

**PLIGHT OF MIGRANT LABOURERS IN INDIA DURING COVID-19 PANDEMIC:
ADVERSE ROLE OF FAKE NEWS ANALYSED IN ALAKH ALOK
SRIVASTAVACASE**

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INTRODUCTION

India has one of the largest migrant labourers' population of about 139 million recorded in 2011.¹ These numbers have surged in the past decade as an economic survey of India in 2017 estimated that about 9 million individuals migrated annually between 2011 and 2016 between different states. The widespread of COVID-19 pandemic directly impacted this section of society and posed them with various challenges. There was an acute shortage of food and essential goods, unemployment on a large scale, and medical emergencies. During this period the media played an insensitive role by publishing 'fake news' due to which fear was embedded in the minds of this highly vulnerable population. The different international organizations like WHO and Human Rights Watch also highlighted the menace created by the circulation of fake news and its adverse effects.² They were hardly left with any resources and with the rise of fear and instability millions got on roads to move towards the countryside. The decision to move towards their villages in rural areas was the outcome of panic created by media and their act of publishing fake news.³ The spread of fake news leads to various controversies during the pandemic period like the congregation of Islamic missionary Tablighi Jamaat which caused political turmoil in the country. Various rumours about targeting the Muslim community in hospitals and injecting them with

¹Census 2011, CENSUS OF INDIA WEBSITE : OFFICE OF THE REGISTRAR GENERAL & CENSUS COMMISSIONER, INDIA, https://www.censusindia.gov.in/2011-common/census_2011.html (last visited Nov 16, 2020).

²Fake News Alert, WORLD HEALTH ORGANIZATION, [https://www.who.int/india/emergencies/coronavirus-disease-\(covid-19\)/fake-news-alert](https://www.who.int/india/emergencies/coronavirus-disease-(covid-19)/fake-news-alert) (last visited Nov 16, 2020).

³Niranjan Sahoo, HOW FAKE NEWS IS COMPLICATING INDIA'S WAR AGAINST COVID-19 ORF (2020), <https://www.orfonline.org/expert-speak/how-fake-news-complicating-india-war-against-covid19-66052/> (last visited Nov 16, 2020).

COVID positive blood were spread which even led to violence at various parts of the country.⁴

With a nation-wide lockdown imposed by the central government, there didn't exist any public transport in function hence, the migrant labourers started to walk on their feet towards villages which were hundreds of miles away. This sudden movement posed various threats to the migrant labourers migrating back and the population across the nation. With pandemic at its acme and spreading rapidly, this force became the agent of COVID-19 virus and the virus started to spread from urban areas to rural grounds. The lives of these migrant labourers were also threatened as they came into contact with coronavirus and the distance, they tried to cover on feet under the scorching heat of norther plains was long.

FACTS

The case was filed in the Apex court by advocate Alakh Alok Srivastava seeking protection of the basic rights of migrant labourers in India.⁵ It was a petition filed concerned with the migration of labourers in a mammoth number with their families. This movement from urban slums to rural villages took place in response to the nation-wide lock-down imposed by the government and the fake news spread by the media regarding the COVID-19 situation. The migration was impacting even the lockdown programme established by the government to contain the spread of the virus. The petition was filed to seek help from the government for the migrant labourers. The help with basic amenities and essentials like food, shelter and medication was demanded. The court issued notice to the government seeking an explanation on this alarming situation and report on the situation at ground level. The government extended a report to the bench and stated that the fake news circulated by the media about horrors of coronavirus exacerbated the situation and led to mass migration. The government even mentioned the various steps it employed to curb the spread of the virus. It provided details of various precautions taken in health care institutions and the inclusion of various infrastructure into it.

RIGHT TO FOOD SECURITY

⁴Rasheed Kidwai and Naghma Sahar, COVID-19 AND INDIAN MUSLIMS ORF (2020), <https://www.orfonline.org/expert-speak/covid19-indian-muslims-69519/> (last visited Nov 16, 2020).

⁵Alakh Alok Srivastava Vs. Respondent: Union of India (UOI) MANU/SCOR/24122/2020

Food security is one of the basic rights granted to each citizen by the constitution of India. Article 21 lays down the right to life and liberty which includes a dignified life to all citizens of the Republic of India. This can be cherished only when an item of basic necessity like food is within the reach of each individual. Further, the articles 39 (a) and 47 of the Indian constitution extends right to food and the duty for the same has been vested with the state. There have been various legislations passed by the state and central government for the same as the National Food Security Act, 2013. There have been various initiatives started by the government like the establishment of ration shops where food items like pulses, rice, grains, etc are provided to population falling below the poverty line for minimal cost. During the pandemic, the government included various initiatives to tackle the plight of migrant labourers. The food security was granted by announcing a relief package worth 1.70 lakh crore under the Pradhan Mantri Garib Kalyan Yojana.

