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KARNATAKA EMPLOYERS' ASSOCIATION

Date: 18-04-2020

CIRCULAR No.63/2020

To
All Members of the Association

CONSTITUTIONAL VALIDITY OF THE ORDER NOT TO REMOVE AND PAY FULL SALARY TO WORKERS CHALLENGED IN SUPREME COURT

M/s Nagreeka Exports Limited, manufacturer and exporter of cotton yarn, fabrics and textiles from Maharashtra has filed a Writ Petition against the Union of India and Others challenging the constitutional validity of clause iii of the Government Order dated 29.03.2020 bearing No. 40-3/2020-DM-I(A) issued by the Ministry of Home Affairs, Government of India under Section 10(2)(1) of the Disaster Management Act, 2005.

The relevant clause iii reads as follows:

All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown

The Petitioner has also challenged the Government Order issued on 31.03.2020 by the Government of Maharashtra only to the limited extent of compelling the pay full salary to all its staff, workers, contract workers and casual workers during the period of lockdown.

Some of the major grounds urged in the challenge are as follows:

- i. Such an order is violative of Article 14 and 19 of the Constitution of India
- ii. The Authority constituted under DM Act, 2005 have no power under Section 7 and 10 of the Act to direct employers to make payment to the workers without deduction during the period of lockdown.

- iii) Government ought to have considered PF accumulation of over Rs. 351 Crores lying as unclaimed deposits and utilize a portion of it for financial support to the workers.
- iv) By keeping the applicability of the order on specific class of employees vague, the Government has opened up the possibility of misuse of the order by various segments of workforce.
- v) The scope of such direction is not confined to the definition of workman as defined u/s 2(s) of the Industrial Disputes Act, 1947
- vi) The Government Order is unfair and unreasonable to the employers
- vii) The Government Order will lead to closure of industries leading to unemployment.
- viii) The Order is in violation of the provisions of Industrial Disputes Act which enables employers to declare lay off and payment of 50% wages to the employees during natural calamity.
- ix) Government Order suffers from the vice of arbitrariness, irrationality and hostile discrimination

A copy of the Writ Petition is attached herewith for the information of the members.

for KARNATAKA EMPLOYERS' ASSOCIATION
sd/-
(B C PRABHAKAR)
PRESIDENT

KRISHAN KUMAR

Advocate-on-Record
Supreme Court of India

April 14, 2020

To

The Registrar,
Supreme Court of India,
New Delhi- 110 001

LETTER OF URGENCY

Subject: SLP(C)No. /2020 Nagreeka Exports Limited vs Union of India & Ors. before Hon'ble Supreme court of India.

Dear Sir,

1. That Petitioner is filing the writ petition under Article 32 of the Constitution of India for setting aside or quashing of Government of India Order dated March 29, 2020 and its consequent order dated March 31, 2020 issued by Government of Maharashtra, only to the limited extent it directs the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown, when its factories are not operational because of lock down.
2. That Petitioner is engaging services of around 1200-1400 workmen and 150 employees for marketing, administrative work and to pay wages/salary to these workers/employees, Petitioner needs to incur approximately Rs. 1.75 Crores. But these directions has caused consternation to a large number of employers in the country, despite their best intentions for and efforts towards, supporting their employees during this period of crises. Petitioner has paid full wages to its workers/employees for the month of March, 2020 even when the Petitioner's operations were completely shut during the last week of March. It is virtually impossible for the Petitioner to continue to bear the cost of the salary of its employees without there being any production. Now, that the Lockdown has been extend to April 30, 2020 and there will be no revenue generation and considering high fixed cost and wages/salaries that is required to be incurred by the Petitioner amounting to approximately Rs. 4 Crores, it is impossible for the Petitioner to comply with the said Government Orders. Hence, there is an extreme urgency in the matter and may please be list the matter on urgent basis on 15.4.2020. Petitioner has very good case on merits and likely to succeed in the proceedings before this Hon'ble Court.
3. That Petitioner has prayed for stay of the Government Orders as non-compliance of the orders will have serious financial repercussions, the Petitioner is liable to face necessary penal actions as contemplated under Disaster Management Act, 2005.
4. In light of facts and circumstances mentioned hereinabove, Petitioner is seeking urgent listing of the matter. It is prayed that the petitioner be exempted from filing duly attested affidavits in original in the prevailing circumstances. That the petitioner undertakes to pay the deficit court fees subsequently.
5. That is further prayed the matter may be taken up through the Video-Conferencing mode. The undersigned AOR will appear through mobile application.

Thanking you,


KRISHAN KUMAR
ADVOCATE

B-233, LGF, Greater Kailash-1, New Delhi-110 048
Mob. 9910577700 E-mail: krishenkumar@gmail.com

MODIFIED CHECK LIST

1.	(i) Whether SLP (Civil) has been filed in Form No. 28 with certificate as per Notification dated 17.6.1997.	Yes/No
	(ii) Whether the prescribed court fee has been paid.	Yes/No
2.	(i) Whether proper and required numbers of paper-books (1+3) have been filed?	Yes/No
	(ii) Whether brief list of dates/ events has been filed?	Yes/No
	(iii) Whether paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index?	Yes/No
3.	Whether the contents of the petition/appeal, applications and accompanying documents are clear, legible and typed in double space on one side of the paper.	Yes/No
4.	Whether the petition and the application bear the signatures of the counsel/In-person.	Yes/No
5.	Whether an affidavit of the petitioner in support of the petition/appeal/ application has been filed, properly attested and identified.	Yes/No
6.	If there are any vernacular documents/portions/lines and translation of such documents are not filed, whether application for exemption from filing Official Translation, with affidavit and court fee, has been filed.	Yes/No/ NA
7.	If a party in the court below has died, whether application for bringing LRs on record indicating the date of death, relationship, age and addresses along with affidavit and court fee has been filed.	Yes/No/ NA
8.	(i) Whether the Vakalatnama has been properly executed by the Petitioners/ appellants and accepted and identified by the Advocate and Memo of Appearance filed.	Yes/No
	(ii) If a petitioner is represented through power of attorney, whether the original power of attorney in English/translated copy has been filed and whether application for permission to appear before the court has also been filed?	Yes/No
	(iii) (a) Whether the petition is filed by a body registered, under any Act or Rules?	Yes/No
	(b) If yes, is copy of the Registration filed?	Yes/No
	(iv) (a) Whether the person filing petition for such incorporated body has authority to file the petition?	Yes/No
	(b) If yes, is proof of such authority filed	Yes/No
9.	Whether the petition/appeal contains a statement in terms of order XVI/XXI of Supreme Court Rules as to whether the petitioner has filed any petition against the impugned order / Judgment earlier, and if so, the result thereof stated in the petition.	Yes/No
10.	Whether certified copy of the impugned judgment has been filed and if certified copy is not available, whether an application for exemption from filing certified copy has been filed.	Yes/No

11.	Whether the particulars of the impugned judgment passed by the Court(s) below are uniformly written in all the documents.	Yes/No
12.	(i) Whether the addresses of the parties and their representation are complete and set out properly and whether detailed cause title has been mentioned in the impugned judgment and if not, whether the memo of parties has been filed, if required?	Yes/No
	(ii) Whether the cause title of the petition/ appeal corresponds to that of the impugned judgment and names of parties therein?	Yes/No
13.	Whether in case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate.	Yes/No
14.	If the petition/appeal is time barred, whether application for condonation of delay mentioning the no. of days of delay, with affidavit and court fee has been filed.	Yes/ No /NA
15.	Whether the Annexures referred to in the petition are true copies of the documents before the Court below and are filed in chronological order as per list of dates.	Yes/No
16.	Whether the petition/appeal is confined only to the pleadings in the Court/Tribunal below and <i>Exhibits</i>	Yes/No.
	If not whether application for taking additional grounds/ documents with affidavit and court fee has been filed.	Yes/No
17.	(i) In SLP/Appeal against the order passed in Second Appeal whether copies of the orders passed by the Trial Court and First Appellate Court have been filed.	Yes/No /NA
	(ii) If required copy of the judgment / order / notification / award etc. is not filed, whether letter of undertaking has been filed in civil matters?	Yes/No /NA
18.	In matters involving conviction whether separate proof of surrender in respect of all convicts or application for exemption from surrendering has been filed (Please see judgment dated 16.6.2006 in Crf. Appeal No.685/2006 entitled Mayuram Subramanian Srinivasan Versus C.B.I) (Copy of surrender proof to be included in the paper books.)	Yes/No /NA
	Whether in case where proof of surrender/ separate certificate from the jail Authority has not been filed, an application for exemption from filing separate proof of surrender has been filed.	Yes/No
19.	In case of quashing of FIR whether a copy of the petition filed before the High Court under section 482 of Cr.P.C. has been filed.	Yes/No
20.	In case of anticipatory bail whether a copy of FIR or translated copy has been filed.	Yes/No
21.	(i) Whether the complete listing proforma has been filled in, signed and included in the paper-books?	Yes/No
	(ii) If any identical matter is pending/ disposed of by Supreme Court, whether complete particulars of such matters have been given?	Yes/No /NA

Date: 14.9.2020

K. R. Srinivasan
K. R. Srinivasan
AOR
1742
9910577700

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5	Index of record of proceedings		A-4	
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LISTING FOR FIRST LISTING

Section _____

The case pertains to (Please tick/check the correct box):

() Central Act: (Title) Disaster Management Act, 2005

() Section: 10(2)(I)

() Central Rule: (Title) _____ N/A

() Rule No (s): _____ N/A

() State Act: (Title) _____ N/A

() Section: _____ N/A

() State Rule: (Title) _____ N/A

() Rule No (s): _____ N/A

() Impugned Interim Order: (Date) _____ N/A

() Impugned Final Order/Decree: (Date) _____

() High Court:(Name): _____

() Name of judges: _____

() Tribunal/Authority (Name) _____ N/A

1. Nature of Matter: (a) Public Interest Litigation

(a) Petitioner/appellant No.: Nagreeka Exports Limited Through
Its Authorized Representative, Mr. Ramchandra N. Narayan

(b) E-mail Id: rnempran@nagreeka.com Resident Ofn.

(c) Mobile phone No. 9511254011
90495 11212

2. (a) Respondent No.1: UNION OF INDIA & ORS.

(b) E-mail Id: _____ N/A _____

(c) Mobile phone No. _____ N/A _____

3. (a) Main category classification : 18

(b) Sub classification: 08

5. Note to be listed before: _____ N/A _____

6. (a) Similar disposed of matter with citation, if any, & case details : (No Disposed)

(b) Similar pending matter with details: No

7. **Criminal Matters:** _____ N/A _____

(a) Whether accused/convict has surrendered () Yes () No N/A

(b) Fir No. _____ N/A _____ Date: _____ N/A _____

(c) Police Station: _____ N/A _____

(d) Sentence Awarded: _____ N/A _____

(e) Period of sentence Undergone including period of Detention /

Custody Undergone ; _____ N/A _____

8. **Land Acquisition Matters:** N/A.

