

CJ / BVNJ:
24th April, 2020

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

ORDER

We have perused the submissions of the State Government dated 20th April, 2020 concerning the compliance made by Bruhat Bengaluru Mahanagara Palike (for short 'BBMP'). After having perused the submissions, we are of the view that the compliance with directions in Clause-1 of the circular dated 11th April, 2020 issued by the Additional Chief Secretary, Bengaluru Urban Development Department is not yet reported.

2. In sub-paragraph (v) of Paragraph 10 of the written submissions, it is mentioned that till 20th April, 2020, total 411 persons having no shelter have been identified and relocated to the hostels for migrants. Sub-paragraph (v) will have to be read with Sub-paragraph (iii). It means that as of today, only 411 persons who are shelterless have been accommodated in the migrants' hostels.

3. The earlier orders of this Court repeatedly refer to the issue of identification of the migrants who are in the streets, beggars, homeless persons and other vulnerable sections of the society who are in the city without any shelter. Clause-1 of the circular dated 11th April, 2020 contains a direction to BBMP to identify such persons. What is stated in Sub-paragraph (vi) of Paragraph 10 is little disturbing. In the first sentence it is stated that BBMP has identified a far greater number than just 411 persons in the city who appear to be in the streets without shelter and that majority of them have refused to relocate themselves to the centres and hostels. Surprisingly, the number of such persons who have been identified in addition to 411 has not been mentioned. What is observed in the first sentence of Sub-paragraph (vi) of paragraph 10 means that there is a far greater number than 411 of those who are shelterless and who are in streets and that they will be allowed to remain on the streets.

4. Our attention is invited to the directions issued by the Commissioner of BBMP on 16th April, 2020 (Annexure-2 to the written submissions). The first direction is that the Zonal Joint Commissioners shall immediately with the help of marshals and KSTDC buses identify the migrants, homeless and other poor people who are on the roads in the city without shelter and food. The direction is that these people shall be respectfully picked up and taken to the nearest hostels which have been declared as relief centres and they shall be provided with proper accommodation, food and health facilities at the centres. It is further directed that the action shall continue till all the above category of people are identified in the city and lodged in the shelter homes. The last direction is that the action taken in this regard shall be reported daily through to the Chief Marshal of BBMP.

5. The earlier order records the stand taken by BBMP that only 40 marshals have been deployed across the 198 wards. Not a single report submitted by the Chief

Marshal is placed on record. The Zonal Joint Commissioners who are made responsible for identification of such persons have also not submitted a report. This becomes very significant as in Sub-paragraph (vi) of paragraph 10, it is accepted that there are large number of people in the streets without shelter. We direct the State Government to ensure that BBMP places on record through the State Government all the reports submitted by the Chief Marshal of BBMP and reports of all the Zonal Joint Commissioners. We also direct the Zonal Joint Commissioners to submit reports about the steps taken to identify the homeless persons. The reports shall be submitted on record through the office of the Government Advocate by tomorrow (25th April, 2020) evening. While submitting the reports, the Zonal Joint Commissioners will elaborate on the statement contained in the first sentence of Sub-paragraph (vi) of Paragraph 10 that large number of homeless people have refused to come to the shelters provided to them. They will state how many such persons have been identified who refused to move to the shelters.

6. Sub-paragraph (vii) of Paragraph 10 records that the identification of the persons who are without shelter is being made by making public announcements by use of BBMP vehicles and garbage collection vehicles. BBMP has deployed buses to pick up homeless people and relocate them to the relief centres. The first issue is of identifying and locating the homeless people and only thereafter, the question of deploying the buses to pick up such persons will arise. In the first three compliance submissions filed by BBMP and the fourth compliance filed by the State Government, there are no statements made as regards systematic efforts made to find out the homeless people and number of homeless people so far identified.

7. While we say so, the State Government must clarify the stand whether in the present situation, the homeless people can be allowed to stay on streets. The reason is that if persons continue to stay on streets, there will be a violation of norms including the norms of social

distancing. BBMP and the State Government must also disclose whether any effort is made to ascertain whether any of the persons staying on street are having the symptom of infection of corona virus.