The PUCL judgement by the Supreme court has laid the zenith for the access of food with people by recognizing this right of theirs.⁶ The court made this right justiciable and legally enforceable in India which has made this matter of significant importance.⁷ A path for seeking remedy was paved way by the court for the helpless and starving people in India. This right being justiciable opens the right to abide state to provide food to its citizens which is a major step towards a hunger-free world as India's 14 percent population is undernourished and lack even one meal per day.⁸ This judgment even holds the capacity of strong-arm government towards opening ration shops, develop pragmatic schemes and providing mid-day meals at schools on regular basis.⁹

The initiatives instated and implemented by the government have failed to end hunger in the nation due to various loopholes and rampant corruption. The menace of black marketing is another major loophole in the system as the vendor in ration shops hoard the food material

⁶People's Union for Civil Liberties Vs. Respondent: Union of India (UOI) and Ors. People's Union for Civil Liberties vs. Union of India (UOI) and Ors. (12.08.2010 - SC) : MANU/SC/0594/2010

⁷YAMINI JAISHANKAR & JEAN DRÈZE, SUPREME COURT ORDERS ON THE RIGHT TO FOOD: A TOOL FOR ACTION, <https://www.corteidh.or.cr/tablas/27433.pdf> (last visited Nov 17, 2020).

⁸India Ranks 94 Among 107 Countries in Global Hunger Index 2020, THE WIRE, <https://thewire.in/rights/india-ranks-94-among-107-countries-in-global-hunger-index-2020> (last visited Nov 16, 2020).

⁹ Lauren Birchfield and Jessica Corsi, The Right to Life Is the Right to Food: People's Union for Civil Liberties v. Union of India & Others <https://www.corteidh.or.cr/tablas/r24372.pdf> (last visited Nov 16, 2020).

and even sell it outside for better prices. The government has failed to stop hoarding and black marketing in India and the various attempts have also failed. The lack of proper storage facilities and warehouses for storing the food items has also been a major issue in India which leads to wastage of about 40 percent of agricultural goods.¹⁰ Millions of tons of food material like pulses, grains and others are wasted as they start to decay or insects spoil them.¹¹ During the lockdown, the ration shops were shut for a long period due to the risk of contracting coronavirus.¹² Later, the shops fell short of the various food items of basic necessity which further aggravated problems of migrant labourers. The step was taken by the government to provide families of migrant labourers and other individuals falling below the poverty line with free ration failed to placate the situation and hunger of the poor. They never received enough ration and the vendors in the shop complained of lack of food material due to halt at the transportation system.

MIGRATION DURING PANDEMIC

The migration of the labourers from different urban agglomeration their places of work like Delhi, Mumbai and others to their villages caused various problems for them and their family. Many labourers died on their way back due to contraction with the virus or lack of food and shelter available to them. It was found out that about 50 percent of migrant labourers had food left for one day or less.¹³ With such a challenging situation in hand and lack of basic necessity like food led labourers towards the decision of migrating. The migrant labourers had no job security, most of them were fired from their work sites due to the imposition of lockdown and they lack information about the realities migrant labourers

¹⁰Poor cold chain logistics waste 40% of crops worth over \$14 billion each year, <https://numadic.com/blog/poor-cold-chain-logistics-waste-40-of-crops-worth-over-14-billion-each-year/> (last visited Nov 16, 2020).

¹¹Pratima Singh & Pratima Singh, AGRICULTURE WAREHOUSING IN INDIA – DATA, STATISTICS AND OPPORTUNITIES INDIAMICROFINANCE (2020), <https://indiamicrofinance.com/agriculture-warehousing-india/> (last visited Nov 16, 2020).

¹²Sanjeeb Mukherjee, COVID-19 CRISIS AND INDIA'S RATION STORY: MOUNTING STOCKS AND HUNGRY MOUTHS BUSINESS STANDARD (2020), https://www.business-standard.com/article/economy-policy/covid-19-crisis-and-india-s-ration-story-mounting-stocks-and-hungry-mouths-120041601647_1.html (last visited Nov 16, 2020).

¹³21 Days and Counting: COVID-19 Lockdown, Migrant Workers, and the Inadequacy of Welfare Measures in India, STRANDED WORKERS ACTION NETWORK (SWAN), https://www.thehindu.com/news/resources/article31442220.ece/binary/Lockdown-and-Distress_Report-by-Stranded-Workers-Action-Network.pdf (last visited Nov 16, 2020).

migrated back to their villages.¹⁴The state borders were sealed and the labourers weren't allowed to pass through which further exacerbated their condition. Walking hundreds of miles with a lack of resources and shelter to rest led to the death of many individuals. The government ordered for shifting these labourers to safe shelters and test them for COVID-19 though the state governments failed to comply with it due to lack of COVID-19 testing kits and resources to feed them. At the initial step government established about 21 thousand relief camps and later furthermore were established.