(a) Date of Section 4 notification: _____ N/A _____

(b) Date of Section 6 notification: _____ N/A _____

(c) Date of Section 17 notification: _____ N/A _____

9. **Tax Matters:** State the tax effect: N/A

10. **Special Category** (first petitioner/appellant only): N/A

Senior citizen > 65 years SC/ST Woman / child

Disabled Legal aid case in custody N/A

11. Vehicle Number (in case of Motor Accident Claim matters): N/A

Date. 14.4.2020



AOR FOR PETITIONER(S)/APPELLANT(S)

Name - **KRISHAN KUMAR**

Reg. No- 1742

Mb. 9910577700

Email Id-krishenkumar@gmail.com

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO _____ OF 2020
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA

(Challenging the constitutional validity of Government Order dated March 29, 2020, being N0.40-3/2020-DM-I(A) issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005)

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

P A P E R B O O K

[FOR INDEX : KINDLY SEE INSIDE]

I.A. NO. _____ /2020 :

Application for Stay

WITH

I.A. NO. _____ /2020 :

Application for exemption

ADVOCATE FOR THE PETITIONER _____

:(KRISHAN KUMAR)

FILED ON: 14.4.2020

1.	Court's Order dated		
2.	Court's Order dated		
3.	Court's Order dated		
4.	Court's Order dated		
5.	Court's Order dated		
6.	Court's Order dated		
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12.	Court's Order dated		
13.	Court's Order dated		
14.	Court's Order dated		
15.	Court's Order dated		
16.	Court's Order dated		
17.	Court's Order dated		
18.	Court's Order dated		
19.	Court's Order dated		
20.	Court's Order dated		

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SYNOPSIS

The present Writ Petition has been preferred by the Petitioner before this Hon'ble Court challenging the constitutional validity of Government Order dated March 29, 2020, being N0.40-3/2020-DM-I(A) issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005 only to limited extent of additional measure in clause iii, being "*All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during lockdown period.*" And subsequent Government Order dated March 31, 2020 issued by Government of Maharashtra, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown, when its factories are not operational.

First case of novel coronavirus was detected in Wuhan, China in late December, 2019. On December 31, 2019, China reported pneumonia of unknown cause, detected in city of Wuhan, to country office of World Health Organization (WHO). On January 22, 2020, WHO issued a statement that there was evidence of human to human

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transmission of novel coronavirus in Wuhan. This outbreak was declared as a Public Health Emergency of International Concern (PHEIC) concern on January 30, 2020.

On February 11, 2020, WHO announced a name for new coronavirus disease as COVID-19. Due of alarming level of spread and severity and inactions by most countries, WHO declared COVID-19 as 'pandemic'. As per the data available on the official website of WHO, as on April 11, 2020, total number of confirmed cases of COVID-19 across the world are 16,10,909, with 99,690 as total number of deaths. In India, the total number of confirmed cases are 7,447 and 239 deaths.

In India, first case of coronavirus was reported on January 31, 2020 in Kerala of a student who had returned from China. Thereafter, till March 4, 2020, there were only 3 confirmed cases of COVID-19. On March 5, 2020, the total number of confirmed cases in India reached to 29 and further, on March 15, 2020, the number of confirmed cases were more than 100. Most of the persons affected with COVID-19 had travel history to the affected countries. Since the major rise in number of confirmed cases in India was due to travel history of persons affected to the affected countries, by mid of March, 2020, the

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Government of India suspended issuance of visas to Overseas Citizen of India.

Due to rampant rise in number of confirmed cases of COVID-19, many State Governments invoked the provisions of Epidemic Diseases Act, 1897. Most of the State Governments also announced closure of schools and colleges till March 31, 2020.

On March 14, 2020, the Disaster Management Division of Ministry of Home Affairs, Government of India, decided to treat COVID-19 as a 'notified disaster' for purpose of providing assistance from the State Disaster Response Fund.

On March 16, 2020, Ministry of Health & Family Welfare, Government of India, issued advisory on social distancing measure in view of spread of COVID-19, urging to all States/ Union Territory Governments to take social distancing measures as a preventive strategy for implementation till March 31, 2020.

On March 19, 2020, Hon'ble Prime Minister Mr. Narendra Modi while his address to the nation, asked all citizens to observe 'Janata Curfew' (people's curfew) on March 22, 2020 from 7 am to 9 pm. During this curfew, he requested the entire country to stay at home,

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except those involved in supply of essential services and announced the formation of a COVID-19 Economic Response Task Force. During this address, he urged businesses and high income segments of society to take care of the economic needs of all those who provide them services and appealed to families to not cut salary of domestic help during the period of 21 days lockdown.

On March 20, 2020, Mr. Heeralal Samariya, Secretary, Ministry of Labour and Employment, Government of India, addressed a letter bearing reference number D.O.No.M-11011/08/2020-Media, to Mr. Sailesh, Secretary, Department of Public Enterprises and also to Chief Secretaries of all States and Union Territories, to issue necessary advisory to employers/owners of all establishments not to terminate/reduce wages of employees, particularly casual or contractual workers and that leave during this period must be deemed to be on duty, without any deduction in wages.

On March 20, 2020, Ms. Kalpana Rajsinghot, Joint Secretary, Ministry of Labour and Employment, Government of India issued letter to all employers' associations to circulate advisory to all employers/ owners of all establishments that employers of public/private establishments not to terminate/reduce wages of

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employees, particularly casual or contractual workers and it was also advised that leave during this period must be deemed to be on duty, without any deduction in wages.

By Office Memorandum dated March 23, 2020 issued by Department of Expenditure, Ministry of Finance, Government of India it was ordered that wherever any contractual, casual and outsourced staff of Ministries/ Departments and other organisations of Government of India is required to stay at home due to lockdown period, shall be treated as on duty and necessary wages to be paid to any such employee. Mr. Heeralal Samariya, Secretary to Government of India, Ministry of Labour & Employment by his letter dated March 23, 2020 addressed to Mr. Durga Mishra, Secretary, Ministry of Housing and Urban Affairs, issued a direction that an advisory shall be issued to all employers/owners of public/private establishments to extend their coordination by not terminating employees, particularly casual or contractual, from their jobs or reduce their wages. Further, that if employees are on leave due to COVID-19, such employees shall be deemed to be on duty.

On March 24, 2020, Hon'ble Prime Minister while addressing the country announced a nationwide lockdown from midnight of that day,

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i.e. from March 25, 2020, for a period of 21 days, i.e. till April 14, 2020. Subsequent to the lockdown announced by Hon'ble Prime Minister of India, Ministry of Home Affairs, Government of India, issued a Government Order dated March 24, 2020 by invoking the provisions of section 10(2)(I) of Disaster Management Act, 2005 issued various guidelines to Departments of Government of India, State and Union Territory Governments and authorities for strict implementation of 21 days lockdown commencing from March 25, 2020. These guidelines mentioned that commercial and private establishments, industrial establishment, transport services, hospitality services, educational, training, research, coaching institutions shall remain closed during the lockdown, with certain exceptions.

By a Government Order dated March 29, 2020 issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005, Government of India directed various Departments of Government of India, State/Union Territory Governments and authorities to implement lockdown measures for containment of spread of COVID-19 in the Country. By the said Government Order, the Chairperson of National Executive Committee directed the State/Union Territory Governments and State/Union

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Territory Authorities to take necessary action against those who are violating the measures mentioned in the said Government Order.

On March 30, 2020, Central Labour Commissioner, Ministry of Labour and Employment issued an advisory to all the Regional Heads that all employees/workers may be deemed to be on duty in case place of employment is made non-operational due to outbreak of COVID-19, Government advised to all private and public enterprises not to terminate their employees including the casual and employees of outsourcing agencies from the jobs and also not to reduce or deduct their wages for the period if employees take quarantine leave.

Government of Maharashtra in pursuance of the Government Order dated March 29, 2020, vide an order dated March 31, 2020 issued u/s 24 of the Disaster Management Act, 2005, issued various directions to all private establishments not to terminate any workman including temporary/contract workmen and pay wages for the period of lockdown even if any workman has not performed / attended work.

In accordance with the orders of the Government of India and Government of Maharashtra, Petitioner stopped operations on March 22, 2020 and its factories are not operational till date.

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However, Government of Maharashtra issued a Government Resolution dated April 1, 2020, wherein it has been stated that the salary of Government employees for March, which is disbursed in April, will be paid in "two instalments". The first instalment for all elected representatives, including the chief minister, ministers and MLAs, will be paid 40% of their salaries; employees, belonging to both A and B grades, will get 50% of their salaries; while C-grade staff will take 75% of their salaries; there will be no cut in the salaries of D-grade employees. The balance will be paid later, as per the financial situation of the State.

Because of stoppage of operations since the lockdown, the Petitioner has suffered losses to the tune of Rs.1.50 Crores till the filing of present Petition. On top of that, as per the said Orders dated March 29, 2020 and March 31, 2020, Petitioner had to disburse full salaries to all its employees on its payroll, which amounts to approximately Rs.1.75 Crores. But these directions has caused consternation to a large number of employers in the country, despite their best intentions for and efforts towards, supporting their employees during this period of crises. Petitioner has paid full salaries/wages to all its employees/workers till month of March, 2020. With lockdown getting extended to April 30, 2020, in various states

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including Maharashtra, the losses of the Petitioner will be multiplied and if the Petitioner has to observe the said Orders dated March 29, 2020 and March 31, 2020 in its entirety, then the its business itself will become unsustainable and will have more far reaching consequences, affecting the livelihood of more people.

The present petition raises a substantial question of law of great public importance that requires consideration of this Hon'ble Court are :-

- i. Whether the Government of India and Government of Maharashtra is empowered to issue direction to private establishment, like the Petitioner, to pay 100% wages under Disaster Management Act, 2005?
- ii. Whether the respondent's directions to compulsorily pay wages to all workers, without any deduction, for the entire period when his establishment is closed during lockdown, is factually feasible for such an employer?
- iii. Whether the Govt. was right in issuing vague directions without specifying as to they are applicable to employers of migrating workers, or is a blanket direction to all employers?
- iv. Whether the Govt. directions are reasonable as they were issued without intelligent care and deliberation and without considering the financial capacity of the employer to bear the burden of payment of salary to its workers without their being any production?

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v. Whether the Govt. is not bound by the principles propounded by the hon'ble Court in the case of *Supdt. of Taxes v. Onkarmal Nathmel Trust*, (1976) 1 SCC 766 has held that:

"62. The law in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling performance of that which is impossible.

"... where the law creates a duty or charge, and the party is disabled to, perform it, without any default in him, and has no remedy over, there the law will in general excuse him: and though impossibility of performance is in general no excuse for not performing an obligation which a party has expressly undertaken by contract, yet when the obligation is one implied by law, impossibility of performance is a good excuse. [See Broom's Legal Maxims, 10th Edn. (1939) pp. 162-63]. The same principle has been stated in Craies on Statute Law (6th Edn., p. 268).

*Under certain circumstances compliance with the provisions of statutes which prescribe how something is to be done will be excused. Thus, in accordance with the maxim of law, *lex non cogit ad impossibilia*, if it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like the act of God or the King's enemies, these circumstances will be taken as a valid excuse".*

Therefore, it has become essential for the Petitioner to challenge the constitutional validity of the said Government Order dated March 29, 2020 and Government of Maharashtra's order dated March 31, 2020 passed in pursuance of the former order, only to limited extent as mentioned above, being violative of Article 14 and 19 of the Constitution of India. Hence the present writ petition.

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LIST OF DATES

- | | |
|-------------------|---|
| December, 2019 | First case of novel coronavirus was detected in Wuhan, China in late December, 2019. |
| December 31, 2019 | China reported pneumonia of unknown cause, detected in city of Wuhan, to country office of World Health Organization (WHO) |
| January 22, 2020 | WHO issued a statement that there was evidence of human to human transmission of novel coronavirus in Wuhan. |
| January 30, 2020 | WHO declared it as a Public Health Emergency of International Concern (PHEIC) |
| January 31, 2020 | In India, first case of coronavirus was reported in Kerala |
| February 11, 2020 | WHO announced a name for new coronavirus disease as COVID-19. |
| March 11, 2020 | WHO declared COVID-19 as 'pandemic'. |
| March 14, 2020 | Disaster Management Division of Ministry of Home Affairs, Government of India, decided to treat COVID-19 as a 'notified disaster' |

b)

- March 16, 2020, Ministry of Health & Family Welfare, Government of India, issued advisory on social distancing measure in view of spread of COVID-19
- March 19, 2020 Hon'ble Prime Minister Mr. Narendra Modi while his address to the nation, asked all citizens to observe 'Janata Curfew' (people's curfew) on March 22, 2020 from 7 am to 9 pm.
During this address, he urged businesses and high-income segments of society to take care of the economic needs of all those who provide them services and appealed to families to not cut salary of domestic help during the period of 21 days lockdown.
- March 20, 2020 Mr. Heeralal Samariya, Secretary, Ministry of Labour and Employment, Government of India, addressed a letter bearing reference number D.O.No.M-11011/08/2020-Media, to Mr. Sailesh, Secretary, Department of Public Enterprises and also to Chief Secretaries of all States and Union Territories, to issue necessary advisory to employers /owners of all establishments not to terminate / reduce wages of employees, particularly casual or contractual workers

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and that leave during this period must be deemed to be on duty, without any deduction in wages.

