

Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 133 OF 2007
WITH
CIVIL APPLICATION (ST) NO. 35428 OF 2013
WITH
CIVIL APPLICATION NO. 175 OF 2014
WITH
CIVIL APPLICATION NO. 56 OF 2018
WITH
CIVIL APPLICATION NO. 57 OF 2018
WITH
CIVIL APPLICATION NO. 59 OF 2008
WITH
CIVIL APPLICATION NO. 87 OF 2009**

Dr. Rajendra Sadanand Burma and anr. ..Petitioners
vs.
The State of Maharashtra and ors. ..Respondents

Mr. Bandu Sane, applicant in-person in CAI/87/2009.
Mr. A. A. Kumbhakoni, Advocate General with Mr. P. P. Kakade, Government Pleader and Ms. Neha Bhide, 'B' Panel Counsel for State.
Dr. Uday P. Warunjikar i/b Ms. Gargi Warunjikar for the petitioner in WP/3589/2011 (not on board).
Mr. Y. R. Mishra a/w. Mr. N. R. Prajapati a/w. Mr. Dharmesh Joshi a/w. Mr. Dashrath Dubey for respondent no. 6/UOI.

**CORAM : DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE : JANUARY 27, 2022.

P.C. :

1. Vide order dated December 20, 2021, we recorded that Dr. Chhering Dorje, Special Inspector General of Police, Nagpur Range, Nagpur, who was appointed as Special

Officer of this Court has submitted a detailed report based on his personal visit to Melghat and other tribal dominated areas of the region. It was then expressed that Government must act thereon and prepare an appropriate plan of action to address the concerns expressed in the PIL petition as well as the concerns that have been expressed before us by both, Dr. Dorje and Mr. Sane, the applicant in Civil Application No. 87 of 2009. We expressed that the State make an earnest endeavour to prepare plans, both short term and long term, for taking care of the medical and healthcare needs of the tribal population.

2. Today, Mr. Kumbhakoni, learned Advocate General for the State of Maharashtra has tendered compliance report of short and long term action plans for Melghat for our consideration. In the said report several suggestions as regards the short term action plan are indicated along with the manner in which the same is to be complied with is mentioned. We do not propose to reproduce each and every suggestion indicated in the compliance report. Suffice it to observe that the suggestions at Serial No. 1.1, 7.1 and 8.8 which require immediate attention as per the submission of learned Advocate General are reproduced hereunder:-

Sr. No.	Observations/ Suggestions	Present Status	Short term actions	Long term actions
1.1	Immediate Confirmation of pregnancy by pregnancy test	. ASHA Workers have menstrual cycle register at village level and they are provided	Facility Level - . Ensure supply of UPT kits to ASHAs. . ASHAs to keep stock	

Sr. No.	Observations/ Suggestions	Present Status	Short term actions	Long term actions
		<p>with UPT kit.</p> <ul style="list-style-type: none"> . Every month ASHA workers visit beneficiaries for menstrual cycle monitoring. . In case of menstrual cycle is missed UPT is conducted by ASHAs 	<p>register for UPT kits received and used.</p> <ul style="list-style-type: none"> . Monitoring of ASHAs menstrual cycle register and home visits during the supervision visit of Medical Officer/ Health Supervisor/ ASHA Facilitator. . Review during ASHA monthly meeting. . Reorientation of ASHAs if required on how to conduct UPT test. <p>District Level -</p> <ul style="list-style-type: none"> . Distribution of UPT kits to all primary health centers as per requirement. . Monitoring of UPT kits stock level at PHC level by District Chief Pharmacy Officer. <p>State Level</p> <ul style="list-style-type: none"> . Supply of UPT Kit as per requirement and regular stock position monitoring. 	
7.1	<p>Tracking of Migrated beneficiaries for health status – proper coordination and timely sharing of relevant information between Govt officials/local bodies at</p>		<p>Block Level Actions</p> <ul style="list-style-type: none"> . Use of ICDS Software “MAHA MTS” for reporting and tacking of migrating beneficiaries. . Ensure migrated beneficiaries are getting all ANC and child health services 	

Sr. No.	Observations/ Suggestions	Present Status	Short term actions	Long term actions
	Melghat and their counterparts at the newer places of works outside Melghat		<p>by tracking beneficiaries every 15 days.</p> <ul style="list-style-type: none"> . Special Screening of all children and pregnant women before migration and after they return to village. <p>District Level</p> <ul style="list-style-type: none"> . Coordination with ICDS regarding use of MAHA MTS software for tracking of migrant beneficiaries . Review of migrated beneficiaries on monthly basis <p>Regional Level Actions</p> <ul style="list-style-type: none"> . Coordination with the district authority or other departments like ICDS where the beneficiaries of Melghat have migrated. <p>State Level</p> <ul style="list-style-type: none"> . Review status of migrated beneficiaries on monthly basis 	
8.8	Tobacco chewing by Women		<p>Facility Level</p> <ul style="list-style-type: none"> . Counseling of pregnant women during VHSND visit by Medical Officers and health staff. <p>District Level</p>	

Sr. No.	Observations/ Suggestions	Present Status	Short term actions	Long term actions
			. Awareness activities under National Tobacco Control Program to be conducted on priority in Melghat.	

