

+ W.P.(C) 524/2010

PEOPLES UNION FOR DEMOCRATIC
RIGHTS & OTHERS

..... Petitioners

Through Mr. Tariq Adeeb, Mr. Pankaj Sinha
and Mr. Divya Jyoti, Advs.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through Mr. Sanjeev Sachdeva, Mr. Vibhu
Verma, Advs. for R-1, R-5 & R-6.
Mr. N. Wazir, Adv. for R-2/GNCTD.
Mr. Anil Grover, Ms. N. Singhal,
Adv. for R-3/SAI.
Mr. Ajay Verma, Adv. for R-4/ DDA.
Mr. Anil Amrit, Standing Counsel for
R-7/NDMC.
Mr. Anshum Jain for Ms. Suparna
Srivastava, Adv. for R-8/MCD.
Mr. Atul Sharma, Mr. Abhishek
Sharma, Adv. for R-10/DIAL.
Mr. K.C. Kaushik, Mr. Rahul Kaushik
and Ms. Shilpi Kaushik, Advs. for R-
11/DMRC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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07.07.2010

This Court on 26.5.2010 after discussing the factual matrix and the complexity of the problem had issued the following directions:

“A. All the authorities who are involved and are covered by the Committee constituted by this Court shall

make all possible efforts to register the workers so that no worker remains unidentified and further is in a position to avail the statutory benefits and future litigation is avoided.

B. The passbooks should be opened in respect of all the workers. All benefits that are accruable on the basis of issuance of passbooks shall be monitored by the Labour Department. Be it noted, we are not finding any fault with the functioning of the department but we are only stating that one must remind oneself of one's duty, more so, when dealing with the people who are working in an atmosphere to have their food, shelter and clothing and live a life with acceptable dignity.

C. The education scheme, which has been introduced, has to be appropriately implemented so that a child of a worker gets necessary education. It should be borne in mind by all concerned that "education is the spine of a civilized society".

D. As far as the medical benefits, maternity benefits and death benefits are concerned, the same be provided as per the provisions in the Acts and the schemes framed thereunder.

E. The petitioner is at liberty to have the assistance of the senior persons from the field of academics and other personalities whose names find mention at page 32 of the petition to assist the workmen to fill up the forms to have the benefit.

F. All the respondents shall file their requisite response/steps taken within four weeks keeping in view the aforesaid directions."

An affidavit has been filed by the Government of NCT of Delhi stating, inter alia, that 4430 registration forms have been distributed between 28.5.2010 to 30.6.2010 out of which 1,000 forms were issued to Delhi Asangathit Nirman Mazdoor Union (Regd.), 500 forms to Self Employed Women Association (SEWA) and 1,000 forms to Nirman Mazdoor Panchayat Sangam (NMPS); and that 2884 fresh passbooks have been issued between 26.5.2010 to 30.6.2010 and further 4,000 fresh passbooks are being processed and directed to be issued in near future. It is submitted by Mr. Waziri, learned standing counsel for the State of NCT that pass books are issued after the workers are registered. To put differently registration is a condition precedent for issue of a passbook. Thus, submits the learned counsel for the State, during this period 2884 workers have been registered and issued the passbook and the authorities are taking effective steps to register 4,000 workers and issue the passbook as has been stated in the affidavit.

At this juncture it is submitted by Mr. Tariq Adeeb, learned counsel for the petitioner that the registration that is done is restricted to one year as a consequence of which the workers face immense difficulty as they are required to get themselves registered afresh and get the passbooks issued

thereafter. Mr. Waziri shall clarify the position whether such a method is adopted and why the workmen are not given registration for a longer period and why the pass books are not issued without any kind of restriction. Mr. Waziri shall file an affidavit of the competent authority in this regard by the next date.

Be it noted, a colossal grievance was made by the learned counsel for the petitioner that though in Common Wealth Games more than 37,000 people are engaged, yet they are not being registered as a result of which there is violation of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Unorganized Workers' Social Security Act, 2008 and the Regulations framed thereunder have been totally impaired. Replying to the same, it is submitted by Mr. Waziri, learned standing counsel for the State that more than 31,000 workmen have been registered. However, learned counsel for the State could not clarify whether all the employees who have been registered are employed in Common Wealth Games or anywhere else. It is worth noting the figures which have been stated in the affidavit do not really refer to the employees who are being employed for the purpose of Common Wealth Games. In view of the cavil raised, we would direct the competent authority

of GNCTD to verify the registrations that have been made in the meantime and which are under process and what is the exact number of workers as per Common Wealth Games is concerned. It is further directed that such exercise shall be done site-wise so that it would have some kind of scientific methodology and the grievance that has been pyramided by the learned counsel for the petitioner would possibly be assuaged.