March 20, 2020 Ms. Kalpana Rajsinghot, Joint Secretary, Ministry of Labour and Employment, Government of India, issued letter to all employers' associations to circulate advisory to all employers/ owners of all establishments that employers of public/private establishments not to terminate/reduce wages of employees, particularly casual or contractual workers and it was also advised that leave during this period must be deemed to be on duty, without any deduction in wages.

March 22, 2020 Petitioner stopped its operations at both factories

March 23, 2020 Office Memorandum issued by Department of Expenditure, Ministry of Finance, Government of India it was ordered that wherever any contractual, casual and outsourced staff of Ministries/ Departments and other organisations of Government of India is required to stay at home due to lockdown period, shall be treated as on duty

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and necessary wages to be paid to any such employee.

March 23, 2020 Mr. Heeralal Samariya, Secretary to Government of India, Ministry of Labour & Employment by his letter addressed to Mr. Durga Mishra, Secretary, Ministry of Housing and Urban Affairs, issued a direction that an advisory shall be issued to all employers/owners of public/private establishments to extend their coordination by not terminating employees, particularly casual or contractual, from their jobs or reduce their wages.

March 24, 2020, Hon'ble Prime Minister while addressing the country announced a nationwide lockdown from midnight of that day, i.e. from March 25, 2020, for a period of 21 days, i.e. till April 14, 2020.

March 24, 2020 Ministry of Home Affairs, Government of India, issued a Government Order dated March 24, 2020 by invoking the provisions of section 10(2)(I) of Disaster Management Act, 2005 issued various guidelines to Departments of Government of India, State and Union Territory Governments and

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authorities for strict implementation of 21 days lockdown commencing from March 25, 2020.

March 29, 2020

(Impugned
Government
Order)

Government Order issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005, Government of India directed various Departments of Government of India, State/Union Territory Governments and authorities to implement lockdown measures for containment of spread of COVID-19 in the Country.

March 30, 2020

Central Labour Commissioner, Ministry of Labour and Employment issued an advisory to all the Regional Heads that all employees/workers may be deemed to be on duty in case place of employment is made non-operational due to outbreak of COVID-19, Government advised to all private and public enterprises not to terminate their employees including the casual and employees of outsourcing agencies from the jobs and also not to reduce or deduct their wages for the period if employees take quarantine leave.

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March 31, 2020
(Second Impugned
Government
Order)

Government of Maharashtra in pursuance of the Government Order dated March 29, 2020, vide an order issued u/s 24 of the Disaster Management Act, 2005, issued various directions to all private establishments not to terminate any workman including temporary/contract workmen and pay wages for the period of lockdown even if any workman has not performed / attended work.

April 1, 2020

Government of Maharashtra issued a Government Resolution, wherein it has been stated that the salary of Government employees for March, which is disbursed in April, will be paid in "two instalments".

April 14, 2020

Hence the present Petition

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**IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION**

**WRIT PETITION (CIVIL) NO. _____ OF 2020
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

Through its President (Operations)
Mr. Ramachandran Empran,
Kala Bhavan, 3, Mathew Road,
Opera House,
Mumbai – 400004

...Petitioner

VERSUS

1. UNION OF INDIA

Cabinet Secretariat, Rashtrapati Bhawan
New Delhi-110004

...Respondent No.1

2. MINISTRY OF HOME AFFAIRS

Through Home Secretary
North Block
New Delhi – 110001

...Respondent No.2

3. GOVERNMENT OF MAHARASHTRA

Mantralaya, Madam Cama Road,
Hutatma Rajguru Square,
Nariman Point, Mumbai – 400032

...Respondent No.3

**A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN
THE NATURE OF MANDAMUS OR ANY OTHER**

2

**APPROPRIATE WRIT FOR SETTING ASIDE OR QUASHING
OF GOVERNMENT ORDER DATED MARCH 29, 2020, ONLY
TO LIMITED EXTENT OF CLAUSE III, ISSUED BY
MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA
AND SUBSEQUENT ORDER OF GOVERNMENT OF
MAHARASHTRA DATED MARCH 31, 2020, ONLY TO THE
EXTENT OF PAYMENT FULL SALARY TO EMPLOYEES
WORKMEN WHO ARE UNABLE TO WORK IN
INDUSTRIES/ ESTABLISHMENTS INOPERATIVE DUE TO
LOCKDOWN**

TO,

**THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
SUPREME COURT OF INDIA**

**THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED**

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is filing the present writ petition under Article 32 of the Constitution of India seeking an appropriate writ for setting aside or quashing of Government Order dated March 29, 2020, only to limited extent of clause iii, issued by Ministry of Home Affairs, Government of India and consequently, setting aside or quashing of the order of the Government of Maharashtra dated March 31, 2020,

only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown, when its factories are not operational.

2. That the Petitioner is a public limited company registered under the provisions of Companies Act, 1956, having its registered office at 18, R. N. Mukherjee Road 3rd Floor, Kolkata, West Bengal- 700001. Petitioner was incorporated in the year 1989, is a Small Cap company (having a market cap of Rs 11.87 Crore) operating in Textiles sector. Petitioner has authorised share capital of Rs.15,00,00,000 and paid up capital of Rs.6,25,50,000/-. Petitioner is filing the present Petition through Mr. Ramachandran Empran, President (Operations) of the Petitioner Company, duly authorised by the Petitioner.
3. That the Petitioner is engaged in manufacturer and exporter of cotton yarns, fabric and textiles. For the quarter ended March 31, 2019, Petitioner has reported a sale of Rs. 128.80 Crore, up 32.63 % from last quarter Sales of Rs. 97.11 Crore and down -8.53 % from last year same quarter sales of Rs 140.81 Crore Company has reported net profit after tax of Rs. 21 Crore in latest quarter. Petitioner has its manufacturing units at Village Yavluj, and MIDC Kagal, Village Talandage, Kolhapur. Petitioner is engaging services of around 1200-1400 workmen and 150 employees for marketing, administrative work. Petitioner has entered into settlement agreements with employees associations and on an average Petitioner is paying Rs. 28,000/- as wages to its workers, which are much higher than the minimum wages applicable to the petitioner. Petitioner is also paying

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bonus at the rate of 20% to its employees. Petitioner has not declared any dividend to its employees in last 4 years. Petitioner's fixed cost including wage is approximately Rs. 4 Crores.

4. That the Respondent no. 1 is Union of India and is arrayed as a formal party. Respondent no. 2 is the Ministry of Home Affairs, Government of India, which issued the Government Order dated March 29, 2020, clause iii of which, is challenged in the present Petition. Respondent No.3 is the Government of Maharashtra, which issued the Order dated March 31, 2020, portion of which has been challenged in the present Petition.

1. FACTUAL BACKGROUND:

- A. That the first Case of novel coronavirus was detected in Wuhan, China in late December, 2019. On December 31, 2019, China reported pneumonia of unknown cause detected in city of Wuhan to country office of World Health Organization (WHO). On January 22, 2020, WHO issued a statement that there was evidence of human to human transmission of novel coronavirus in Wuhan. This outbreak was declared as a Public Health Emergency of International Concern (PHEIC) concern on January 30, 2020. On February 11, 2020, WHO announced a name for new coronavirus disease as COVID-19. Due to alarming level of spread and severity and inactions by most countries, WHO declared COVID-19 as 'pandemic'. As per the data available on the official website of WHO, as on April 11, 2020, total number of confirmed cases of COVID-19 across the world are 16,10,909, with 99,690 as total number of deaths. In India, the total number of confirmed cases are 7,447 and 239 deaths.

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- B. That in India, first case of coronavirus was reported on January 31, 2020 in Kerala of a student who had returned from China. Thereafter, till March 4, 2020, there were only 3 confirmed cases of COVID-19. On March 5, 2020, the total number of confirmed cases in India reached to 29 and further, on March 15, 2020, the number of confirmed cases were more than 100. Most of the persons affected with COVID-19 had travel history to the affected countries. Since the major rise in number of confirmed cases in India was due to travel history of persons affected to the affected countries, by mid of March, 2020, the Government of India suspended issuance of visas to Overseas Citizen of India.
- C. That due to rampant rise in number of confirmed cases of COVID-19, many State Governments invoked the provisions of Epidemic Diseases Act, 1897. Most of the State Governments also announced closure of schools and colleges till March 31, 2020. On March 12, 2020, the Hon'ble Chief Minister of Delhi Mr. Arvind Kejriwal announced that all schools, colleges and cinema halls in New Delhi would be closed till the end of March and all public places disinfected as a precautionary measure. Chief Minister of Karnataka Mr. B. S. Yediyurappa also announced closure of all educational institutions, malls, cinema halls and pubs for a week across the state. Government of Odisha, declaring the outbreak a "disaster", announced closure of educational institutions and cinema halls till March 31, 2020, as well as prohibition on non-essential official gatherings. Government of Maharashtra declared the outbreak to be an epidemic in the cities of Mumbai, Navi Mumbai, Nagpur, Pune and Pimpri Chinchwad and announced that all malls, cinema halls, swimming pools and gyms in

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these cities will remain shut till March 31,2020. Brihanmumbai Municipal Corporation ordered private firms in Mumbai to function "only at 50% of their staff capacity or face action under section 188 of the IPC" and government offices were closed for seven days. Each State was doing its part to halt the outbreak of COVID-19.

- D.** That on March 14, 2020, the Disaster Management Division of Ministry of Home Affairs, Government of India, decided to treat COVID-19 as a 'notified disaster' for purpose of providing assistance from the State Disaster Response Fund. A copy of letter dated March 14, 2020 issued by Disaster Management Division of Ministry of Home Affairs, Government of India is annexed and marked as **Annexure P-1.(Page No.27)**
- E.** That on March 16, 2020, Ministry of Health & Family Welfare, Government of India, issued advisory on social distancing measure in view of spread of COVID-19, urging to all States/ Union Territory Governments to take social distancing measures as a preventive strategy for implementation till March 31, 2020. A copy of the advisory issued by Ministry of Health & Family Welfare, Government of India is annexed and marked as **Annexure P-2.(Page No.28-29)**
- F.** That on March 19, 2020, Hon'ble Prime Minister Mr. Narendra Modi while his address to the nation, asked all citizens to observe 'Janata Curfew' (people's curfew) on March 22, 2020 from 7 am to 9 pm. During this curfew, he requested the entire country to stay at home, except those involved in supply of essential services. He announced the formation of a COVID-19 Economic Response Task Force.

During this address, he urged businesses and high income segments of society to take care of the economic needs of all those who provide them services and appealed to families to not cut salary of domestic help during the period of 21 days lockdown.

