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# Migrant Labourers: Their Pain, Agony and Rights

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## ABSTRACT

*Migrant labourers in India have led a life of pain and agony since a very long time, For quite a few years their distress has come to the notice of the Government, and gradually laws were being made to improve their living conditions, but no effort of the government could combat their distress, the recent pandemic, made their situation more vivid, and the government is compelled to make new laws and implement them at the earliest so that the people who work the hardest for the betterment of the country can be looked after.*

**Key-words:** *Migrant Labourers, Government, rights, pain, laws.*

## I. INTRODUCTION

Migrant labourers are people who either migrate within the home Country or outside it to work for their livelihood. they usually migrate temporarily for work and have no intention of staying in their work places permanently.

In India, we have seen over the years people from eastern States migrate to Delhi, Mumbai, Bangalore and more developed cities to earn their livelihood. Unemployment in the eastern States have compelled the workers to look for work in other states.

Migrating from one place to another is not easy for them. We see their hardship. They are actually deprived of proper Shelter and hygiene, we can see how poor is their living conditions. Their temporary homes fail to protect them from heat, rain and cold. Their surroundings are unhygienic, they don't have proper drinking water, we watch them helplessly, doing nothing for them.

The question here is don't the migrant workers have the Right to proper Shelter and hygiene. Migrant labourers lives are harsh. They are not aware of the local laws, staying away from their loved ones make them lead a life of isolation. They are exploited and abused often by their employers.

Our Country is over populated and a poor country, poverty deprives our people from getting

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their education, requirement of food and shelter, compel our people to look for work, even children have to earn for their livelihood, people move to bigger cities leaving behind their native villages to work as daily wage workers in factories, construction sites and so on. Sometimes the advantage of their situation is taken by their employers, they are compelled to work for low wages, without any written agreement between them and their employers.

Often they are not paid for months, adding to their hardship, they borrow money at higher interest rates from local moneylenders.

The issue of migrant labourers has been prevailing for many decades, but not much has been done for them. The Covid 19 pandemic has highlighted their problem and has brought into the notice of government, the Government is bound to frame policies keeping in mind the overall health and safety of migrant workers, A study done in 2020 April highlighted that 89 percent of migrant workers were not paid during the lock-down. There was a very high level of economic distress among the migrant workers almost leading to starvation. There was much physical and psychological agony and distress among the workers. A report prepared by SWAN(Stranded workers action network), an NGO released a report that a survey was done in 11000 labourers , of which only 51 percent had received ration and 72 percent had food for two days only.

## **II. RIGHTS OF MIGRANT LABOURERS**

### **(A) Interstate Migrant Workmen Act, 1979**

This law is applicable to all the establishments employing five or more migrant workmen from other states. In addition to this, this law is also applicable to contractors who have employed five or more inter-State workmen.

- This Act helps the establishments of migrant labourers to create a system of accountability
- This Act helps in fixing the remuneration, hours of work and other amenities.
- The fixed wages must not be lower than the minimum wages Act.
- We have 44 labour laws in the country now, The Central Government wants these 44 laws to be codified under 4 laws-
- The wage code
- Industrial Safety and welfare
- Social security

- Industrial relations

### **(B) Occupational Safety, health and working conditions code, 2020**

Occupational Safety, Health and Working Conditions Code, Bill No. 2020 was introduced in Lok Sabha on 19th September 2020.

The Code is expected to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto.

Labour & Employment Minister of India introduced three labour Codes in Lok Sabha to bring immense labour welfare measures to the 50 crores workers in the country.

The Code aims to replace multiple registrations under various enactments to one common registration, one license and one return which will be helpful for doing business.

## **III. VARIOUS PROVISIONS OF THE CODE**

### **(A) Authorities under the Code**

All establishments under the code must be registered with a registering authority

Inspector-cum-facilitators may inquire into accidents, and conduct inspections of establishments.

- Both these authorities are appointed by the central or state government.
- Additionally, the government may require certain establishments to set up safety committees comprising representatives of employers and workers.

### **(B) Advisory Bodies**

- The central and state governments will set up Occupational Safety and Health Advisory Boards at the national and state level, respectively.
- These Boards will advise the central and state governments on the standards, rules, and regulations to be framed under the board

This Act is comprehensive, it includes almost everything into account which is concerned with the welfare of workers, employer of a Unit is bound to fulfil certain conditions for his employees, he require to inform his employees the safety measures taken for the security of his workmen, the workmen can also inform his employers, if there is a possible health hazard in his workplace. An appointment letter should be issued to the employees,

For the welfare of the employees the employer has to ensure that washrooms are constructed

separate for male and female workers, first aid boxes should be kept, safe drinking water should be arranged, proper cleanliness and hygiene

Chapter vii of the Act says, that a weekly rest day should be given to the workers, annual leave with wages, 8 hours of work in a day should be fixed.