FAKE NEWS AND RIGHT TO REPORT

The order of the Supreme Court was focused on the plight of migrant labourers and the probable solution to end their misery was stated. The government being guarding of people are vested with the duty of protecting the citizens during hardships. The migrant labourers stated to migrate as they didn't have any job security in urban areas and fake news regarding a three-month-long lockdown was floated by different forms of media. The order to extend help to this vulnerable section of society during these challenging times and obligating government for the same was indeed the most pragmatic idea. The court further ordered different media houses publishing news on electronic and print platforms to stop their negative actions and publishing fake news. The directions furthered by the apex court of such nature is protected under the constitution. Article 19 (2) of the Indian constitution provides for certain restrictions to the freedom of speech and expression. The court emphasising on the widespread of COVID-19 and the adverse outcome of false reporting on public interest can put restrictions on the media houses.

The Supreme court in case Sakal Papers in the year 1962 held that the media has right to circulate one's view as it is part of the right extended under article 19(1)(a) of the constitution of India. Further, the court established that to cherish public interest restriction to the right to speak on media cannot be imposed. The restriction on right to speech can be imposed when the idea falls under article 19 (2) of the constitution.¹⁵ The right enshrined under article 19 even provides for people's right to know facts and have access to information. During any

¹⁴Karthikeyan P Iyengar & Vijay Kumar Jain, COVID-19 AND THE PLIGHT OF MIGRANTS IN INDIAPOSTGRADUATE MEDICAL JOURNAL (2020), <https://pmj.bmj.com/content/early/2020/08/12/postgradmedj-2020-138454> (last visited Nov 16, 2020).

¹⁵Sakal Papers (P) Ltd., And Others vs The Union Of India 1962 AIR 305

alarming situation like the widespread of coronavirus, the access to information becomes of cardinal importance. To understand the gravity and graveness of the situation and know the precautionary measures information becomes precious. At the same time, access to wrong information by media can further aggravate the situation as it happened for migrant labourers in India. Hence, uncompromised journalism emerges to be important. Responsible reporting and circulation of the right information to users is not just the duty of journalists but the right of each individual. The laws related to liberty of speech is well settled and the rights with media to report has also been specifically established by the legislature. Further in the year 2017, the division bench of Supreme Court in the case common cause held that putting prior restraint on the media houses from publishing information and news is not the job of judiciary or the administrative agencies.¹⁶

India is a Populus nation with hundreds of media and publishing houses both electronic and print. No authority or administrative body can control and watch all of them even the government has used 'Fake News' as a guard their actions and violations. It has been used as a guarding wall like national interest to justify their actions at various instances. Even in the issues related to Jammu & Kashmir and arbitrary actions taken by the government there have been justified by claiming them to be for national security. The outrage and protests there have been hidden by claiming them to be fake news.

ANALYSIS

The main issues forwarded by the petitioner were the pessimistic role of the fake news leading to panic, the lack of food security for the migrant labourers, and movement of these labourers with their families back to rural parts. The Supreme Court after considering the report provided by the government referred to section 54 of the Disaster Management Act which condemns the spread of fake information with mala fide intentions of instigating panic and turmoil. The provision punishes such act and equips the court to take action against the offenders. Further section 188 of the Indian Penal Code was referred by the court according to which no order promulgated by the legislature should be abridged by anyone. The court further emphasised that the guidelines regulated by the government for public safety should

¹⁶Common Cause (A Regd. Society) vs Union Of India (2018) 5 SCC

be followed responsibly. The honourable court even directed the media houses to report responsibly and not publish any news which is false and holds the capacity of spreading panic and fear amongst the public.

There are various grey areas concerning rights of media and their constitutionality wasn't challenged in the case hence, even the court refrained from commenting on them. The extent of freedom of speech vested with media and its right to report wasn't challenged in the case which stands to be unexplained. The court for the time being directed the central government to publish the developments in the matters related to COVID-19 regularly within the intervals of 24 hours. Further, the court ordered the media houses to refer to the official notifications and clarified that it had no intention of curbing the right to report and publish from them. In past, the rights of media to report and negative outcomes of its reporting has been challenged in the court.

Circulating fake news is not a new concept but with the digitalization, it has become a mammoth concern and has emerged as a challenge in front of the consumers of this information and the government. The wide reach and swift spread of fake information targeting sentiments of people have caused turmoil in India regularly. There has been a massive amount of damage that has been caused and this time the weakest section of the society was impacted miserably. The court being temple of justice needs to step forward and punish the different forces in India like media houses that spread and promote fake news. A court shouldn't define what should be reported but condemn the misinforming by institutions like media that has wide public reach.