- G. That on March 20, 2020, Mr. Heeralal Samariya, Secretary, Ministry of Labour and Employment, Government of India, addressed a letter bearing reference number D.O.No.M-11011/08/2020-Media, to Mr. Sailesh, Secretary, Department of Public Enterprises and also to Chief Secretaries of all States and Union Territories, to issue necessary advisory to employers/owners of all establishments not to terminate/reduce wages of employees, particularly casual or contractual workers and that leave during this period must be deemed to be on duty, without any deduction in wages. A copy of the said letter dated March 20, 2020 is annexed hereto and marked as **Annexure P-3.** (Page No. 30)
- H. That on March 20, 2020, Ms. Kalpana Rajsinghot, Joint Secretary, Ministry of Labour and Employment, Government of India, issued letter to all employers' associations to circulate advisory to all employers/ owners of all establishments that employers of public / private establishments not to terminate / reduce wages of employees, particularly casual or contractual workers and it was also advised that leave during this period must be deemed to be on duty, without any deduction in wages. A copy of the said letter dated March 20, 2020 is annexed hereto and marked as **Annexure P-4.** (Page No. 21)

- I. That by Office Memorandum dated March 23, 2020 issued by Department of Expenditure, Ministry of Finance, Government of India it was ordered that wherever any contractual, casual and outsourced staff of Ministries/ Departments and other organisations of Government of India is required to stay at home due to lockdown period, shall be treated as on duty and necessary wages to be paid to any such employee. This was to be applicable till April 30, 2020. A copy of Office Memorandum on dated March 23, 2020 is marked as **Annexure P-5.**(Page No. 32)
- J. That Mr. Heeralal Samariya, Secretary to Government of India, Ministry of Labour & Employment by his letter dated March 23, 2020 addressed to Mr. Durga Mishra, Secretary, Ministry of Housing and Urban Affairs, issued a direction that an advisory shall be issued to all employers/owners of public/private establishments to extend their coordination by not terminating employees, particularly casual or contractual, from their jobs or reduce their wages. Further, that if employees are on leave due to COVID-19, such employees shall deemed to be on duty. A copy of letter dated March 23, 2020 addressed to Mr. Durga Mishra, Secretary, Ministry of Housing and Urban Affairs by Mr. Heeralal Samariya, Secretary to Government of India, Ministry of Labour & Employment is annexed and marked as **Annexure P-6.**(Page No. 37)
- K. That on March 24, 2020, Hon'ble Prime Minister while addressing the country announced a nationwide lockdown from midnight of that day, i.e. from March 25, 2020, for a period of 21 days, i.e. till April 14, 2020. Subsequent to the lockdown announced by Hon'ble Prime

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Minister of India, Ministry of Home Affairs, Government of India, issued a Government Order dated March 24, 2020 by invoking the provisions of section 10(2)(I) of Disaster Management Act, 2005 issued various guidelines to Departments of Government of India, State and Union Territory Governments and authorities for strict implementation of 21 days lockdown commencing from March 25, 2020. These guidelines mentioned that commercial and private establishments, industrial establishment, transport services, hospital ity services, educational, training, research, coaching institutions shall remain closed during the lockdown, with certain exceptions. A copy of the Government Order dated March 24, 2020 along with guidelines is annexed as **Annexure P-7.** (Page No. 34-40)

- L. That by a Government Order dated March 29, 2020 being N0.40-3/2020-DM-I(A) ('hereinafter referred to as ' the said Government Order') issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005 ('the Act'), Government of India directed various Departments of Government of India, State/Union Territory Governments and authorities to implement lockdown measures for containment of spread of COVID-19 in the Country. By the said Government Order, the Chairperson of National Executive Committee directed the State/Union Territory Governments and State/Union Territory Authorities to take necessary action against those who are violating the measures mentioned in the said Government Order. A copy of the said Government Order is annexed and marked as **Annexure P-8.** (Page No. 41 to 42)

- M. That the Central Labour Commissioner, Ministry of Labour and Employment issued an advisory dated March 30, 2020 to all the Regional heads that all employees/workers may be deemed to be on duty in case place of employment is made non-operational due to outbreak of COVID-19. It was also advised to all private and public enterprises not to terminate their employees including the casual and Employees of contractors from the jobs and not to reduce or deduct their wages for the period if employees take quarantine Leave. A copy of advisory on dated March 30, 2020 is marked as **Annexure P-9.**(Page 43 to 48.)
- N. That the Government of Maharashtra, Respondent No.3, herein in pursuance of the order of the Central Government dated March 29, 2020, issued an order dated 31/03/2020 u/s 24 of the Disaster Management Act, 2005, directing all private establishments not to terminate any workman including temporary/contract workmen and pay wages for the period of lock-down even if any workman has not performed / attended work. Government Order also stated that violation of the Order would attract prosecution under the relevant law. A copy of Order of the Government of Maharashtra dated March 31, 2020 is annexed hereto and marked as **Annexure P-10.**(Page No. 49 to 50)
- O. That while the Government of India and Maharashtra Government had directed all public/private establishments to pay salaries to all its employees during the period of lockdown, the Government of Maharashtra issued a Government, Resolution dated April 1, 2020, wherein it has been stated that the salary of employees of the State

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Government for March, which is disbursed in April, will be paid in "two instalments". In the first instalment; all elected representatives, including the chief minister, ministers and MLAs, will be paid 40% of their salaries; employees, belonging to both A and B grades, will get 50% of their salaries; while C-grade staff will take 75% of their salaries; there will be no cut in the salaries of D-grade employees. The balance will be paid later, as per the financial situation of the State. The Government Resolution states that, because of the health and financial disaster caused by COVID-19, the State had to cut cost and postpone certain expenses. A copy of the said Government Resolution dated April 1, 2020 is annexed hereto and marked as **Annexure P-11.** (Page No. 51 to 53)

- P. That the Petitioner has its factories located at Village Yavluj, and MIDC Kagal, Village Talandage, Kolhapur. Workmen on the rolls of the Petitioner at these factories are unionised and have executed long term wage settlement u/s 2(p) of the Industrial Disputes Act, 1947 and are drawing appreciably higher salaries compared to the rates of minimum wages. The said settlement was executed considering the commitment given by the workmen to increase productivity. Average expenditure on wages paid to the workmen is Rs.28,000/-. Approximate losses that the Petitioner is bearing due of lock-down is around Rs.1.50 Crores.
- Q. That the Petitioner is challenging the constitutional validity of Government Order dated March 29, 2020, being N0.40-3/2020-DM-I(A) issued by Ministry of Home Affairs, Government of India, under section 10(2)(I) of the Disaster Management Act, 2005 only to limited

extent of additional measure in clause iii, being *“All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during lockdown period.”* and subsequent Government Order dated March 31, 2020 issued by Government of Maharashtra, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown, when its factories are not operational.

2. QUESTION OF LAW

- A. Whether the Government of India and Government of Maharashtra is empowered to issue direction to private establishment, like the Petitioner, to pay 100% wages under Disaster Management Act, 2005?
- B. Whether the respondent’s directions to compulsorily pay wages to all workers, without any deduction, for the entire period when his establishment is closed during lockdown, is factually feasible for such an employer?
- C. Whether the Govt. was right in issuing vague directions without specifying as to its applicability to employers of migrating workers, or is a blanket direction to all employers?
- D. Whether the Govt. directions are reasonable as they were issued without intelligent care and deliberation and without considering the

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financial capacity of the employer to bear the burden of payment of salary to its workers without their being any production?

E. Whether the Govt. is not bound by the principles propounded by this hon'ble Court in the case of *Supdt. of Taxes v. Onkarmal Nathmal Trust*, (1976) 1 SCC 766 has held that:

"62. The law in its most positive and peremptory injunctions, is understood to disclaim, as it does in its general aphorisms, all intention of compelling performance of that which is impossible.

"... where the law creates a duty or charge, and the party is disabled to, perform it, without any default in him, and has no remedy over, there the law will in general excuse him: and though impossibility of performance is in general no excuse for not performing an obligation which a party has expressly undertaken by contract, yet when the obligation is one implied by law, impossibility of performance is a good excuse. [See Broom's Legal Maxims, 10th Edn. (1939) pp. 162-63]. The same principle has been stated in Craies on Statute Law (6th Edn., p. 268).

*Under certain circumstances compliance with the provisions of statutes which prescribe how something is to be done will be excused. Thus, in accordance with the maxim of law, *lex non cogit ad impossibilia*, if it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like the act of God or the King's enemies, these circumstances will be taken as a valid excuse".*

3. **GROUNDS**

That the Government Order dated March 29, 2020 and Maharashtra Government Order dated March 31, 2020 (hereinafter collectively referred to as 'the said Government Orders') are challenged under Article 14 and 19 of the Constitution of India for being unconstitutional, for the reasons mentioned in the grounds below:

- i. BECAUSE the said Government Orders passed by the Respondents are illegal and unconstitutional and violates Article 14 and 19 of Constitution of India.
- ii. BECAUSE the said Government Orders favours class legislation under Article 14 of Constitution of India. It is a well settled law that to satisfy the constitutional test of permissibility, two conditions must be satisfied, namely (i) that the classification is founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) that such differentia has a rational relation to the object sought to be achieved. The said Government Orders are purely based on economic status of the two classes, therefore discriminatory and suffers from arbitrariness. Hence, it does not clear the test of constitutionality.
- iii. BECAUSE nothing in the Act provides for continued payment of wages by the employers to its workers/employees during any disaster. National Disaster Management Authority and National Executive Committee constituted under the Act have no power under section 7 and 10, respectively, to direct the employers to make payment to their workers, without any deduction, during the period of lockdown.
- iv. BECAUSE the said Government Orders are passed beyond the legislative competence of the Respondents and therefore, ultra vires the Disaster Management Act, 2005. By passing the said Government Orders, the Respondents assumed power to pass such a

direction under the Act and therefore, it is unethical, improper and illegitimate.

- v. BECAUSE in order to provide financial assistance to workers during COVID-19 pandemic, intent with which the said Government Orders were issued, Government of India ought to have considered that Provident Fund Department has bounteous accumulation of over Rs. 351 Crores as unclaimed Provident Fund Deposits' and this amount can be utilised to financial support the workers at the times of these unprecedented crisis. Since this amount has been accumulated from the contribution of the Industry and its workforce, it is appropriate to utilize a part of this amount to pay wages to the workers and ensure survival of both employer and employees.
- vi. BECAUSE the possible interpretation of the said Government Orders, is to provide financial assistance to weaker section or worker group of the society, but the applicability of the said Government Orders on specific class of employees is left vague. This will lead to misuse of the said Government Orders by various segments of workforce.
- vii. BECAUSE when the Government of Maharashtra by notification dated April 1, 2020 has clarified that the salaries of all the government employees in State of Maharashtra shall be paid in two instalments, the Government of Maharashtra should not have directed all the private establishments to pay 100% wages when the private establishments are under complete lockdown.

- viii. BECAUSE the said Government Orders are extremely vague. The intent of the issuance of the said Government Orders appear to be the protection the rights of weaker section of the society but scope of such directions are not confined to the definition of workman as defined u/s 2(s) of the Industrial Disputes Act, 1947.
- ix. BECAUSE the said Government Orders are unworkable and unreasonable and, therefore, suffered from inherent infirmity and liable to be struck down.
- x. BECAUSE the said Government Orders are arbitrary or excessively invades the right of employer. It fails to strike a proper balance between the freedom guaranteed in Article 19(1)(g) and the social control permitted by clause 19 (6) of Constitution of India.
- xi. BECAUSE it can never be said that the intent of the said clause that all employees, irrespective of their income/salary needs to be paid 100% wages, as the said directions provide no reasonable classification on the basis of either salary or class of employee. This will lead to gross losses to the private organisations, which are paying their employees huge salary packages. This will violate fundamental right of employers defined under Article 19 (1)(g) of Constitution of India, as it will have impact on their business.
- xii. BECAUSE the said Government Orders are unfair and unreasonable to the employers. Both employer and employee have fundamental right to carry on any occupation, trade or business, as enshrined under Article 19(1)(g) of the Constitution of India, but the said

Government Orders have taken into consideration only the employee class and have totally ignored the rights of employer. COVID-19 is adversely impacting both employer and employee class and therefore, Government of India ought to have taken a balanced view so that both these classes could overcome this unprecedented situation. The said Government Orders are manifestly arbitrary and against Article 14 of the Constitution of India.

