

केंद्रीय सूचना आयोग  
CENTRAL INFORMATION COMMISSION  
बाबा गंगनाथ मार्ग  
Baba Gangnath Marg  
मुनिरका, नई दिल्ली- 110067  
Munirka, New Delhi-110067

Decision no.: CIC/OTCLC/C/2020/669711/03585  
File no.:CIC/OTCLC/C/2020/669711

In the matter of:  
Venkatesh Nayak

... Complainant

VS

Central Public Information Officer,  
Office of the Chief Labour Commissioner (CLC),  
Ministry of Labour and Employment  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi - 110001

...Respondent

RTI application filed on	:	21/04/2020
CPIO replied on	:	05/05/2020
First appeal filed on	:	Not on record
First Appellate Authority order	:	Not on record
Complaint filed on	:	05/05/2020
Date of Hearing	:	27/05/2020
Date of Decision	:	27/05/2020

**NOTE:** The Commission upon considering the importance of the issue related to the stranded migrant workers as well the complainant's request for early hearing has provided an opportunity of out of turn hearing to him.

The following were present:

**Complainant:** Heard over phone

**Respondent:** Shri Ravi, Deputy Director & CPIO, heard over phone

**Information Sought:**

The Complainant has sought the following information from CLC with reference to the D.O. letter dated 08/04/2020 issued by the Chief Labour Commissioner to all Regional Heads regarding urgent collection of data about migrant workers, who are stranded and placed in various temporary

shelters/relief camps arranged by the (i) State Government authorities; (ii) employers in SITU/at workplace itself and (iii) where they are generally clustered in some localities :

1. State-wise names of districts from which data about the stranded migrant workers has been received.
2. District wise numbers of male and female migrant workers belonging to each of the three categories mentioned above as reported from each state.
3. And other related information.

### **Grounds for Complaint**

The CPIO has not provided the satisfactory reply to the complainant.

### **Submissions made by Complainant and Respondent during Hearing:**

The complainant submitted that he is not satisfied with the reply of the CPIO as he is not seeking any personal information about any particular stranded migrant worker. Instead he merely sought State-wise and district-wise statistics of compliance with the D.O. letter of the Chief Labour Commissioner and statistical information about migrant workers identified during the said enumeration exercise, along with their gender-wise and occupation-wise breakups. Furthermore, extremely distressed by stories of the pain and sufferings of stranded migrant workers circulated widely by the print, electronic and digital mass media, this Complainant initiated this RTI intervention to urge the Respondent Public Authority to place statistical data in public domain through an official website. He did not seek copies of any records for himself. Instead he only sought intimation of the URL of the webpage where the statistics are posted on an official website. He further submitted that all the Regional Heads to whom the Respondent Public Authority addressed the D.O. letter of 08.04.2020 are subject by law to its administrative jurisdiction. There is no reason why the Regional Heads would not have complied with the instructions of the Respondent Public Authority to complete the enumeration exercise and send the data within the time period specified in the said D.O. Therefore the reply of the CPIO is difficult to believe and highly unacceptable. There is no reason why this Respondent Public Authority ought not to have such information in their custody when such information has been specifically called for through the D.O. The CPIO does not

appear to have paid attention to these matters while uploading his reply on the RTI Online Facility.

In addition to the above submissions, during the hearing the appellant informed the Commission that India is a founder member of the International Labour Organisation (ILO) established in 1919 and currently part of the United Nations Organisation. India has ratified several International Conventions that govern the rights of workers. A complete list of the ILO Conventions that India ratified is available on the website of the Ministry of Labour and Employment which has jurisdiction over the respondent Public Authority. In April 1992, India ratified the Labour Statistics Convention, 1985 and as per the footnote appended to the said list of ILO Conventions, the Union Ministry of Labour and Employment has indicated that India has ratified the Labour Statistics Convention, 1985 to the extent of Article 8 of Part II. Part II of the said Convention pertains to the Basic Labour Statistics that a country that ratifies the said Convention is duty bound to collect and publish, in addition to furnishing the same to ILO. Article 8 of the said Convention is reproduced below:

*“Article 8 Statistics of the structure and distribution of the economically active population shall be compiled in such a way as to be representative of the country as a whole, for detailed analysis and to serve as benchmark data.”;*