3. Mr. Kumbhakoni assures us that these suggestions which need immediate attention, will be addressed with utmost expedition. Even as regards the other suggestions in the short term action plan spelt out in the compliance report, Mr. Kumbhakoni submits that every endeavour is being made by the concerned department in taking appropriate steps with promptitude. We hope and trust that the State Government will abide by the assurance given to us and take the short term action plan to its logical end expeditiously.

4. Mr. Kumbhakoni further invites our attention to the para-wise reply of the Women and Child Development Department of the Maharashtra Government indicating the status as regards implementation of the ICDS Scheme in Melghat and also the approach to be adopted for the effective monitoring and performance appraisal of functioning of Anganwadi Centers that provide supplementary nutritional diets to ANC/PNC upto to six months and children upto the age of six years. The para-wise reply lists out various measures and solutions to

ensure that the health and nutritional benefits/schemes for the benefit of pregnant women, children and that the concerns of the migrants of different areas mentioned therein are addressed. The parawise reply indicates the status report as on January 21, 2022. Shortcomings insofar as nutrition supplement/food provided to the beneficiaries at the Anganwadi Centers are set out. He points out that hot cooked meal earlier being provided was stopped because of the pandemic. Pointing out from the para-wise reply, he submits that the State of Maharashtra has approved resumption of serving hot cooked meal in Melghat and that the provision for actual hot cooked meal will again start from February 1, 2022. We expect the State to comply with what is stated in the para-wise reply and submit a compliance report before the next date of hearing.

5. Having gone through the compliance report and the para-wise reply of the Women and Child Development Department, one of the applicants, Mr. Bandu Sane expressed satisfaction with the steps taken by the State for the migrants in Melghat region and the action proposed as spelt out in the short term action plan.

6. Mr. Sane, though expressed satisfaction with the action plan for the present, nonetheless orally submits that the following suggestions, if implemented, would go a long way in making the lives of the migrants in the tribal areas more meaningful and help in alleviating their sufferings. Some of the suggestions of Mr. Sane are as under:-

- i. The short and long term action plans proposed for Melghat should be implemented for all tribal areas in the State of Maharashtra.
- ii. The report submitted by Dr. Dorje be accepted in its entirety. Issuance of a Government Resolution (GR) based on the recommendations of Dr. Dorje would provide sanctity to the report of Dr. Dorje while addressing the concerns of the migrants in its true letter and spirit.
- iii. Considering that poor nutrition and poverty is the main cause of the sufferings, convergence of all the departments of the State Government is necessary to efficiently tackle the issue relating to the concerns of the tribals.
- iv. ICDS Scheme which was framed around 42 years ago should be reviewed considering the current situation at the ground level.
- v. The Child Treatment Centers (CTS) which are closed, be reopened with adequate and qualified medical staff with proper infrastructure.
- vi. The State can consider providing large scale employment opportunities in the forest areas itself.
- vii. The migrants working in brick kilns should be tracked by maintaining manual registers.
- viii. A separate dedicated budget towards this end

be provided.

ix. The Core Committee appointed to address the concerns of the tribals should meet at regular intervals and submit compliance report.

7. We hope and trust that the State would consider the suggestions of Mr. Sane in the right perspective and in the light of the report submitted by Dr. Dorje, also taking into consideration the ground realities. Mr. Sane may also make further suggestions which the State may consider on its own merits.

8. Dr. Warunjikar, learned advocate for the petitioner in WP/3589/2011 accepts that he has received the copy of the report and the para-wise reply. He, however, submits that he wants to be assured about the progress made at the ground level and submits that he would file an affidavit indicating the status before the next date. It is open for Dr. Warunjikar to submit his suggestions to the State. We have no manner of doubt that the State will take appropriate action on the suggestions so made.

9. At this stage, Mr. Kumbhakoni submits that having regard to the proactive steps taken by the State, some of the concerns of the tribals are addressed to a certain extent at least. Mr. Kumbhakoni assures us that the suggestions as indicated in the compliance report of short term action plan for Melghat will be implemented at the earliest. So far as long term action plan is concerned, learned Advocate

General submits that steps for finalizing the same are being taken with utmost urgency. We accept the assurance of learned Advocate General.

10. We hope and trust that the short term action plan would be implemented immediately in its true letter and spirit and the State regards it as a work in progress till the long term action plan is put in place and implemented with a view to end the hard times faced by the tribals/migrants for so long.

11. We must appreciate the positive response of the State Government and the proactive stand taken to address the concerns in this PIL petition. We hope and trust that the State continues its efforts in achieving the ultimate object of making the lives of the tribals meaningful in tune with the constitutional goal.

12. With a view to monitor the progress in effecting compliance, we propose to list the present PIL petition after every four (4) weeks.

13. Let the status report be filed by the State on or before February 28, 2022.

14. List the PIL petition along with Civil Applications on **February 28, 2022.**

(M. S. KARNIK, J.)

(CHIEF JUSTICE)