- xiii. BECAUSE the said Government Orders are in complete violation of fundamental rights contained in Article 19 of the Constitution of India and prima facie it is evident that the Respondents have failed to justify that the restrictions imposed on the employers by the said Government Orders.
- xiv. BECAUSE the said Government Orders are discriminatory and passed by the Respondents without taking due care and deliberation and its financial implications on the employers during this COVID-19 pandemic.
- xv. BECAUSE the said Government Orders does not consider that when the entire economy is under lockdown, it is impossible for the employers, more particularly, when revenue of businesses are zero, to keep making payments to its workers, when there is not definite period after which the lockdown appears to end.
- xvi. BECAUSE till now there is no order or direction passed by the Respondents to landlords in terms of restrictions on wavier of rentals

of the leasehold premises, wherein rules have been passed for the employer to reinforce payment of salaries.

- xvii. BECAUSE the while passing the said Government Orders, the Respondents have not considered that due to direction of payment of full wages to all workers, it is very much possible that workers are not working because of the expectation that full wages will be paid to them even without working, during the period of lockdown.
- xviii. BECAUSE the workers absenteeism have led to zero or very minimal production, and in such scenarios if the employers are forced to make payment to the workers for the entire period of lockdown, it is possible that it may lead to closure of many micro, small and medium scale industries. This will lead to permanent unemployment of many people and directly affect the economy.
- xix. BECAUSE the said Government Orders are in violation of the provisions of Industrial Disputes Act, 1947, more particularly, section 25C and 25M, which deals with payment of 50% of wages when a worker is laid off and exception to lay-off workers during natural calamity.
- xx. BECAUSE the Ministry of Corporate Affairs on its website, has clarified that payment of salary/wages to employees/workers during the lockdown period is moral obligation of the employers, as they have no alternative source of employment during the period of lockdown and therefore, not liable to be treated as Corporate Social

Responsibility. Hence, the direction of Central and State Governments to the employers to pay 100% wages during lockdown, being moral obligation, is not justified.

- xxi. BECAUSE the Respondents have not offered any clarification of the impact of the said Government Orders on contribution of employers towards Employees State Insurance Corporation (ESIC) and Provident Fund. ESIC has merely deferred ESI contribution for payment of wages for month of March and April, by an additional 45 days. However, still employer will have to contribute for ESIC after lapse of 45 days. In respect of Provident Fund contribution, it is notified by Central Government that for companies, having less than 100 workers and where 90% employees are earning less than Rs.15,000, Central Government shall contribute 24% both for employer and employee towards provident fund for wage month of March, April and May. However, an employer such as Petitioner has not been provided any benefit under the said scheme and has to bear the cost of not only the full salary of every employee but also the employer PF contribution in respect of these employees thereby creating an additional burden on the petitioner. In case of delay in payment of contribution to ESI and EPF, Petitioner will have to pay interest at rate of 12% and damages at rate of upto 25% and may also have to face prosecution. It is to be also taken into account that the Petitioner will be compelled to deduct employees contribution from salaries of employees and deposit it with ESIC and EPF, resulting in lesser take off of salary to an employee.

xxii. BECAUSE the Government Orders suffers from the vice of arbitrariness, irrationality and hostile discrimination.

- 4. The Petitioner craves leave to add, amend or modify any of the aforesaid grounds.
- 5. The Petitioner has not filed any other petition or proceedings before any court of law including before this Hon'ble Court challenging the impugned Act that are a subject matter of the present writ petition.

PRAYERS

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

- a. Issue a Writ of Mandamus or any other appropriate writ, order or direction to set aside and quash clause iii of Government Order dated March 29, 2020 issued by Ministry of Home Affairs, Government of India for being unconstitutional and in violation of Article 14 and 19 of Constitution of India.
- b. Issue a Writ of Mandamus or any other appropriate writ, order or direction to set aside and quash Government Order dated March 31, 2020 issued by Government of Maharashtra, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown for being unconstitutional and in violation of Article 14 and 19 of Constitution of India.
- c. During the pending and final disposal of the present Petition, Petitioner may be permitted to make payment of 50% the Petitioner


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may be permitted to pay wages @ 50% of basic pay plus DA to its workers/employees (without payment of PF and ESIC contribution as the same is not wages) and this will give more money in the hands of workmen.

- d. Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present petition.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL, AS IN THE DUTY BOUND, EVER PRAY.

DRAWN BY:
Mr. Amit Singh
Vetted by Mr. Abhya Nevagi,
Advocates

FILED BY:

(KRISHAN KUMAR)
ADVOCATE FOR PETITIONER

New Delhi
Drawn On: 14.4.2020
Filed on: 14.4.2020

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**IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION**

**WRIT PETITION (CIVIL) NO _____ OF 2020
UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

CERTIFICATE

Certified that the Special Leave Petition is confined only to the pleadings before the Court/Tribunal whose order is challenged and the documents relied upon in those proceedings. No additional facts, documents or grounds have been taken or relied upon in the special leave petition. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the questions of law raised in the petition for consideration of this Hon'ble Court. This certificate is given on the basis of the instructions given by the petitioner(s)/person authorized by the petitioner(s) whose affidavit is filed in support of the Special Leave Petition.

**NEW DELHI
FILED ON:**


**(KRISHAN KUMAR)
ADVOCATE FOR THE PETITIONER**

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IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. OF 2020

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED ...Petitioner

Vs

UNION OF INDIA & ORS ...Respondents

AFFIDAVIT

I, Ramachandra Narayanan Empran, age: 52 years, son of Seenan Ramachandran Empran, Residing at 54/8 Ganeswaram, Morewadi, Kolhapur-416013, presently at Kolhapur, do hereby solemnly affirm on oath and state as under:

1. That I am President (Operations) of the Petitioner in the present Writ Petition and as such I am fully authorized to swear and affirm this affidavit.
2. That, I have read over and understood the contents of Synopsis and List of Dates , Paragraphs 1 to 7 and Grounds (i) to (xxii) of the accompanying Writ Petition state that the facts stated therein are true to my knowledge and based on the records.



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- 3. That the Petitioner has not filed any other petition before this Hon'ble Court seeking the reliefs sought in present Petition.
- 4. The annexures annexed to the Writ Petition are downloaded from the government websites.



[Signature]
 DEPONENT
 President (Operations)

VERIFICATION:

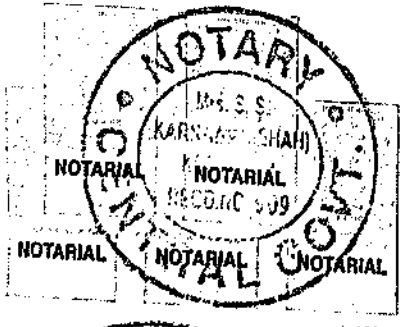
I, the deponent above named do hereby verify that the contents of paras 1 to 4 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Kolhapur on 14.04., 2020.



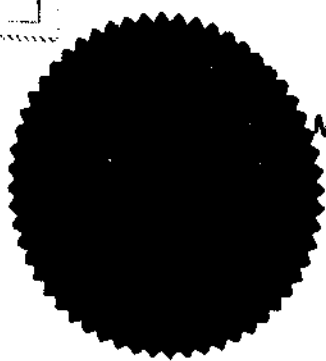
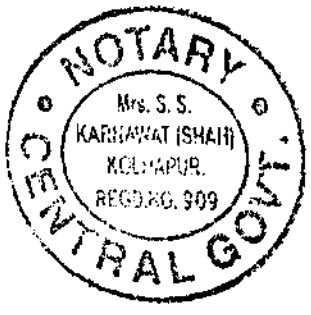
[Signature]
 DEPONENT
 President (Operations)

I know the Deponent *[Signature]*
 Adv. *[Signature]*
 [Adv. S.A. SHAH] 14-4-2020



14 APR 2020

SOLEMNNY attimed before
 by *Bharuchandra N. Empren*
 who is identified before n
 by Adv. *Santosh Shah*
 Whom personally know
 Date 14 Day 04 / 20 20



[Signature]
 Mrs. S. S. Karnawat (Shah)
 Advocate & Notary
 Plot No. 6, Near Shinde Residency,
 Mahadik Colony Kolhapur.
 732 / 2020.

APENDIX

25

10. Powers and functions of National Executive Committee.—

(1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in subsection (1), the National Executive Committee may—

- (a) act as the coordinating and monitoring body for disaster management;
- (b) prepare the National Plan to be approved by the National Authority;
- (c) coordinate and monitor the implementation of the National Policy;
- (d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;
- (e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;
- (f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;
- (g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;
- (h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;
- (i) evaluate the preparedness at all governmental levels for the purpose of

- (j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;
- (k) coordinate response in the event of any threatening disaster situation or disaster;
- (l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;
- (m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;
- (n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-governmental organizations and others engaged in disaster management;
- (o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;
- (p) promote general education and awareness in relation to disaster management; and
- (q) perform such other functions as the National Authority may require it to perform.

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ANNEXURE V. I

No. 33-4/2020-NDM-I
Government of India
Ministry of Home Affairs
(Disaster Management Division)

C-Wing, 3rd Floor, NDCC-II
Jai Singh Road, New Delhi-110001
Dated 14.03.2020

To
The Chief Secretaries
(All States)


**Subject: Items and Norms of assistance from the State Disaster Response Fund
(SDRF) in wake of COVID-19 Virus Outbreak**

Sir/Madam

I am directed to refer this Ministry's letter No. 32-7/2014 dated 8th April, 2015 on the above mentioned subject.

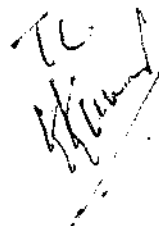
2. The Central Government, keeping in view the spread of COVID-19 Virus in India and the declaration of COVID-19 as pandemic by the World Health Organisation (WHO), by way of a special one time dispensation, has decided to treat it as a notified disaster for the purpose of providing assistance under SDRF. A list of items and norms of assistance for containment of COVID-19 Virus in India, eligible from SDRF is annexed.

Yours faithfully,


(Sanjeev Kumar Jindal)

Joint Secretary to Government of India
Tel: 23438096

Copy to AS(UT), MHA for making similar provisions for utilization of UT Disaster Response Funds by the Union Territories.

TC


Advisory on Social Distancing Measure in view of spread of COVID-19 disease

Social distancing is a non-pharmaceutical infection prevention and control intervention implemented to avoid/decrease contact between those who are infected with a disease causing pathogen and those who are not, so as to stop or slow down the rate and extent of disease transmission in a community. This eventually leads to decrease in spread, morbidity and mortality due to the disease.

In addition to the proposed interventions, the State/UT Governments may prescribe such other measures as they consider necessary.

All these proposed interventions shall be in force till 31st of March, 2020. They will be reviewed as per the evolving situation.

