

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 21<sup>ST</sup> DAY OF APRIL, 2020**

**PRESENT**

**THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE**

**AND**

**THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA**

**WRIT PETITION NO.6693 OF 2020 (GM-RES-PIL)**

**BETWEEN :**

MALLIKARJUNA A  
S/O. ALEGOWDA,  
AGED 38 YEARS  
N.S.ROAD, CHELUR VILLAGE,  
GUBBI TALUK,  
TUMKUR DISTRICT – 572 117

...PETITIONER

(BY SRI MALLIKARJUNA A, PARTY IN PERSON)

**AND :**

1. GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS,  
DISASTER MANAGEMENT DIVISION,  
'C' WING, 3<sup>RD</sup> FLOOR,  
NDCC II, JAISINGH ROAD,  
NEW DELHI – 110 001.  
REPRESENTED BY ITS SECRETARY
2. STATE OF KARNATAKA  
VIDHANA SOUDHA,  
DR. AMBEDKAR ROAD,  
BENGALURU – 560 001.  
REPRESENTED BY ITS  
CHIEF SECRETARY
3. DEPARTMENT OF REVENUE  
(DISASTER MANAGEMENT),  
REVENUE DEPARTMENT,

M.S. BUIDLING,  
DR. AMBEDKAR ROAD,  
BENGLAURU 560001.  
REPRESENTED BY ITS SECRETARY

- 4 . DISTRICT DISASTER MANAGEMENT AUTHORITIES  
IN KARNATAKA  
REPRESENTED BY ITS  
RESPECTIVE CHAIRMAN'S

... RESPONDENTS

(SRI M.B.NARGUND, ADDITIONAL SOLICITOR GENERAL  
ALONG WITH SRI M.N.KUMAR, CGC FOR RESPONDENT NO.1  
SRI M.DHYAM CHINNAPPA, ADDITIONAL ADVOCATE  
GENERAL AND SRI VIKRAM HUILGOL, AGA FOR  
RESPONDENT NOS.2 TO 4)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND  
227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A  
WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO  
SCREEN ALL THE MIGRANT LABORERS, BOTH INTERSTATE  
AND INTRA STATE FOR COVID-19, WHO EVER ARE WILLING  
TO GO BACK TO THEIR HOME TOWNS AND SEE THAT ALL  
NEGATIVE TESTED CASES BE DROPPED TO THEIR HOME  
TOWNS USING THE STATE OR CENTRAL TRANSPORTING  
FACILITY WITHOUT CHARGING ANYTHING, WITHOUT ANY  
FURTHER DELAY AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY,  
**CHIEF JUSTICE** MADE THE FOLLOWING:

### **ORDER**

We have heard the petitioner appearing in person. The  
only prayer made in this petition reads thus:

*“Issue a writ of Mandamus directing the respondents, to  
screen all the migrant laborers, both interstate and intra  
state for COVID-19, who ever are willing to go back to  
their home towns and see that all negative tested cases  
be dropped to their home towns using the State or  
Central transporting facility without charging anything,  
without any further delay.”*

2. On 29<sup>th</sup> March 2020, the Ministry of Home Affairs, Government of India has issued a direction that the migrant people who have moved out to reach their home states/home towns must be kept in the nearest shelter by the respective State/Union Territory Governments. The further direction issued is to provide quarantine facilities after proper screening for a minimum period of 14 days as per the standard health protocol. There is also a direction issued to the State/Union Territory Governments to ensure that adequate arrangements are made for providing temporary shelters and provision of food for the poor and needy people, including the migrant labourers stranded due to lockdown measures in the respective areas.

3. The petitioner appearing in person relies upon the Standard Operating System issued by the Central Government on 19<sup>th</sup> April 2020 for movement of the stranded labour which provides that in case of a group of migrants who wish to return to their places of work within the State where they are presently located, they should be screened and those who are asymptomatic should be transported to their respective places of work. The submission of the petitioner appearing in person is that if a labourer who is asymptomatic can be permitted to be

transported to his place of work, there is no reason why he should be denied of an opportunity to go back to his house. He submitted that the act of placing the migrant workers in quarantine or in the shelters completely violates the fundamental rights of the migrant workers under the Constitution of India. He submitted that the fundamental rights of the migrants cannot be violated by detaining them in the shelters or in quarantine facilities and therefore, neither the Government nor the Courts can prevent the migrant workers from reaching their respective homes. Lastly, he submitted that the migrants cannot be put in quarantine or shelters for indefinitely long period.

4. We have considered the submissions. Firstly, we must note here that the Writ Court is dealing with the extraordinary situation arising out the spread of COVID-19. Secondly, the petitioner has not challenged the order dated 29<sup>th</sup> March 2020 which enjoins the State Governments and the Union Territory Governments to ensure that the migrants who have moved out to reach their home states/home towns must be kept in the nearest shelters with quarantine facilities.

5. Though the petitioner appearing in person submits that in this petition, a challenge to the order dated 29<sup>th</sup> March 2020 should be considered, we are unable to consider the said prayer in the absence of any substantive challenge to the order dated 29<sup>th</sup> March 2020. Thirdly, in the main Writ Petition No.6435/2020 and other connected matters, this Court is dealing with the issue of providing proper shelter to the various categories of migrants, homeless and other persons belonging to the marginalized sections of the Society. This Court is also monitoring the aspect of providing adequate food to the migrants. In fact, the directions in this behalf have already been issued.

6. Fourthly, the reliance placed on the Standard Operating System issued on 19<sup>th</sup> April 2020 will not help the petitioner. The Standard Operating System provides that in the event migrants wish to return to their places of work within the State where they are presently located, they would be screened and those who are asymptomatic would be transported to their respective places of work. This direction ensures that the migrant workers get employment at their respective places of work wherever such work is permissible. The Standard Operating System specifically reiterates that no movement of

the labourers outside the State/Union Territory from where they are currently located is permitted.

7. In view of the aforesaid reasons, we are unable to entertain this writ petition containing the prayer which we have quoted above. Grant of such a prayer will run completely contrary to the order dated 29<sup>th</sup> March 2020 of the Ministry of Home Affairs, Government of India. Hence, we decline to entertain this writ petition and the same is rejected.

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

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