

ITEM NO.3 Court 5 (Video Conferencing) SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s).135/2010

BUDHADEV KARMASKAR

Appellant(s)

VERSUS

THE STATE OF WEST BENGAL & ORS.

Respondent(s)

(Mr. Jayant Bhushan, Sr. Adv.(A.C.)Mr.Pijush K. Roy, Adv.
(A.C.)/Appellant may be shown as Amicus curiaeMob. 9810158653 ONLY
I.A NO. 80140/2020 APPROPRIATE ORDERS/DIRECTIONS TO BE LISTED)

Date : 10-01-2022 This appeal was called on for hearing today.

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HON'BLE MR. JUSTICE B.R. GAVAI

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UPON hearing the counsel the Court made the following
O R D E R

On 14.12.2021, this Court directed the State Governments/Union Territories, to issue ration cards/voter identity cards immediately to sex workers on the basis of the list maintained by NACO. The authorities were permitted to take assistance of State AIDS Control Societies, finalizing the list of Sex workers after verifying the information provided to them by Community Based Organisations. The State Governments/Union Territories were directed to submit a Status Report relating to the issuance of ration cards and Voter Cards. In the meanwhile, the State Governments/Union Territories were directed to continue distribution of dry ration to sex workers without insisting on ration cards and any other proof of residence.

Status Reports have been filed by some States. Broadly, a large number of sex workers have ration cards.

The State Governments/Union Territories have informed this Court that the others who do not have rations cards are being given dry ration without insisting on proof of residence. Some States have not filed the Status Report. The counsel appearing for those States, who have not filed the Status Report, submitted on instructions that the issuance of ration cards/voter cards is in process and the directions issued by this Court on 14.12.2021 are being implemented.

The manner of distribution of dry ration without issuance of ration cards is slightly likely different in the States of Delhi and Chandigarh. We are informed by the learned counsel appearing for the State of Delhi, that an SOP has been issued by the Government to the effect that ration will be distributed at 86 centres without insisting on the proof of residence.

In so far as the Chandigarh is concerned, we are informed by the learned counsel, that money was being transferred to the accounts of those sex workers who have been identified by NACO.

The State Governments/Union Territories who have not filed a Status Report pursuant to the order passed by this Court on 14.12.2021 are directed to do so within a period of two weeks from today. In the meanwhile, the State Governments/Union Territories are directed to complete the process of issuance of ration cards/voter cards to the sex workers.

Mr. Anand Grover, learned senior counsel appearing for the applicant, submitted that a large number of sex workers are left out from the lists that are available with NACO. According to the scheme of NACO, a minimum of 1000 sex workers should be there in a community on the basis of which inclusion will be made in the list prepared by NACO. In case, a community is less than 1000 sex workers, the members of such community will not find their names in the list prepared by NACO. He further submitted that in spite of the orders passed by this Court, dry ration is only being provided intermittently by the State governments to sex workers. He also submitted that all sex workers, irrespective of their gender, should be eligible for issuance of ration cards/voter cards as directed by this Court earlier.

Mr. Jayant Bhushan, learned senior counsel/ (A.C) assisted by Mr. Pijush Kanti Roy, stated that providing ration to the sex workers should not be stopped by the State Governments/Union Territories for any reason whatsoever. Referring to the order passed by this Court on 14.12.2021, Mr. Bhushan stated that this Court made it clear that information provided by Community Based Organisations shall be taken into account for preparation of the list of sex workers who would be entitled for issuance of ration cards. With reference to the affidavit filed on behalf of the UIDAI for issuance of Aadhar Cards to the sex workers, learned Amicus Curiae suggested that the reality is that

the sex workers cannot produce proof of residence and therefore, the list prepared by NACO can be considered for issuance of Aadhar Cards by the authority. The learned Amicus Curiae further flagged an issue relating to the large number of sex workers not coming forward in some states for taking ration cards/ voter identity cards which is a matter that requires an inquiry.

Mr. Zoheb Hossain, learned counsel appearing for UIDAI, submitted that Aadhar Card is issued with basic information. On furnishing the name, age, place of residence and mobile number, Aadhar Card is issued. The documents filed along with the affidavit would show that the proof of residence has to be submitted by the applicant for issuance of Aadhar Card. Mr. Hossain submitted that he will take instructions on the suggestion made by the learned Amicus Curiae regarding the issuance of Aadhar card to the sex workers on the basis of the list prepared by NACO, as a proof of residence.

Ms. Archana Pathak Dave, learned counsel appearing for the State of Gujarat, submitted that those sex workers who have not come forward for issuance of ration cards/ voter cards are being provided with dry ration under the existing schemes which are prevalent in the State of Gujarat. As directed by this Court on 14.12.2021, the State of Gujarat shall enquire into this aspect as to why such a large number of sex workers are not coming forward for taking ration cards/voter cards.

The State Governments/Union Territories are directed to complete the process of issuing ration cards/voter cards to all sex workers and report to this Court within a period of two weeks from today.

The basis for identification of sex workers need not be restricted to the list prepared by the NACO. The Community Based Organisations shall submit a list of members which shall be verified by the concerned District Legal Service Authority/State AIDS Control society. On such verification, the list shall be forwarded to the competent authorities in the State Governments/Union Territories for issuance of ration cards/voter cards.

Needless to state, the State authorities are directed to maintain confidentiality as has been stated in the earlier orders passed by this Court.

List on 11.02.2022.

(B.Parvathi)
Court Master

(RAJ RANI NEGI)
DY. REGISTRAR