The following interventions are proposed:

1. Closure of all educational establishments (schools, universities etc), gyms, museums, cultural and social centres, swimming pools and theatres. Students should be advised to stay at home. Online education to be promoted.
2. Possibility of postponing exams may be explored. Ongoing exams to be conducted only after ensuring physical distance of one meter amongst students.
3. Encourage private sector organizations/employers to allow employees to work from home wherever feasible.
4. Meetings, as far as feasible, shall be done through video conferences. Minimize or reschedule meetings involving large number of people unless necessary.
5. Restaurants to ensure handwashing protocol and proper cleanliness of frequently touched surfaces. Ensure physical distancing (minimum 1metre) between tables; encourage open air seating where practical with adequate distancing.
6. Keep already planned weddings to a limited gathering, postpone all non-essential social and cultural gatherings.
7. Local authorities to have a dialogue with organizers of sporting events and competitions involving large gatherings and they may be advised to postpone such events.
8. Local authorities to have a dialogue with opinion leaders and religious leaders to regulate mass gatherings and should ensure no overcrowding/at least one metre distance between people.

9. Local authorities to have meeting with traders associations and other stakeholders to regulate hours, exhibit Do's and Don'ts and take up a communication drive in market places like sabzi mandi, anaj mandi, bus depots, railway stations, post-offices etc., where essential services are provided.
10. All commercial activities must keep a distance of one meter between customers. Measures to reduce peak hour crowding in markets.
11. Non-essential travel should be avoided. Buses, Trains and aeroplanes to maximize social distancing in public transport besides ensuring regular and proper disinfection of surfaces.
12. Hospitals to follow necessary protocol related with COVID-19 management as prescribed and restrict family/friends/children visiting patients in hospitals.
13. Hygiene and physical distancing has to be maintained. Shaking hands and hugging as a matter of greeting to be avoided.
14. Special protective measures for delivery men/ women working in online ordering services.
15. Keep communities informed consistently and constantly.

Ministry of Health & Family Welfare

Handwritten signature and initials, possibly 'M. K. Singh', written in black ink.



सत्यमेव जयते

MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SHAKTI BHAVAN
NEW DELHI - 110001

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ANNEXURE P-3

श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110001

Tele : 91-11-23 71 02 65

Fax : 91-11-23 35 56 79

E-mail : secy-labour@nic.in

हीरालाल सामरिया, आई०ए०एस०
भारत सरकार के सचिव
HEERALAL SAMARIYA, I.A.S.
Secretary to Govt. of India

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Shri Sailesh Ji,

The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,


(Heeralal Samariya)

Shri Sailesh,
Secretary,
Department of Public Enterprises,
CGO Complex, Block No.14,
Lodhi Road,
New Delhi.

T.C.
M. Kumar

20/3/2020



हीरालाल सामरिया, आई०ए०एस०
भारत सरकार के सचिव
HEERALAL SAMARIYA, I.A.S.
Secretary to Govt. of India

श्रम शक्ति भवन
MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SHAKTI BHAVAN
NEW DELHI - 110001

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ANALEKURE - 14
श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110001
Tele: 91-11-23 71 02 65
Fax: 91-11-23 35 56 79
E-mail: secy-labour@nic.in

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Chief Secretaries,

The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

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The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,

All Chief Secretaries of States/UTs
(As per list attached)

(Heeralal Samariya)
20/3/2020

North Block, New Delhi
Dated: 23.03.2020

OFFICE MEMORANDUM

Sub: Payment of wages to outsourced persons of Ministries/Departments and other organizations of Government of India during lockdown period due to COVID-19

As part of social distancing and isolation measures to contain the spread of COVID-19 in the country, various State/UT Governments have announced lockdown at different places. Instructions have been separately issued by DOP&T regarding maintenance of essential services in Ministries/Departments.

2. Due to these measures, there is a likelihood of a number of contractual, casual and outsourced staff such as house-keeping staff etc. being required to stay at home, which under normal circumstances would result in deduction in their pay/wages. In order to avoid any undue hardships under the prevailing extraordinary circumstances, it has been decided that wherever any such contractual, casual and outsourced staff of Ministries/Departments and other organizations of Government of India, is required to stay at home in view of lockdown order regarding COVID-19 prevention, as announced by various States/UT Governments, they shall be treated as "on duty" during such period of absence and necessary pay/wages would be paid accordingly.
3. These instructions shall also apply to Attached/Subordinate Offices, Autonomous/Statutory Bodies of Government of India.
4. These instructions shall apply till 30th April, 2020.

Annie G. Mathew
23/03/20

(Annie G. Mathew)
Additional Secretary to Government of India

TC
[Signature]

To:

All the Ministries and Departments of Government of India



हीरालाल सामरिया, आई०ए०एस०
भारत सरकार के सचिव
HEERALAL SAMARIYA, I.A.S.
Secretary to Govt. of India

सत्यमेव जयते
MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SHAKTI BHAVAN
NEW DELHI - 110001

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ANNEXURE I
श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110001
Tele : 91-11 -23 71 02 65
Fax : 91-11 -23 35 56 79
E-mail : secy-labour@nic.in

D.O. No. M-11011/08/2020-Media

March 23, 2020

Dear Shri Mishra Ji,


The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.


The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments under your Ministry.

With regards,

Yours sincerely,


(Heeralal Samariya) 23/3/2020

Shri Durga Shankar Mishra,
Secretary,
Ministry of Housing and Urban Affairs,
Govt. of India
Nirman Bhawan,
New Delhi.



No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

P-34
ANNEXURE - (P)

North Block, New Delhi-110001

Dated 24th March, 2020

ORDER

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an Order no. 1-29/2020-PP (Pt.II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country;

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the powers, conferred under Section 10(2)(i) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effect from 25.03.2020.


Home Secretary 24/3/2020

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

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Annexure to Ministry of Home Affairs Order No .40-3/2020-D dated ()24.03.2020

Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country.

1. Offices of the Government of India, its Autonomous/ Subordinate Offices and Public Corporations shall remain closed.

Exceptions:

Defence, central armed police forces, treasury, public utilities (including petroleum, CNG, LPG, PNG), disaster management, power generation and transmission units, post offices, National Informatics Centre, Early Warning Agencies

2. Offices of the State/ Union Territory Governments, their Autonomous Bodies, Corporations, etc. shall remain closed.

Exceptions:

- a. Police, home guards, civil defence, fire and emergency services, disaster management, and prisons.
- b. District administration and Treasury
- c. Electricity, water, sanitation
- d. Municipal bodies—Only staff required for essential services like sanitation, personnel related to water supply etc

The above offices (Sl. No 1 & 2) should work with minimum number of employees. All other offices may continue to work-from-home only.

3. Hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. will continue to remain functional. The transportation for all medical personnel, nurses, para-medical staff, other hospital support services be permitted.

4. Commercial and private establishments shall be closed down.

Exceptions:

- a. Shops, including ration shops (under PDS), dealing with food, groceries, fruits and vegetables, dairy and milk booths, meat and fish, animal fodder. However, district authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.
- b. Banks, insurance offices, and ATMs.
- c. Print and electronic media
- d. Telecommunications, internet services, broadcasting and cable services. IT and IT enabled Services only (for essential services) and as far as possible to work from home.
- e. Delivery of all essential goods including food, pharmaceuticals, medical equipment through E-commerce.

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- f. Petrol pumps, LPG, Petroleum and gas retail and storage outlets.
 - g. Power generation, transmission and distribution units and services.
 - h. Capital and debt market services as notified by the Securities and Exchange Board of India
 - i. Cold storage and warehousing services.
 - j. Private security services

All other establishments may work-from-home only.

5. Industrial Establishments will remain closed.

Exceptions:

- a. Manufacturing units of essential commodities.
- b. Production units, which require continuous process, after obtaining required permission from the State Government

6. All transport services – air, rail, roadways – will remain suspended.

Exceptions:

- a. Transportation for essential goods only.
- b. Fire, law and order and emergency services.

7. Hospitality Services to remain suspended

Exceptions:

- a. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
- b. Establishments used/ earmarked for quarantine facilities.

8. All educational, training, research, coaching institutions etc. shall remain closed.

9. All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.

10. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions / gatherings shall be barred.

11. In case of funerals, congregation of not more than twenty persons will be permitted.

12. All persons who have arrived into India after 15.02.2020, and all such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities, failing which they will be liable to legal action under Sec. 188 of the IPC.

13. Wherever exceptions to above containment measures have been allowed, the organisations/employers must ensure necessary precautions against COVID-19

15/

virus, as well as social distance measures, as advised by the Health Department from time to time.

14. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
15. All enforcing authorities to note that these strict restrictions fundamentally relate to movement of people, but not to that of essential goods.
16. The Incident Commanders will in particular ensure that all efforts for mobilisation of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
17. Any person violating these containment measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC (as per Appendix).
18. The above containment measures will remain in force, in all parts of the country, for a period of 21 days with effect from 25.03.2020.


24/3/2020
Union Home Secretary

1. Section 51 to 60 of the Disaster Management Act, 2005**OFFENCES AND PENALTIES****51. Punishment for obstruction, etc.—**Whoever, without reasonable cause —

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the

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offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section— (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to

the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

2. Section 188 in The Indian Penal Code

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

TL
M. Kumar

No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

41
ANNEXURE P-2

North Block, New Delhi-110001
Dated 29th March, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order of even number dated 24.03.2020, followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country;

Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance;


Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/ Union Territory Authorities to take necessary action and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police, to take following additional measures:

- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters, and provision of food etc. for the poor and needy people, including migrant labourers, stranded due to lockdown measures in their respective areas;
- ii. The migrant people, who have moved out to reach their home states/ home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;



- 42
- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
 - v. If any landlord is forcing labourers and students to vacate their premises, they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government, shall take necessary action under the Act. The District Magistrate/ Deputy Commissioner and Senior Superintendant of Police/ Superintendant of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.

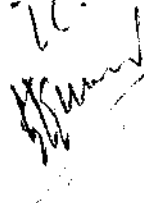

29/03/2020
Home Secretary

To

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

T.C.


राजन वर्मा, सी.एल.एस.
मुख्य श्रमायुक्त (केन्द्रीय)
RAJAN VERMA, CLS
CHIEF LABOUR COMMISSIONER (C)



ANNEXURE D-01
भारत सरकार
श्रम एवं रोजगार मंत्रालय
मुख्य श्रमायुक्त (के०) कार्यालय
श्रम शक्ति भवन, नई दिल्ली-110001
Government of India
Ministry of Labour & Employment
Office of the Chief Labour Commissioner (C)
Shram Shakti Bhawan, New Delhi-11 0001
Tel. No. : 011-23710447
E-mail : clc-mole@nic.in

D.O. No: CLC(C)/Covid-19/Instructions/LS-1

Dated: 30.03.2020

Dear Regional Heads,

As nation we are facing a catastrophic situation due to the outbreak of COVID-19. In view of the this grave situation the Secretary (Labour & Employment) vide D.O. No. M- 11011/08/2020-Media dated 20.03.2020 (copy enclosed) addressed to all employers federations, Chief Secretaries and also to Department of Public Enterprises has advised that all employees/workers may be deemed to be on duty in case place of employment is made non-operational due to out break of COVID-19, it was also advised to all private and public enterprises not to terminate their employees including the casual and contract workers from the jobs and also not to reduce or deduct their wages for the period if employees take quarantine leave.

In the period of this national crises we all have been getting the distress calls from the employees and workers across the country wherein they are complaining about their hardship due to either loss of employment or non payment of wages. We have also witnessed the large number of fleeing of migrant workers out of panicky which has further added to their miseries. Because of this unfortunate happening Home Secretary, Government of India, New Delhi has issued O.M. No. 40-3/2020-DM-I(A) dated 29th march 2020(copy enclosed) under Disaster Management Act wherein it has been advised to all state governments/Union Territories to ensure adequate arrangements of temporary shelter and provision of food etc. for the poor and needy including migrant workers stranded due to lock down measures in their respective areas.

In view of the above strong initiatives taken at the Government of India level you are requested to rigorously take up the issue with all principle employers, contactors and all public/private enterprises in case distress calls are received from workers/employees by you in your region.

