

ITEM NO.5 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 curiae, appropriate orders/directions to be listed)

Date : 29-11-2021 This appeal was called on for hearing today.

CORAM :

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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

I.A.No.80140 of 2020:

This Court constituted a Committee to submit its recommendations for rehabilitation of sex workers on 19.07.2011. The Committee after detailed deliberations with all stakeholders submitted a comprehensive report.

We were informed by the learned Additional Solicitor General appearing for the Union of India on 27.2.2020 that a group of Ministers have been constituted to examine the draft legislation. Recognizing the fact that the criminal appeal has been pending since 2010 and realizing the immediate need for the legislation to be brought, this Court recorded the statement of the learned Additional Solicitor General that a draft legislation would be placed before the Parliament at the earliest. A Copy of the draft legislation may be served on the learned Amicus curiae

and the counsel for the applicant.

Mr. R.S.Suri, learned Additional Solicitor General submitted that needful shall be done during the ongoing session of Parliament.

On 28.10.2020, a direction was given to the State Governments and the Union Territories to ensure distribution of minimum quantity of dry ration to sex workers who have been identified by NACO. The State Governments and Union Territories were directed to take the assistance of District State Legal Services Authorities for identifying all genuine sex workers who would be entitled for dry ration. Pursuant to the directions issued by this court to the State Governments and Union Territories to file affidavits of compliance, some state Governments have filed their response.

Mr. Anand Grover, learned senior counsel appearing for the applicant submits that except in the States of West Bengal and Maharashtra, the directions issued by this Court have not been fully complied with.

Mr. Jayant Bhushan, learned Amicus Curiae assisted by Mr. Pijush K. Roy submit that the response on behalf of certain State Governments shows that ration cards are insisted upon for distribution of dry ration as directed by this Court on 28.10.2020. A few states have brought to the notice of this court that there are no schemes under which dry ration can be

given to the sex workers.

Right to food has been recognized as a human right under Article 21 of the Constitution of India. Though, there is some improvement in the situation caused by Covid-19 pandemic, we are of the view that the constitutional obligation on the State Governments and Union Territories to provide basic amenities to the citizens of this Court takes into its fold that the sex workers are entitled for being provided dry ration.

After hearing all concerned, this Court passed an order dated 28.10.2020 that it is difficult for sex workers to produce proof of identity. Identification of sex workers from the data provided by NACO and the District Legal Services Authority would be sufficient for them to claim distribution of dry ration. The State Governments and Union Territories are directed to comply with the order dated 28.10.2020 without insisting on ration cards. A status report shall be filed by the State Governments and Union Territories before 10.12.2021.

List this matter on 14.12.2021.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master