One of the important feature of the code is that any issue falling under this code cannot be addressed in a Civil Court, the jurisdiction falls on

#### **(C) The minimum wages Act, 1948**

The minimum wages Act , was introduced in 1948,

This Act was introduced so that the migrant workers could get the basic health and comfort needs fulfilled, the workers should get the minimum wage for their work

their employer should not take undue advantage and pay them less for their work.

The new bill introduced in the parliament has included the features of this Act.

#### **(D) Equal pay for equal work 2010**

This Act was introduced to ensure that the wages given for the same kind of work to males and females must be same. Generally it has been seen that a discrimination is made, and females are paid less. The features of this Act have been included in the new bill.

In the case of *Kishorilal Mohanlal Bakshi vs UOI 1962*, the Court heard for the first time the case for equal pay for equal work, but it was not recognized and the court declared that it was not possible to give equal pay for equal work to Men and Women.

This principle received due recognition in 1987, in the case of *Mackinnon Mackenzie*, In this case the Court ruled in favour of the female stenographer and declare that both male and female stenographers should receive equal pay.

#### ***In Surinder Singh vs Engineer in Chief CPWD***

In this case the High Court of Delhi in its judgement recognized the principle of equal pay for equal work for both the sexes. This principle though recognized by the Constitution under Art 14, was not enforced in reality. The weaker section of the society was not treated fairly was the prevalent norm.

In the latest covid coverage on Migrant labourers by the Supreme Court on June 29, 2021 , it was ruled that after the second wave of covid 19 pandemic, the migrant labourers were highly affected, and most of them could not have even two meals a day, the Government just could not shred of its responsibility by saying that if the labourers had no ration card it did not have

the right of getting ration. The Court observed that the food security was a global concern, lately, and under Art 21, The right of life included the right to dignity and hence the right to basic food and nutrition. The court expressed its displeasure at the union and State Governments for failing to provide concrete information about concrete steps taken by them to ensure two meals a day a day to all migrant labourers, irrespective of location and registration under the National Food Security Act 2013, it emphasized that supplying ration was the Centres responsibility and distribution was the States responsibility. The Court directed the State Government to make appropriate schemes to provide dry ration to all migrant workers irrespective of the fact whether they had ration card or not. The Court ordered the States to implement such schemes by 31<sup>st</sup> of July 2021, The Court also directed the Union Government to meet any demand made by the State Government for additional supply of dry ration.

#### **IV. ONE NATION, ONE RATION CARD**

The Court noted that the Centres one Nation one Ration Card scheme would be beneficial for migrant workers as would help them to get ration supply under various schemes at fair price shops all over the country

##### **(A) Coverage of rural and urban population under National Food Security Act, 2013**

The Court highlighted that the last estimation done by the State for the number of beneficiaries under the National Food Security Act was done in between, 2011 and 2021, The Court ordered the Central Government to make fresh estimation, keeping in mind that the number of beneficiaries and the State wise requirement would have increased in the last ten years.

Inter State Migrant Workmen Regulation of employment (Regulation of Employment and condition of Service Act),1979

This Act was enacted to save migrant workers from misuse, by employers and middlemen. It ensures safe working conditions, journey allowance and other facilities to migrant workers, the Act requires businessmen whose business run through migrant labourers to register themselves to the State Government. The Court also observed that most of the States had failed to register these businessmen. The States were directed by the Court to implement this Act.

#### **V. REGISTRATION OF UNORGANIZED WORKERS**

Most of the State Governments failed to get modules by the Ministry of Labour and employment to complete registration of unorganised labour, The unorganized Labour Social Security Act, 2008, provides for a method to deliver benefits based on registration. The ministry had failed to work upon this despite being directed by Court as early as 2018, The

Court directed the Ministry of labour and employment to launch the portal and implement it by 30 July 2021.

#### **(A) Community Kitchens**

The Court also directed all the State Governments to organise Community kitchens, so that all the migrant labourers can have at least two meals a day till the pandemic continues, the problem of an employment was not over yet, the migrant labourers were left with no job, hence no money to feed themselves, these community kitchens would enable them to get food. The Court also directed the State Governments to make proper advertisements of these kitchens so that migrant labourers could be aware and avail the facilities.

#### **(B) Direct Bank Transfers**

The Court directed the migrant labourers to demand direct transfer of money to their accounts if any such scheme is existing in their State.

### **VI. CONCLUSION**

To conclude we can say that despite the living expenses very high in big cities, the migrant and daily wage workers are paid very low., they live in very poor living conditions, temporary houses made of iron sheets, which cannot prevent rains from drooping in, in rainy season. They don't have proper toilets, nor safe drinking water.

But ever since the lock -down has happened, much has been talked about the migrant labourers, the Government is also making strategies, to reduce their agony, and steps are being taken, laws are being made to improve the living standards of the workers. We can look up to a positive and happy future of the migrant labourers.

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