Mr. Tariq Adeeb, learned counsel for the petitioner also submitted that the workers who are working in various sites meant for Common Wealth Games are not paid minimum wages and thereby there is flagrant violation of the provisions of the Minimum Wages Act, 1948. Mr. Sanjeev Sachdeva, learned counsel for the Union of India submitted that the periodical inspection has been done and the Director General of Inspection shall ensure that the provisions of the aforesaid enactment are complied with in letter and spirit and wherever there is any kind of violation the persons who are violating the law have been prosecuted. Learned counsel for the Union of India undertakes to file an affidavit indicating the nature of inspection done and the result that has ensued from such inspection and the number of prosecutions that had been launched against the erring contractors who have violated the provisions.

As regards the direction contained in Clause 'C' of the previous order which pertains to implementation of the education scheme in paragraph 10 of the affidavit filed by the NCT it has been stated thus:

"11. That 4430 registration forms have been distributed from 28.5.2010 to 30.6.2010 out of which 1,000 forms were issued to Delhi Asangathit Nirman Mazdoor Union (Regd.), 500 forms to Self Employed Women Association (SEWA) and 1,000 forms to Nirman Mazdoor Panchayat Sangam (NMPS) – one of the petitioners."

Learned counsel for the State has commended us to paragraph 3 to highlight that the benefits that are given to the children of the workers studying in GNCTD schools have been extended to the children who are studying in MCD schools and the number of such schools is 1744.

At this juncture learned counsel for the petitioner apprised that the education scheme has not yet been given in full shape. It is urged that there are more children whose applications are being submitted to obtain scholarship and assistance for the same have not yet been attended to. It is urged by learned counsel for the petitioner that more than 10,000 applications are pending. Without expressing any opinion on the said score it is directed that the petitioner shall give the list of the applications that have been submitted before the authority and the competent authority of NCT of

Delhi shall look into the same regard being had to the fact that the education is the spine of a nation and no child upto the age of fourteen as per the mandate of the Constitution should be denied education. Learned counsel for the State has assured that the State Government shall leave no stone unturned to extend the benefit once the applications are filed.

As far as the grant of medical benefits, maternity benefits and death benefits are concerned, we have been apprised 15 applications are pending for determination by the Welfare Board. In view of the aforesaid, it is directed that the Board shall decide the said applications and if the benefits are extendable, the same should be extended within a period of 15 days.

A grievance was made that though the said applications were filed long back yet the authority concerned paid a deaf ear to the same. When applications of this nature are filed, needless to emphasize, the same have to be attended to in quite promptitude, for the same come from the needy and marginalised section of the people. We hope and trust that the competent authority shall keep the same in view and not show any kind of apathy to such applications. It should not be treated as a duty in a routine manner but a duty which has its sacrosanctity.

At this juncture learned counsel for the petitioner submitted that there

was a direction on the earlier occasion to hold camps to sensitize the workers about their rights under the enactments and the welfare schemes. But no effective camps have been held. Without entering into the said controversy, as advised at present, we are inclined to direct that the GNCTD shall constitute a committee of three officers for a camp and the camps shall be held site-wise. Needless to emphasize the representative of the petitioner shall be invited to attend the camps. Mr. Tariq Adeeb shall also be invited to attend the camps and the attendance therein would mean effective participation. Before holding the camps, adequate pamphlets shall be circulated by the State Government among the workers so that they would be in a position to understand their rights under the Act and the schemes. Mr. Waziri, learned standing counsel for the State fairly agreed that he has no objection if the Delhi Legal Services Authority would nominate three lawyers to attend the camps and also sensitize the workers about their rights. The schedule of dates for holding camps should be circulated early so that the whole thing can be facilitated.

As far as the living conditions of the workmen, who have been engaged for the purpose of Common Wealth Games, are concerned, they shall be provided adequate facilities so that they do not suffer any

catastrophe and cataclysm due to the cruel rain.

Matter be listed on 4th August, 2010.

Order dasti.

JULY 07, 2010

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Sd/-
CHIEF JUSTICE

Sd/-
MANMOHAN, J