8. In the submissions filed on behalf of BBMP, the State Government has pointed out that 1,34,562 migrants, construction labourers and others staying in shelters within the limits of BBMP have been located as on 19th April 2020. The figures are mentioned in Annexure-8. The learned Additional Advocate General states that now the figure has gone up to 1,41,000. Obviously, 1,41,000 migrants/construction workers must be staying in huts provided to them on the sites of work. The State Government must come out with the stand regarding the steps taken to prevent spreading corona virus amongst the workers and their families who are staying in the huts. The response of BBMP and the State Government on this aspect shall be filed by 27th April 2020. As stated earlier,

the reports of the Zonal Joint Commissioners shall be placed on record by tomorrow (25th April 2020) evening.

9. The Secretary of the State Legal Services Authority has submitted a booklet provided by the Commissioner of Police, Bengaluru containing the data of the migrant labourers in Bengaluru city. All the details of the shelters of these migrant workers with material particulars have been set out. As this data is made available by the Police, we are sure that the officers of BBMP will use the said data.

10. At this stage, we must refer to the e-mail sent by one Kathyayini Chamaraj addressed to the Registrar (Judicial) to which the Karnataka Municipal Corporations (Ward Committee) Rules, 2016 have been annexed. Sub-rule (8) of Rule 6 thereof provides for the establishment of Disaster Management Cells at ward level by the Chairperson of Ward Committees. BBMP through the State Government must also state whether such Disaster Management Cells at ward levels have been established.

Presence of such Disaster Management Cells will be helpful to deal with the present situation created by the spread of corona virus.

11. At this stage, our attention is invited to the minutes of the meeting held on 17th April, 2020 which was attended by several Principal Secretaries of various Departments, the Commissioner of BBMP and the Joint Commissioner of BBMP (SWM), Bengaluru. Clause 1.2 sets out a mechanism to identify the migrants and vulnerable sections of society in each of the BBMP zones. We are sure that the Zonal Joint Commissioners who are made responsible in this behalf under the order dated 16th April, 2020 of the Commissioner of BBMP will take a note of what is provided in Clause 1.2.

12. Apart from the City of Bengaluru, there are other major cities in the State. We are sure that the State Government will issue requisite directions to all the urban local authorities in the State to take steps for identification of various categories of migrants having shelter and

migrants as well as homeless people stranded on the streets.

13. The learned Secretary of the Karnataka State Legal Services Authority (KSLSA) has pointed out a communication received by him by e-mail from the Secretary of Jharkhand Legal Services Authority stating that in 14 different areas within the BBMP limits, there are migrants from Jharkhand. The Secretary, KSLSA to seek particulars from the Secretary of Jharkhand Legal Services Authority such as telephone numbers of some of the migrants so that they can be traced.

14. As far as the issue of migrants is concerned, the State will also ascertain whether the data received by the Regional Commissioner in the Karnataka Bhavan, New Delhi, from various States regarding migrant workers is being looked into for tracing migrant workers from other States who are in the State of Karnataka.

15. Now, coming to the compliance by the State Government, in our earlier order, we have referred to paragraph No.16 of the submissions dated 16th April, 2020 and directed the State Government to elaborate on the issue of supply of food to the vulnerable sections such as poor homeless, migrant workers with shelter and without shelter. For reporting the compliance, in the submissions dated 20th April 2020, the State Government has relied upon the Circular dated 18th April, 2020 issued by the Principal Secretary to the Government in Revenue Department on this issue. Paragraph No.11 deals with persons identified as vulnerable who do not have ration cards. It is stated that people belonging to the vulnerable groups needing shelter and food shall be accommodated in the existing camps or in the newly opened camps where food, clean drinking water, access to clean toilets and medical care will be provided. Paragraph No.11 records the decision of the State Government that people belonging to the vulnerable groups who do not have ration cards but are having shelter need to be provided with

prepared food or dry ration depending upon their requirements. It is stated that dry ration kits shall be supplied at the door steps of the identified individuals by the local officials and due acknowledgment shall be taken. Where prepared food is supplied, it must be ensured that daily requirements of food of at least two meals a day of individual are met with by assigning responsibility to a designated officer. It is further stated that each dry ration kit shall have 5 kg rice, 2 kg dal, half litre oil, half kg sugar, half kg salt and appropriate quantity of spices as minimal requirement. The learned Additional Advocate General states that this quantity in the ration kit is for a single person for a period of twenty-one days. It is further provided in the Government decision that the districts are free to add more components wherever it is possible such as soap, tooth paste, tooth brush, etc.