You are also requested to be in touch constantly with state government authorities to ascertain the updates about the arrangements of temporary shelters and provision of foods etc. made by them so that the distress workers/ employees and their family members can be guided and placed in the above shelters.

Your regular feedback in the respect of action taken on the above lines will be highly appreciated.

with regards,

Yours Sincerely,

(Rajan Verma)

Chief Labour Commissioner (C)

To
All Regional Heads
Dy. CLC(C)/RLC(C)



हीरालाल समरीया, ए.एस.
HEERALAL SAMARIYA, I.A.S.
Secretary, Govt. of India

MINISTRY OF LABOUR & EMPLOYMENT
SHRAM SHAKTI BHAVAN
NEW DELHI - 110001

44
श्रम एवं रोजगार विभाग
श्रम शक्ति भवन
नई दिल्ली - 110001
Tele : 91-11-23 71 02 65
Fax : 91-11-23 35 56 29
E-mail: secy-labo-ur@nic.in

D.O. No. M-11011/08/2020-Media

March 23, 2020

Dear Shri Mishra Ji,


The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments under your Ministry.

With regards,

Yours sincerely,


(Heeralal Samariya) 23/3/2020

Shri Durga Shankar Mishra,
Secretary,
Ministry of Housing and Urban Affairs,
Govt. of India
Nirman Bhawan,
New Delhi.



संस्कृत-विभागाध्यक्ष, दिल्ली
संस्कृत-विभागाध्यक्ष, दिल्ली
संस्कृत-विभागाध्यक्ष, दिल्ली
संस्कृत-विभागाध्यक्ष, दिल्ली

MINISTRY OF LABOUR & EMPLOYMENT
SHREE BHARATI BHAVAN
NEW DELHI - 110011

45
श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110 011
Tele: 91-11-23 71 02 05
Fax: 91-11-23 35 56 09
E-mail: secy-labour@nic.in

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Chief Secretaries,


The World is living a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries.

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,


(Heeralal Samariya)
20/3/20

**All Chief Secretaries of States/UTs
(As per list attached)**



हिरीराल सारिया, आईएचएचएच
भारत सरकार के सचिव
HEERALAL SAMARIYA, I.A.S.
Secretary to Govt. of India

MINISTRY OF LABOUR & EMPLOYMENT
SRAM SHAKTI BHAVAN
NEW DELHI - 110001

46
श्रम एवं रोजगार मंत्रालय
श्रम शक्ति भवन
नई दिल्ली-110001
Tele : 91-11-23 71 0 2 65
Fax : 91-11-23 35 5 6 79
E-mail : secy-labour@nic.in

D.O. No. M-11011/08/2020-Media

March 20, 2020

Dear Shri Sailesh Ji,

The World is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incidence that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With regards,

Yours sincerely,


(Heeralal Samariya)

Shri Sailesh,

Secretary,

Department of Public Enterprises,

CGO Complex, Block No.14,

Lodhi Road,

New Delhi.

20/3/2020
Department of Public Enterprises

No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

47

North Block, New Delhi-110001
Dated 29th March, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order of even number dated 24.03.2020, followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country;

Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance;


Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the powers, conferred under Section 10(2)(I) of the Disaster Management Act 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/ Union Territory Authorities to take necessary action and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendant of Police/ Superintendant of Police/ Deputy Commissioner of Police, to take following additional measures:

- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters, and provision of food etc. for the poor and needy people, including migrant labourers, stranded due to lockdown measures in their respective areas;
- ii. The migrant people, who have moved out to reach their home states/ home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;



- 48
- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
 - v. If any landlord is forcing labourers and students to vacate their premises, they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government, shall take necessary action under the Act. The District Magistrate/ Deputy Commissioner and Senior Superintendant of Police/ Superintendant of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.


29/03/2020
Home Secretary

To

1. **The Secretaries of Ministries/ Departments of Government of India**
2. **The Chief Secretaries/Administrators of States/Union Territories**
(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.



ANNEXURE - P. 10

Request not to remove from work or deduct the wages of the homeless/displaced and migrant workers from the other states during the lockdown period due to Covid -19 outbreak.

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Government of Maharashtra
Industries, Energy and Labour Department
Madam Cama Marg, Hutatma Rajguru Chowk,
Government Resolution No. Misc 2020 / 4 / 9
Mantralaya Mumbai 400 032
Date : March 31, 2020

To:

1. Letter dated March 20, 2020 of Secretary, Ministry of Labour and Employment, Government of India No. M 11011/08/2020- Media.
2. Order dated March 29, 2020 of Ministry of Home Affairs Government of India No. 40-3/2020/DM- IA.
3. Government Resolution, Revenue and Forest Department, No. DMU / 2020/92/DISM - 1, dated March 29, 2020.

Introduction:

The entire world including India are facing serious problem Due to spread of contagious disease caused by Covid – 19 virus. As a part of taking collective efforts to fight these problems Central Government and State Government have given directions regarding the precautions to be taken and has given the further directions stating that what efforts shall be taken so that there will be no adverse impact on the labour class. That the prior direction have been received for the purpose of helping workers or employees working in private institutions, also the directions regarding not to cut the wages of workers working on contract basis. Additionally, a request has been made that in case if the workers are not able to come at work for some reason then the period of their absence should be considered as a period for their paid leave. So that this won't affect there day to day life. It is necessary to take efforts during this period that the salaries of the workers will not be deducted and no economic loss will be caused to them.

Government Resolution:

In reference to the workers and the displaced workers from the other state working in several businesses, shops and other institutions affected by the prior directions of lockdown declared by the Government of Maharashtra for the purpose of stopping the spread of corona virus and in light of powers and functions of chairman, Maharashtra state Disaster Management

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Authority under section 24 of disaster management rules 2005 following order have been given;

All the workers (Either on contract basis or outsourced workers / employees, temporary workers / employee or daily wage workers) working in private organisations , industries, companies, shops (except essential services organizations) etc, who have to stay at their houses due to spread of covid – 19 virus shall be assumed to be on work and these workers/ employees shall be given complete salaries and allowances to which they are entitled to.

These orders shall apply to all Semi-Governmental, industrial, commercial institution, traders and shops within the state of Maharashtra. For the purpose of the Strict compliance of this order the concern authority shall take all necessary measures. This Govt resolution has been made available on the website – www.maharashtra.gov.in

Under the name and order of the Hon'ble Governor, State of Maharashtra

(Ajay Mehta)
Principal Secretary, Maharashtra

CC:

1. Secretary Chief Minister Mantralaya Mumbai.
2. Secretary Deputy Minister
3. Leader of Opposition, Legislative Council/ Legislative Assembly, Mumbai
4. All the members of legislative council / legislative Assembly, Maharashtra
5. All Head Secretary / Principal Secretary / Secretary Mantralaya Mumbai
6. All Divisional Commissioner, Mumbai
7. Commissioner, Industry/ labour/ Unorganised labour
8. All District Magistrate / Collector.
9. All Head Officers, District Council.
10. All Municipal Commissioner
11. All chairman, Municipalities /Civic bodies.



51
The Working System regarding preparing Salary Bills.

In respect of March 2020, through Service System.

GOVT. OF MAHARASHTRA.

(Finance Department)

Govt. Circular No. Sank./2020/PK-62/KS PS-5.

Madam Cama Marg, Hutatma Rajguru Chowk,

Mantralaya, MUMBAI - 400 032.

Date : 1 April, 2020.

GOVT. CIRCULAR :

Read : Govt. Circular, Sank./2020/PK-62/KS PS-5, dt. 3/3/2020.

With a view to cope-up with the health and finance calamity which is created due to Covid - Nineteen and considering the overall financial condition it is necessary to save money and to be economical. In this context to extend the expenses. Accordingly in the month of April 2020, the salary to be paid within two installments and this decision is taken from 'Read' sentence as per Govt. Circular.

2. For this purpose the salary shall be inclusive of all permissible allowance shall be taken into consideration.
3. The procedure of paying salary through the Service System of March 2020 will be prepared in first 3 stages of salary. And the Distribution Officer are given following instructions.

- 1) In the First Stage March 2020 the salary shall be paid 40% to the public representative Group A & B, 50% and in 'C' Group employees 75% as such salary will be allotted. In Group 'D' 00% salary will be disbursed.
- 2) As mentioned above to pay salary as per first three stages, the presence of officers and employees shall be considered. Out of present employees a per percentage shown in the first stage, shall be calculated. If the no. of present days is coming in percentage then such salary shall be calculated. and this period shall be calculated as present days. The No. of present employee for the whole month shall be calculated.

The Govt. Circular No . SK-2020/PK-62/KS PS-5.

1.

1. 40% Period 01/03/2020 to 13/3/2020.
2. 50% Period 1/3/2020 to 16/3/2020.
3. 75% Period 1/3/2020 to 24/3/2020.

- 3) As above while calculating salary or the specific period shall be prepared as all officers/employees (Group A, B & C) and as such supplementary bills shall be prepared as per Bill Group and attach it.
- 4) If the bills are to be activated as per 40% 50% or 75% then bill shall be activated in 'broken period'
- 5) While activating bills of the month March 2020 Supp./Arrears/Susp./Nil bill group shall be clicked and Pay Year 2019-2020 shall be selected.
- 6) In the 'Service' System Assistant Login- Current Path, - Worklist – Payroll – Employee Information – Broken period by this say the entries of present persons shall be taken. Broken period will be for 40% , 50% and 75% only.
- 7) For Group 'D' Regular Bill Group shall be used and Bill type shall be selected and its salary shall be fixed.
- 8) In group A, B, & C, while preparing Change Statement first year 2020 March, thereafter Bill group shall be selected.

(4) Various deductions to be made from the Bills :

- 1) The self salary of N.P.S. employee and appointed percentage such days of salary is arrived at. The period shall be calculated for such days.
- 2) Regarding group A, B, & C, 100% deduction shall be made towards Provident Fund, However if monthly contribution amount will be less than second installment then the monthly contribution shall be limited upto the said amount.
- 3) The advance taken by the employee / interest recovery shall not be made from March 2020, but the employees who are going to be retired their remaining installment shall be fixed for repayment and It will be recovered from the salary.

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4) Profession Tax and Group Insurance shall be deducted 100% from the first stage of salary,

Govt. Circular No. S-2020/PK-62/KS PS-5.

5) Regarding the Govt. Houses holders the 100% deductions shall be made from the first stage salary for service tax and permissible charges.

6) A) The Distribution Officers shall prepare bills here before and such bills shall be made from Treasury. The bill of salary will be cancelled and new bill shall be prepared.

B) The Dist. Officers shall prepare bills and its 'Beams' and if it is not submitted to the Treasury it shall be get done.

7) While deciding the A, B, C & D group the existing pst of the employee shall be considered. The salary scale of the employee shall not be considered.

8) Apart from service system other establishments shall consider the above calculation instructions and bills shall be prepared by hand.

9) In March 2020, remaining salary shall be paid in the second stage.

This Circular is available on E.mail-ID. Of Govt. of Maha. www.maharashtra.gov.in and will be available on this Website and its Code No. is 202004011227337905, and this Order is digitally signed.

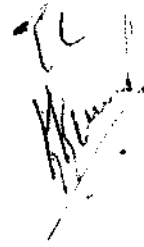
By the Order and in the name of the Governor of Maharashtra.

(Indrajit Gore)

Under Secretary of the Govt.

Copy to :

1. Opposition Leader. Maharashtra Assembly.
2. All Assembly Members.
3. Secretary of Govt.
4. Secretary of Chief Minister.



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**IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION**

I.A. No. _____/2020

IN

WRIT PETITION (CIVIL) NO _____ OF 2020

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

APPLICATION FOR STAY

To

The Hon'ble Chief Justice of India
And His Companion Justices of the
Supreme Court of India.

