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SEX WORKERS TO NOW GET RATION CARDS AND VOTER IDs

-Snigdha Khandelwal, student, Nalsar University of Law

The high levels of violence in the sex industry, increase in rate of child sex workers, lack of access to health care and government schemes, shows how India despite having policies and legislations with regard to discrimination and exploitation of sex workers, has failed in the same regard.¹ Rescue and rehabilitation-centric strategies, or strategies based on the premise that sex work is immoral, may not be effective in promoting the well-being of sex workers.² Though the point here to note is that with the passage of time, there has been explicit recognition of human rights in the sense of sex workers, coupled with an activist approach and collaboration of NGOs and organization of sex workers, which has achieved great feats in protecting the human rights and health of sex workers in India.

Article 21 of the Indian Constitution talks about protection of life and personal liberty of human beings, and cover within its ambit huge interpretation of leading a life with dignity and that no person shall be made to lose his life or dignity except according to the procedure established by law.³ Fundamental rights form the basic structure of the Indian Constitution.⁴ The Supreme Court on 19 July, 2011 constituted a committee to advice on issues related to trafficking of sex workers and the prevention of it, rehabilitation of sex workers who desires to quit sex work and to have favorable conditions for sex workers to live in with dignity in accordance with Article 21 of the Constitution of India.⁵ According to the guidelines, provided by the Committee, the apex court gave various verdicts with regard to this to be followed by the Central and State Governments. One such was to facilitate sex workers have access to Voter Identity cards, ration cards, the opening of bank accounts etc. by relaxing the rules on verification of residential addresses.⁶ By this, the court wanted to bring them on equal footings with the other citizens of

¹ Geetanjali Misra, Ajay Mahal & Rima Shah, *Protecting the Rights of Sex Workers: The Indian Experience*, 5 HEALTH AND HUMAN RIGHTS 88, 88-115 (2000).

² *Id.*

³ INDIA CONST. art. 21.

⁴ Virendra Kumar, *Basic Structure of the Indian Constitution: Doctrine of Constitutionally Controlled Governance*, 49 INDIAN LAW INSTITUTE, 365-398 (2007).

⁵ Shruti Kakkar, 'Right to Dignity a Fundamental Right': Supreme Court directs issuance of Ration cards, Voter Ids to sex workers, LIVELAW.IN, Dec 15, 2021.

⁶ *Id.*

the country because of the discrimination they use to face in the society in their daily lives to access essential needs and government schemes. However, these recommendations were placed on record in 2016 and the same amendments were made in the Immoral Traffic (Prevention) Act, 1956.⁷

The case was of *Budhadev Karmaskar v State of West Bengal*⁸, which was recently filed in Supreme Court where, appearing as a senior advocate Anand Grover, for the applicant argued that the apex court's instructions had not been followed. Referring to affidavits filed by state governments, he argued that issuing ration cards to all sex workers based on their identification by National Aids Control Organisation and community organizations would provide solution to the problem.⁹ Another senior advocated appearing as Amicus Curiae, Jayant Bhushan; assisted by Advocate Piyush Kanti Roy mentioned several affidavits filed by the state government and argued that Supreme Court guidance had not been followed.¹⁰ He also confirmed that the dry ration was put on for several months and then stopped and requested for the matter to be enquired.¹¹ Therefore, Supreme Court bench comprising Justices LN Rao, BR Gavai and BV Nagarathna on 14 December, 2021, ordered the governments of the states and territories of the Union to immediately begin the process of issuing ration cards/voter identification cards to sex workers from the list maintained by the NACO.¹²

In the words of Supreme Court order, “As this Court has directed the State Governments and the Union Territories to issue ration cards and identity cards to sex workers almost a decade back, there is no reason as to why such direction has not been implemented till now. Right to dignity is a Fundamental Right that is guaranteed to every citizen of this country irrespective of his/her vocation. There is a bounden duty cast on the government to provide basic amenities to the citizens of this country. The State Governments/Union Territories and other authorities are directed to commence the process of issuance of ration cards/ Voters Identity cards immediately to sex workers from the list that is maintained by NACO.”¹³ This re-affirmed the principle of law that no one shall be discriminated on the basis of their profession. These directions were issued when the bench was hearing an appeal filed by Durbar Mahila Samanwaya Committee requesting for help for sex workers affected by pandemic to direct

⁷ Immoral Traffic (Prevention) Act, 1956, No.104, Acts of Parliament, 1956 (India).

⁸ *Budhadev Karmaskar v State of West Bengal*, (2021) LL 2021 SC 745 (India).

⁹ supra Note 5.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

authorities for providence of dry ration and cash transfer, complaining of them being denied this opportunity because of lack of identity proof.¹⁴

The court also granted authorities the freedom to seek help from State AIDS Control Societies tasked with preparing lists of sex workers after verifying information provided by community organizations.¹⁵ The bench further ordered the states and Union Territories, especially the District Legal Services Authorities, to continue distributing dry rations to sex workers without requiring ration cards and other proof of residency and occupation by follow procedure.¹⁶ Apart from these directions and order given by Supreme Court on this issue, it also asked to keep the names of sex workers confidential and to file a status report relating to the issuance of ration cards and Voters Identity cards and Aadhar Card which shall be filed within a period of four weeks from the date of order.¹⁷ In its earlier verdict given on 28 October, 2020, the apex court had asked State Government to not to involve police authorities in the ration distribution scheme and the one dated on 29 September, 2020, it had asked the State Governments and Union Territories to uniformly distribute the minimum quantity of dry rations as provided in the schemes formulated either by them or by the Central Government.¹⁸

¹⁴ *Id.*

¹⁵ “*Fundamental Rights*”: *Supreme Court on Voter Ids, Aadhar for sex workers*, PRESS TRUST OF INDIA, Dec 14, 2021.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*