16. A serious concern was expressed across the Bar that even though food kits are supplied to needy people having shelter, they cannot afford to buy LPG cylinder in

the present situation as there is no income. As far as availability of LPG cylinders is concerned, the issue is dealt with in paragraphs 8 to 11 of the submissions. It is pointed out that in the State, there are 1.60 crore LPG connections out of which 31.17 lakh LPG connections are of household assisted under the Pradhana Mantri Ujjwala Yojana. Paragraph 11 records that under Mukhya Mantri Anila Bhagya Yojana, one lakh households will be supplied one LPG cylinder free of cost starting from May 2020. What is pointed out across the Bar is that the people who are not covered by the two schemes of the Central and the State Government respectively, but are having LPG connections, may not be able to afford the cost of LPG cylinder. Therefore, for them, supply of food kits may not be of any use. The learned Additional Advocate General states that it will be difficult for the State to provide LPG cylinders free of cost to such people. We are dealing with people belonging to vulnerable sections of Society who are having shelter but no ration cards. The people belonging to this section of society have no income for the time

being. Though they are having LPG connection, they will find it difficult to buy LPG cylinder. For example, it is pointed out that transgenders and sex workers may belong to this category who for want of income are not in a position to procure cylinders. The State will have to address this issue by taking appropriate policy decision on the question of providing some kind of subsidy for procuring one cylinder each as a one-time measure. The State will take a decision at the earliest.

17. It is pointed out that the ration which is supplied to the Below Poverty Line (BPL) cardholders who are plenty in number in the State, does not include dal. They are being supplied with wheat and rice, whereas the food kits which are referred in the Circular dated 18th April, 2020 contain 2 kg dal. The State will have to look into this discrepancy and consider whether BPL cardholders can be provided with dal as a part of the ration. At the time of one of the earlier hearings, it is pointed out on behalf of the State that efforts are being made to procure and

supply of dal and from 1st week of May 2020, all efforts will be made for supply of dal as a part of the ration. The State will elaborate on this aspect.

18. As regards the direction issued by the Deputy Commissioner, Kalaburagi, the explanation dated 17th April, 2020 submitted by the Deputy Commissioner, Kalaburagi addressed to the Principal Secretary of the Revenue Department is annexed to the written submissions. The said explanation is far from being satisfactory. Apart from the fact that the Deputy Commissioner has completely misread and misinterpreted the order of this Court dated 16th April, 2020, he seems to be under an impression that if five volunteers of a Non-Governmental Organisation (NGO) are distributing the food and other essential articles, it is an objectionable activity. We wonder how such activity can be termed as an objectionable activity, if more than five members of NGO, by maintaining social distancing, do the work of distributing food and other essential items. Second last

paragraph of the explanation shows that the Deputy Commissioner is still insisting that those NGOs which are desirous of supplying food must supply it to the Food Committee. The approach of the Deputy Commissioner which is reflected from the said explanation is far from satisfactory. The State will issue appropriate direction to the Deputy Commissioner of Kalaburagi District, especially in the light of the fact that it is not the policy of the State that NGOs should not be allowed to do the work of distribution of food and other essential items.

19. The instructions in the Circular dated 18th April, 2020 issued by the Principal Secretary of the Revenue Department of the Government will take care of the facilities to be provided to the migrant labourers and vulnerable groups affected due to lockdown provided the instructions are implemented in its true letter and spirit across the State and by all local authorities. Therefore, the State Government shall ensure that the instructions

contained in the said Circular are scrupulously implemented.

20. The order dated 30th March, 2020 refers to three first information reports registered with Sanjayanagar Police Station. It is now stated that the investigation of the offences has been transferred to the Criminal Investigation Department (CID). A grievance is made across the Bar that no action has been initiated against the erring police officials. We must note here that it is an individual grievance and it is not shown that those who have this grievance are prevented from taking recourse to legal remedies by reason of poverty, etc. Therefore, at this stage, we do not desire to issue any further directions on this aspect, as investigation has been entrusted to CID. The aggrieved persons can always take recourse to legal remedies available.