The humble Petition of the
Petitioners abovenamed.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is filing the present writ petition under Article 32 of the Constitution of India seeking an appropriate writ for setting aside or quashing of Government Order dated March 29, 2020, only to limited extent of clause iii, issued by Ministry of Home Affairs, Government of India and consequently, setting aside or quashing of the order of the Government of Maharashtra dated March 31, 2020, only to the limited extent of compelling the

Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown , when its factories are not operational.

2. That the Petitioner craves leave of this Hon'ble Court to refer and rely upon the contentions of the Special Leave Petition, at the time of hearing of this Application, as the same are not being reproduced here for the sake of brevity.
3. That the Petitioner is engaging services of around 1200-1400 workmen and 150 employees for marketing, administrative work and to pay wages/salary to these workers/employees, Petitioner needs to incur approximately Rs. 1.75 Crores. But these directions has caused consternation to a large number of employers in the country, despite their best intentions for and efforts towards, supporting their employees during this period of crises. Petitioner has paid full wages to its workers/employees for the month of March, 2020 even when the Petitioner's operations were completely shut during the last week of March. It is virtually impossible for the Petitioner to continue to bear the cost of the salary of its employees without there being any production. Now, that the Lockdown has been extend to April 30, 2020 and there will be no revenue generation and considering high fixed cost and wages/salaries that is required to be incurred by the Petitioner amounting to approximately Rs. 4 Crores, it is impossible for the Petitioner to comply with the said Government Orders. Petitioner has very good case on merits and likely to succeed in the proceedings before this Hon'ble Court.

4. That in the facts and circumstances of the case the impugned Government Order issued by Ministry of Home Affairs, Government of India dated March 29, 2020, only to limited extent of clause iii, and also consequent order issued by Government of Maharashtra dated March 31, 2020, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown , when its factories are not operational, may be stayed as the non-compliance of the orders will have serious financial repercussions, the Petitioner is liable to face necessary penal actions as contemplated under Disaster Management Act, 2005.
5. That it will be in the interest of justice that the operation of impugned Govt. Orders issued by Ministry of Home Affairs, Government of India dated March 29, 2020, only to limited extent of clause iii, and also consequent order issued by Government of Maharashtra dated March 31, 2020, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown , when its factories are not operational, may be stayed otherwise the Petitioner will suffer irreparable loss and injury.

PRAYER

IT IS, THEREFORE, PRAYED THAT THIS HON'BLE COURT MAY BE PLEASSED TO:

- a. Stay the operation of the Govt. Orders issued by Ministry of Home Affairs, Government of India dated March 29, 2020,

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only to limited extent of clause iii, and also consequent order issued by Government of Maharashtra dated March 31, 2020, only to the limited extent of compelling the Petitioner to pay full salary to all its staff, workers, contract workers, casual workers during the period of lockdown, when its factories are not operational, during the pendency of the petition;

And/Or


During the pending and final disposal of the present Petition, Petitioner may be permitted to pay wages @ 50% of basic pay plus DA to its workers/employees (without payment of PF and ESIC contribution as the same is not wages) and this will give more money in the hands of workmen.

- b. Pass such other order as this Hon'ble Court deems fit in the facts and circumstances of the present case.

Filed on

Filed by:

NEW DELHI
DATED


KRISHAN KUMAR
ADVOCATE FOR THE PETITIONER

58

IN THE HON'BLE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED ...Petitioner

vs

UNION OF INDIA & ORS ...Respondents

AFFIDAVIT

1. Ramachandra Narayanan Empran, age: 52 years, son of Seenan Ramachandran Empran, Residing at 54/8 Ganeswaram, Morewadi, Kolhapur-416013, presently at Kolhapur, do hereby solemnly affirm on oath and state as under:

- 1. That I am President (Operations) of the Petitioner in the present Writ Petition and I am aware of the facts of present case and I am competent to depose the present Affidavit.
- 2. That I state that the contents of accompanying application for stay are true to my knowledge and belief.



[Signature]
 DEPONENT
 President (Operations)

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VERIFICATION

I, the deponent above named do hereby verify that the contents of para 1 to 4 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom

Verified at Kolhapur on 14/04/2020.

I know the Depoent Shri. Adv. S.A. SHAH [14.4.2020]



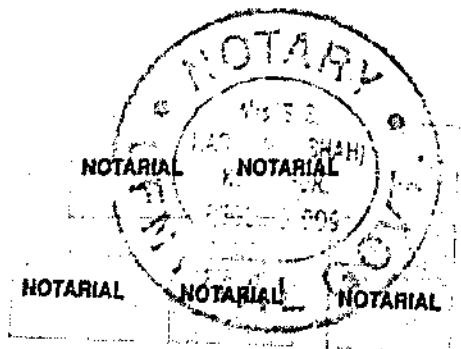
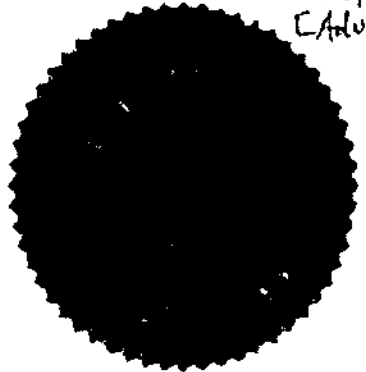
[Signature]
DEPONENT
President Operations,

14 APR 2020

SOLENNLY affirmed before
by Ramchandra N. Emprean
who is identified before me
by Adv. Sandesh Shukla
Whom personally know
Date 14 Day 04 2020

[Signature]
14/04/2020

Mrs S. S Karnawat (Shah)
Advocate & Notary
Plot No. 6, Near Shinde Residency,
Mahadik Colony Kolhapur
730/2020



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**IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION**

I.A. No. _____/2020

IN

WRIT PETITION (CIVIL) NO _____ OF 2020

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

APPLICATION FOR EXEMPTION FROM FILING OF

To

The Hon'ble Chief Justice of India
And His Companion Justices of the
Supreme Court of India.

The humble Petition of the
Petitioners abovenamed.

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is filing the present writ petition under Article 32 of the Constitution of India seeking an appropriate writ for setting aside or quashing of Government Order dated March 29, 2020, only to limited extent of clause iii, issued by Ministry of Home Affairs, Government of India and consequently, setting aside or quashing of the order of the Government of Maharashtra dated March 31, 2020, only to the limited extent of compelling the Petitioner to pay full salary to all its staff,

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workers, contract workers, casual workers during the period of lockdown , when its factories are not operational.

2. That the Petitioner craves leave of this Hon'ble Court to refer and rely upon the contentions of the Special Leave Petition, at the time of hearing of this Application, as the same are not being reproduced here for the sake of brevity.
3. That Annexure P-10 these documents are originally in Marathi and for better understanding of the present case it is necessary to peruse the same. The said documents have been translated in English by an Advocate who has ample knowledge of the said language and the said translations have been filed with this Special Leave Petition and have been marked as Annexure P-10.
4. That it is humbly submitted that appointing an official translator would result in an unnecessary delay and an expense. The Petitioner is therefore praying for an exemption from filing official translations of the Annexure P-10.

PRAYER

IT IS, THEREFORE, PRAYED THAT THIS HON'BLE COURT MAY BE PLEASED TO:

- a. Exempt the Petitioner from filing the official translation of Annexure P-10 ; and
- b. Pass such other order as this Hon'ble Court deems fit in the facts and circumstances of the present case.

Filed on

NEW DELHI
DATED

Filed by:


KRISHAN KUMAR
ADVOCATE FOR THE PETITIONER

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IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

NAGREEKA EXPORTS LIMITED

...Petitioner

Vs

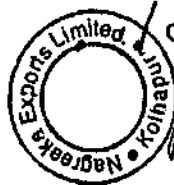
UNION OF INDIA & ORS

...Respondents

AFFIDAVIT

I, Ramachandra Narayanan Empran, age: 52 years, son of Seenan Ramachandran Empran, Residing at 54/8 Ganeswaram, Morewadi, Kolhapur-416013, presently at Kolhapur, do hereby solemnly affirm on oath and state as under:

1. That I am President (Operations) of the Petitioner in the present Writ Petition and I am aware of the facts of present case and I am competent to depose the present Affidavit.
2. That I state that the contents of accompanying application for exemption are true to my knowledge and belief.



Empran
DEPONENT

President (Operations)

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VERIFICATION:

I, the deponent above named do hereby verify that the contents of paras 1 to 2 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Kolhapur on 14-04-2020.



[Handwritten Signature]

DEPONENT

President (Operations)

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SECTION.....

IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/ORIGINAL/APPELLATE JURISDICTION

~~LA. (CIVIL/CRL) NO.....~~ OF 201

~~SPECIAL LEAVE PETITION (CIVIL/CRL) NO.....~~ OF 201

~~WRIT (TRANSEER) PETITION (CIVIL/CRL) NO.....~~ OF 201

~~CIVIL/CRIMINAL APPEAL NO.....~~ OF 201

IN THE MATTER OF

Naprecha Export Ltd.

PETITIONER (S)
APPELLANT(S)

VERSUS

U.O.I. & Ors -

RESPONDENT(S)

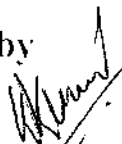
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Certified that the copies are correct

filed on : 14. 4. 2020

filled by



(KRISHAN KUMAR)

Advocate for Appellant(s)/Petitioner(s)/ Respondents

C. No. 1742,

(Chamber No 225, New Lawyer's Chambers,

Opposite Supreme Court of India, New Delhi-110004.)

Mob. : 9910577700

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VAKALATNAMA
IN THE SUPREME COURT OF INDIA

(SCR Order IV Rule 18)
CIVIL / CRIMINAL / ORIGINAL / APPELLATE JURISDICTION
SPECIAL LEAVE PETITION / (CIVIL / CRIMINAL)
WRIT / TRANSFER PETITION (CIVIL / CRIMINAL) NO..... OF 2020

.....Nagveeka Exports Ltd......PETITIONER(S)

VERSUS

.....Union of India and Ors......RESPONDENT(S)
I/We.....Authorized Signatory.....of.....the.....appellant(s) /
petitioner(s) / Respondent(s) in the above Suit / Appeal / Petition / Reference do
hereby appoint and retain **Mr. KRISHAN KUMAR** Advocate Supreme Court Of
India, to act and appear for me / us in the above Appeal / Petition / Reference
and on my / our behalf to conduct and prosecute (or defend) the same and all
proceedings that may be taken in respect of any application connected with the
same or any decree or order passed therein including proceedings in taxation
and application for REVIEW to file and obtain return of documents and to deposit
and receive money on my / our behalf in the said Appeal / Petition / Reference
and application of review and to represent me / us and to take all necessary
steps on my/ our behalf in the above matter.

I / We agree to ratify all acts done by the aforesaid Advocate in pursuance of
this authority.

Dated this the 14th Day of April 2020

Krishan Kumar
KRISHAN KUMAR
Accepted Identified and certified
CC No-1742
Mb.9910577700

Krishan Kumar
President (Operations)
Petitioner(s)/Appellant(s) Respondent(s)
Caveator(s) / Intervener(s)



MEMO OF APPEARANCE

To,
The Registrar
Supreme Court of India
New Delhi- 110001.

Sir, please enter my appearance for the above named Petitioner(s)/ appellant(s)
/ Respondent(s) / Intervener(s) in the above Petition / Appeal / Reference.
Thanking you. Yours sincerely.

Dated 14/04/2020

Krishan Kumar
KRISHAN KUMAR, CC- 1742
Advocate for Petitioner/ Respondent(s)
OFF: B-233, LGF, GREATER KAILASH -1,
NEW DELHI -110048, MB- 9910577700
Email: krishankumar@gmail.com