He also brought to the notice of the Commission that even before the respondent authority issued the D.O. letter dated 08.04.2020, its parent Ministry, namely the Union Ministry of Labour and Employment being the nodal Ministry for the purpose of implementing the said ILO Convention, was under an international obligation to collect data about all categories of workers across India and ensure that such data is available in public domain. He submitted that the Respondent Authority's D.O. dated 08.04. 2020 is in the nature of action that it would have had to perform under the said ILO Convention even under normal circumstances. The duty to collect data about migrant workers across India arises not solely from the said D.O. but first and foremost from the international obligation as a member of ILO who has ratified the said International Convention. Therefore, the Respondent Authority cannot shy away from its responsibility of collecting information about migrant workers and making the same publicly accessible even during normal times.

He further submitted that according to several news reports of a press briefing held on 23.05.2020 by Ms. Punya Salila Srivastava, Joint Secretary, Union Ministry of Home Affairs (MHA), there are four crore migrant labourers according to the 2011 Census data which was made public only in July 2019, i.e., almost nine years later after they had been collected. It is reasonable to expect that the number of migrant workers across the country would have only grown much higher during the intervening period, given the severe agrarian distress visible across the country over the last few years. According to the data furnished at the press briefing held on 23.05.2020 by the senior officer of the MHA, only 75 lakh migrant workers are said to have returned home on special Shramik trains run by the Indian Railways and buses organised by the State Governments as on that date. To substantiate his submission, he annexed a copy of two news reports of the press briefing where this data was presented by the said officer. In other words, going by the figures collected during the 2011 Census, at least 3.25 crore migrant workers might be continuing to live in States other than their domicile States, even today. Even this figure might be an underestimation, given the fact that the Census database from which the senior officer of MHA has quoted figures about migrant workers is of 2011 vintage. Therefore, he humbly believes that the findings of the data enumeration exercise are all the more important for developing policy prescriptions and making arrangements to alleviate the suffering of migrant workers who continue to be stranded in various parts of the country.

He concluded submitting that given the aforementioned facts which are already available in public domain, there is no reason why the Respondent Authority cannot plan for the publication of data about migrant workers collected pursuant to the D.O. dated 08.04. 2020, in a timely and if required even in a piece-meal manner. Placing such information in public domain can deepen public confidence on the intent and ability of the concerned authorities including the Respondent Public Authority to take resolute action to alleviate the enormous suffering that migrant workers as a category are facing due to the lockdown imposed to contain the spread of COVID-19 epidemic. He believes that suo moto and time bound public disclosure of data about migrant workers is of utmost importance for ensuring the well-being of this key segment of our society and economy.

The CPIO submitted that an appropriate reply was given to the complainant on 05.05.2020. He also stated that as he is working in a subordinate office, he is not aware whether any data has been received from different Regional Heads in compliance with the D.O. issued by the Chief Labour Commissioner on 08.04.2020 and hence a reply to that effect was given to the complainant.

**Observations:**

Having heard the submissions of both the parties and after perusal of the relevant documents, it is established beyond doubt that the CPIO has handled the RTI application in a very callous and casual manner. The complainant through his RTI application has raised a very important issue related to the stranded migrant workers, seeking information in relation to a D.O. letter dated 08.04.2020 issued by the Chief Labour Commissioner to all Regional Heads requiring them to enumerate all migrant workers stranded at different places around the country under the most trying of circumstances due to the enforcement of the strict lockdown imposed by the government to prevent the spread of the COVID-19 epidemic. According to the said D.O., the Regional heads were required to send detailed information about migrant workers stranded in relief camps or shelters organised by governments or at the workplace of their employers or generally clustered in any district. The complainant wanted to know the State-wise names of districts from which data about the stranded migrant workers has been received, the district-wise numbers of male and female migrant workers belonging to each of the three categories mentioned above as reported from each State, the occupation-wise number of male and female migrant workers reported from each State as per the List of Occupations mentioned in Annexure-I of the said D.O., the Sector-wise number of male and female migrant workers reported from each State as per the List of Sectors mentioned in Annexure-II of the said D.O., and the Native State-wise cumulative figures for male and female migrant workers according to each Occupation and Sector mentioned in Annexure-I and Annexure-II, respectively of the said D.O., reported from each State. The CPIO in his reply dated 05.05.2020 has simply stated that as per the Stat Section is concerned, no such details are available. The Commission is not convinced with the fact that when a D.O. letter is issued by the Chief Labour Commissioner during the time when the whole country is under the grip of a pandemic which has seriously affected the migrant workers and the D.O. letter was sent to all Regional heads to collect the data related to migrant workers, then how is it