21. As regards the incident of 10th April, 2020, in the written submissions filed by the State Government

dated 24th April, 2020, action taken against the offenders involved in the incident dated 10th April, 2020 has been reported. As regards the protection to the health workers, a statement has been made in paragraph No.9. Ideally, whenever health workers demand police protection by making a requisition to the jurisdictional police station, necessary police protection will have to be immediately extended to the health workers. As stated in paragraph No.9, depending upon the exigency, even armed police constables shall be deployed for protecting the health workers. It will be appropriate if the State Government issues a direction to all the police stations to immediately act upon the requests made by the health workers for providing police protection.

22. As regards Jatra in Kalaburagi District 16th April, 2020, it is pointed out that the action taken is placed on record in paragraphs 10 to 13 of the submissions dated 24th April, 2020. There is no statement made regarding sealing or closing of Siddalingeshwara Math in Ravoor

village. The State Government must make a statement on this aspect as well as on the allegation that there were also similar incidents on 08th, 14th and 15th of April, 2020. We find that against the offenders, only certain Sections of Indian Penal Code have been applied and for the violation of guidelines issued in exercise of powers under the Disaster Management Act, 2005, penal provisions of the said Act have not been invoked. The State Government must clarify this aspect.

23. Since we are on the aspect of penalty, it will be necessary to note that the Central Government has promulgated an ordinance for amending the Epidemic Diseases Act, 1897 and the State Government has come out with an ordinance called "the Karnataka Epidemic Diseases Ordinance, 2020". The offences under the Karnataka Ordinance are made cognizable and bailable. However, under the Ordinance of the Central Government, the offence of indulging in violation against the health care service personnel has been made a non-bailable offence.

The learned Additional Advocate General will have to address the Court on the aspect of both the Ordinances.

24. Now, coming to the issue of domestic violence, in paragraph 14, the State Government has come out with the measures taken and they have also given details of the calls received making a grievance regarding domestic violence. However, it is not clear whether after receiving the calls, the protection officers have been informed to take action under the statute.

25. The Secretary of the KSLSA has placed on record a direction received from National Legal Services Authority in the form of e-mail dated 11th April, 2020 directing that legal assistance should be provided to women and children who constitute vulnerable sections of the society. In fact, a direction is issued to the State Legal Service Authority to provide legal aid and support to One-Stop Center and Women Helplines. The Secretary of KSLSA states that necessary steps have taken by the KSLSA and in fact, a letter has been addressed by the

Secretary of the KSLSA to all the Chairpersons of the District Legal Services Authorities (DSLAs) for nominating two women lawyers to provide legal aid and support to One-Stop Centers. Accordingly, the DSLAs have nominated two women lawyers each. Their names contact numbers and e-mail IDs have also been placed on record. Necessary information in this behalf has been furnished to the Director of the Department of Women and Child Development.

26. As regards the issue of mental illness suffered by the citizens due to lockdown, National Institute of Mental Health and Neuro-sciences (NIMHANS) at Bengaluru has taken certain steps. The learned counsel appearing for the PUCL states that Dr.Naveen Kumar who is looking after the Helplines provided by the NIMHANS is willing to appear and assist the Court. We, accordingly request Dr.Naveen Kumar to appear for video conference hearing on 28th April, 2020 at 11.00 a.m. The Registrar (Judicial) will make a request to Dr.Naveen Kumar, to

appear on 28th April, 2020 at 11.00 a.m. by providing him necessary assistance.

27. On the next date i.e., on 28th April, 2020, we will consider the issue of rural distress and issue of farmers, in the light of the submissions made on 16th April, 2020 and 21st April, 2020 by learned counsel appearing for the PUCL as well as in the context of order dated 22nd April, 2020 issued by the State Government which also deals with the issue of farmers.

28. Let the main petition and other petitions which are listed today be fixed on 28th April, 2020 at 11.00 a.m. for video conference hearing.

**Sd/-
(ABHAY S. OKA)
CHIEF JUSTICE**

**Sd/-
(B.V.NAGARATHNA)
JUDGE**

SN
RK/-