

SC Guidelines on the Migrant Workers

July 8, 2021

The Supreme Court on June 29 pronounced its judgment in the migrant labourers case. The court has laid down numerous guidelines to provide relief to workers and efficiently tackle the problem till the threat of COVID-19 subsides. With the third wave of COVID-19 infections looming, it is imperative to ensure that government machinery works to its full potential and robust systems are developed to withstand the challenges.

In news: A long road for migrant workers

Placing it in syllabus: Society

Dimensions:

- COVID-19 and Problems of Migrant Workers
- SC Ruling and its importance
- Drawbacks of the ruling

Content:

COVID-19 and Problems of Migrant Workers

- During the lockdown in India highlighted the issues of the large migrant workforce that provides cheap labour to the industry and urban services sectors.
- At least 26 lakh migrant workers were stranded across the country, according to the Chief Labour Commissioner's Office,
- The government told Parliament that at least 10 lakh of them returned home during the COVID-19 crisis.
- Thousands of people, young and old, men and women, were seen walking on the highways and along railway tracks for days to get back to villages from their workplaces in the cities.

Problems of Migrants:

- **Official Invisibility:** The migrant workforce is almost invisible in official data. This absence also meant that they could not access even the minimal social protection programmes offered by the state.
- **No Bargaining Power:** Migrant Workers hugely diverse and disaggregated workforce. They lack agency and thereby any power to bargain collectively. Therefore they are susceptible to exploitation.
- **Political Exclusion:** political parties do not always recognise or respect them as a political constituency and respond to their concerns
- **Exclusion from welfare schemes and developmental programs:** Most of the welfare schemes are linked to the place of origin of the migrants. They do not enjoy these benefits when they migrate to other places.

SC Ruling and its Importance:

- The Supreme Court on June 29 pronounced its judgment in the **migrant labourers case**.
- The case was initiated last year after the national lockdown was announced on March 24.
- Thousands of landless labourers had started walking towards their home States due to the loss of employment and income.
- The Supreme Court took cognisance of the matter on May 26 that year and acknowledged the plight of the workers in light of the strict lockdown.
- The court has laid down numerous guidelines to provide relief to workers and efficiently tackle the problem till the threat of COVID-19 subsides.
- Two of the most important components to protect the migrants during this time were the food and travel arrangements insisted on by the court.
- The top court passed an 80-page order on June 28, along seven points.

- Five of these points have to do with ensuring food security for migrant workers.
- The order seeks to strengthen food security by giving directions to the Union and state governments to be more liberal, provide food to non-ration cardholders, increase allocation of subsidised food, allow a migrant to access dry ration from anywhere under National Food Security Act in accordance with the 'one nation one ration card' scheme.

Key directions from the judgment are summarised below:

Dry rations:

- The SC, while emphasizing right to food as a key facet of the fundamental right to life enshrined in Article 21 of the constitution, has directed the state governments to bring in place an appropriate scheme for distribution of dry ration by July 31, 2021.
- Such a scheme as per court's order may continue till the current pandemic continues.
- Court has further given directions to the union government to allocate additional food grains for these state schemes.
- The SC has said that all 2.8 crore migrant workers identified under the Atma Nirbhar Scheme last year by states must also be supplied rations.

Cooked food through community kitchens:

- The SC has directed state governments to run community kitchens at prominent places where a large number of migrant labourers are there, and these kitchens should continue to supply food at-least till the pandemic continues.

Portability of ration entitlements:

- SC has directed the states to implement the "One nation

one ration card" scheme by July 31, 2021.

- This scheme provides portability of ration cards throughout the country.

Revision of state-wise coverage under NFSA:

- The SC has noted that more than 10 years have elapsed since the state-wise coverage for issuance of ration cards under NFSA was determined and updating the numbers to the latest population count is bound to increase the number of eligible persons.
- It has directed the centre "to take steps to undertake exercise under Section 9 of the National Food Security Act, 2013 to re-determine the total number of persons to be covered under Rural and Urban areas of the State, which shall be beneficial to a large number of persons."

Time-bound registration of migrant and unorganised sector workers:

- The court criticised the tardy pace of registration of migrant and unorganised sector workers. It opined that this adversely impacts migrants' ability to access benefits under various schemes.
- the judgment notes, "the apathy and lackadaisical attitude by the Ministry of Labour and Employment is unpardonable".
- Further, calling out the central and state governments for paying mere lip service to well-being of workers
- The judgment states: "Tall claims by all the States and Union that they have implemented various welfare schemes for the migrant workers and unorganized workers remain only on paper without giving any benefit to unorganized workers."
- The SC has directed the Central Government to develop the Portal for registration of the unorganized labourers/migrant workers and to complete the process of Portal for registration under **National Database for**

Unorganised Workers (NDUW Project)

- Further, it has directed, “all the States/Union Territories to register all establishments and license all contractors under the Act, 1979 and ensure that statutory duty imposed on the contractors to give particulars of migrant workers is fully complied with.”

Arranging Transportation

- Further, the court said that identity proof should not be insisted upon by the governments since the labourers might not be able to furnish it.
- The court called upon the State governments to arrange transportation for workers who need to return to their homes. These guidelines by the court are crucial to ensure the safety of workers.

Rejected the Plea for Emergency Cash Transfer:

- Plea for emergency cash transfers to pay for basic necessities including rent, education of children, gas, oil, milk has not been accepted
- The court said it could not issue any direction on cash transfers as they were a matter of policy and in the domain of the State.

Importance of the judgement

- The court **affirmed the Right to Food under Article 21** of the Constitution. In furtherance of this, the court asked the States to formulate their own schemes and issue food grains to migrants. This is an indispensable step to keep more than a fourth of the population of the country safe and healthy during the pandemic.
- However, there is no normative data that would allow the States to identify eligible migrants. The court took **cognisance of the issue of lack of data.**

Finally, the top court **recognised the need for direct cash**

benefit transfer to workers in the unorganised sector. But it did not issue any guidelines for the same as the workers need to be covered by the States themselves.

Drawbacks of the ruling:

Unrealistic Deadlines

- The Supreme Court fixed July 31 as the deadline for the States to implement the 'One nation One Ration Card' scheme.
- Under this scheme, the States are to complete the registration of migrant workers in order to provide dry ration to them.
- But it is unlikely that a standardised system can be developed within the deadline prescribed by the court.

Administrative Hurdles

- The top court also directed the State governments to run community kitchens for migrant workers. However, there arise administrative problems in implementing these measures.
- First, migrant workers keep moving in search of employment and it is difficult to cover them all under the scheme.
- Second, many States do not have the necessary infrastructure to run and maintain community kitchens on such a large scale.

Declaratory Nature of Judgement

- The Supreme Court has given a purposive declaration in the case but the bulk of the judgment seems declaratory rather than mandatory.

Mould your thought: Highlight the issues of the migrant workers during the pandemic. How do the recent directives of the Supreme Court in the migrant labourer case address these

issues?

Approach to the answer:

- Introduction
- Discuss the migrant crisis during Pandemic
- Mention the highlights of the Migrant Labourer Case judgement
- Discuss the importance and drawbacks of the judgement
- Conclusion