Labour Department. But fact remains from the facts and figures projected by the Government in these writ petitions it is evident that majority of them have gone back to their native places due to the present emergent situation of the pandemic - COVID - 19. However, the chances of the migrant workers returning to the state cannot be ruled out. Having gone through the pleadings in W.P.(C) No.27148 of 2015, the situations consequent to

non-registration of the migrant workers are pointed out and it is also submitted therein that due to lack of the informations of the migrants they were unable to be located whenever any adverse situations had arisen. Therefore, in order to avoid any such complex and inconvenient situations it is better that the State and the Authorities take steps to gather the full details, identity and other information of the migrants even now remaining within the State and those who are returning to the State post pandemic period and consequent on any relaxation of the lockdown restrictions. It is also open to the State to have any appropriate legislation or framing of rules under any attendant laws in regard to the stay and management of the migrants within the State instead of issuing fragmented notifications/circulars/orders to satisfy the requirements of a particular issue cropping up. Whatever that be the State is duty bound to ensure that the details of the migrant labourers are collected if and when they are returning to the State so as to enabling the authorities to understand their difficulties consequent to their employment and to identify them easily in

the event of any eventualities. We are also of the view that the said aspect shall be made as a duty and obligation of the District Collectors and the Nodal Officers appointed for the guidance and welfare of such migrants. So also the employers who are instrumental in utilising the services of the migrants shall also be saddled with the responsibility of collecting informations and apprising the same to the respective Nodal Officer. The owners of the buildings providing shelter on rent to the migrants shall also be held responsible for not collecting and providing information to such officers.

19. We are emphasising the said aspects in the light of several shocking and gruesome crimes committed by the migrants in the past and the said incidents should be taken as an eye opener for ensuring the details of the migrant workers as is specified above. So also in order to tackle such precarious situations the Government is at liberty to issue such circulars or notifications and publish the same through social media and other medias directing such migrants coming to the State to secure a clearance certificate from the

jurisdictional Police Station of their residence. We are constrained to say these things because all citizens are entitled to freedom of life and liberty protected under Article 21 of the Constitution of India. That said all citizens are entitled to lead as of right, a healthy, happy, peaceful and meaningful life. Therefore, any such restrictions insisted upon by the Government can only be said to be reasonable in nature for the advantage of all and betterment of the life of the society as such. The State Government is also obligated and duty bound to take note of the impositions contained under Articles 38, 39, 42 and 43 of the Constitution of India while dealing with the situations in question requisited for the fundamental and fair Governance of the State. So also the Government is duty bound to discharge the fundamental duties prescribed under Article 51A of the Constitution of India. So much so the citizens expect quick and responsible actions from the Government for the peaceful co-existence of the citizens as a whole without leaving any chance of any unnecessary interference with the fundamental rights guaranteed

under the constitution and thus affecting the peace and tranquillity in the society. In order to achieve and attain the maximum advantage to the society at large the authorities and any responsible persons who fails to carry out the rules and regulations issued by the State Government should be taken to task by appropriately constituted legislation. Before we part with the judgment, we record our appreciation to the assistance rendered by the learned *amicus curiae* Smt. Parvathi Sanjay in bringing to our notice various issues faced by the migrant labourers.

Upshot of the above discussion is that the writ petitions are disposed of directing the State and its officials to comply with the directions contained above without fail.

sd/-
S. MANIKUMAR,
CHIEF JUSTICE.

sd/-
SHAJI P. CHALY,
JUDGE.

Rv

APPENDIX OF WP(C) 27148/2015

PETITIONER'S/S EXHIBITS:

- | | |
|------------|--|
| EXHIBIT P1 | EXT.P-1: TRUE PHOTO COPY OF THE REPORT
SUBMITTED BY THE GULATI INSTITUTE OF FINANCE
AND TAXATION FOR CONDUCTING THE STUDY. |
| EXHIBIT P2 | EXT.P-2: TRUE PHOTOCOPY OF THE STATEMENT MADE
BY THE HON'BLE MINISTER FOR LABOUR AND SKILLS,
KERALA ON RECEIPT OF EXHIBIT P1 REPORT. |

RESPONDENTS' EXHIBITS: NIL

/True Copy/

PS to Judge.

rv

APPENDIX OF WP(C)23724/2016

AMICUS CURIAE'S ANNEXURES:

ANNEXURE I: THE COPY OF G.O (Rt.) No. 1325/16/LBRD DATED 27.10.2016.

ANNEXURE 1: COPY OF THE REPORT DATED 6.6.2018 OF THE SECRETARY, DLSA ALONG WITH THE REPORT OF THE POLICE DATED 11.3.2018.

ANNEXURE 2: REPORT DT. 6.6.2018 FROM DLSA-IDUKKI THODUPUZHA.

ANNEXURE 3: REPORT DATED 29.05.2018 FROM DLSA-MANJERI.

ANNEXURE 1: UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008.

ANNEXURE 2: REPORT FROM DLSA.

ANNEXURE P1: REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, THIRUVANANTHAPURAM DATED 01.04.2020.

ANNEXURE P2: REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, KOTTAYAM DATED NIL.

ANNEXURE P2: REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, ERNAKULAM DATED 02.04.2020.

ANNEXURE A4: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY THIRUVANANTHAPURAM DATED 14.04.2020.

ANNEXURE A5: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, PATHANAMTHITTA DATED 13.04.2020.

ANNEXURE A6: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY KOTTAYAM DATED 13.04.2020.

ANNEXURE A7: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY IDUKKI DATED 13.04.2020.

ANNEXURE A8: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, ALAPPUZHA DATED NIL.

ANNEXURE A9: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, ERNAKULAM DATED 14.04.2020.

ANNEXURE A10: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, TRICHUR DATED 14.04.2020.

ANNEXURE A11: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE

W.P.(C) Nos. 27148/2015 & 23724/2016 : 37 :

AUTHORITY, KOZHIKODE DATED 12.04.2020.

ANNEXURE A12: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, WAYANAD DATED NIL.

ANNEXURE A13: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICE AUTHORITY, KASARAGOD DATED NIL.

ANNEXURE A14: THE LETTER PLACED BEFORE THE SECRETARY DLSA, ERNAKULAM DATED 10.05.2020.

ANNEXURE A15: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICES AUTHORITY SECRETARY, KOZHIKODE DATED 20.05.2020.

ANNEXURE A16: TRUE COPY OF THE REPORT OF DISTRICT LEGAL SERVICES AUTHORITY SECRETARY, KANNUR DATED NIL.

ANNEXURE A17: TRUE COPY OF THE MAIL DATED 11.06.2020.

RESPONDENTS' ANNEXURES:

ANNEXURE R4(a): TRUE COPY OF THE PROCEEDINGS NO.M2-74571/2015 DATED 23.02.2017.

ANNEXURE R4(b): TRUE COPY OF THE CIRCULAR NO.M2-74571/2015 DATED 27.06.2016.

ANNEXURE R4(c): TRUE COPY OF THE G.O (RT) NO.960/2016/LABOUR DATED 03.08.2016.

/True Copy/

P.S. to Judge.