possible that no action, whatsoever, was taken on this D.O. To some extent, while it may be possible that the desired information was not available with the answering CPIO, but having regard to the sensitive & important nature of the information sought by the Complainant, it was incumbent upon the CPIO either to transfer the RTI application u/s 6(3) of the RTI Act to different Regional heads who were to act upon the D.O. dated 08.04.2020 or to seek assistance from them u/s 5(4) of the RTI Act so that whatever information was supplied to the CPIO could have been forwarded to the Complainant and that may even have been part information at that point of time as the data was to be collected from across the whole country. But to the utmost surprise of the Commission, the CPIO has given a cursory, flimsy and inappropriate reply to the Complainant while totally ignoring the seriousness of the issue raised by the Complainant.

It is pertinent to mention here that the Supreme Court has suo-moto taken cognizance of this important issue of migrant workers in writ petition no. 06/2020 in the matter of : Problems And Miseries Of Migrant Labourers and has passed an order on 26.05.2020 while making the following observations:

*"We take suo-motu cognizance of problems and miseries of migrant workers who had been stranded in different parts of the country. The newspaper reports and the media reports have been continuously showing the unfortunate and miserable conditions of migrant labourers walking on-foot and cycles from long distances. They have also been complaining of not being provided food and water by the administration at places where they were stranded or in the way i.e. highways from which they proceed on foot, cycles or other modes of transport. In the present situation of lockdown in the entire country, this Section of society needs succor and help by the concerned Governments especially steps need to be taken by the Government of India, State Governments/Union Territories in this difficult situation to extend helping hand to these migrant labourers.*

*This court has also received several letters and representations from different sections of the society highlighting the problem of migrant labourers. The crises of migrant labourers is even continuing today with large sections still stranded on roads, highways, railway stations and state borders. The adequate transport arrangement, food and shelters are immediately to be provided by the Centre and State Government free of cost.*

*Although the Government of India and the State Governments have taken measures yet there have been inadequacies and certain lapses. We are of the view that effective concentrated efforts are required to redeem the situation. We, thus, issue notice to the Union of India and all States/Union Territories to submit their responses looking into the urgency of the matter.”*

On similar lines, the Orissa High Court took up the issue of migrants on 07.05.2020. This decision was, however, stayed by the Supreme Court on 08.05.2020. This was followed by the Gujarat High Court, which took suo moto notice of newspaper reports on 11.05 2020. These were followed by the Andhra Pradesh High Court and the Madras High Court, both on 15.05.2020 asked some very relevant and searching questions of the state as well as the Central governments. The Madras High Court, for example, has asked the Union of India, represented by its Secretary, Ministry of Home Affairs, New Delhi and the government of Tamil Nadu, represented by its Chief Secretary, Chennai, to respond to the following questions by 22.05 2020:

*“1. Whether any data is being maintained by the Government of India regarding the details of migrant workers working in each State/Union Territories in India?*

*2. If so, what is the number of migrant workers in each State/Union Territories in India and the details regarding their nativity?*

*3. What is the number of migrant workers stranded in each State/Union Territories in India as on today?*

*4. And other points as well.*

Recently, the Madras High Court also issued an order in a habeas corpus petition asking the government to produce 400 Tamil workers stuck in Maharashtra, a bench of Justices N Kirubakaran and R Hemalatha said:

*“One cannot control his/her tears after seeing the pathetic condition of migrant labourers shown in the media for the past one month. It is nothing but a human tragedy.*

*It is very unfortunate that those persons were neglected by all the authorities. The heart breaking stories are reported in the print as well as visual media that millions of workers were compelled to start walking to their native States with their little children carrying all their belongings over their head, surviving on the*

*food provided by good Samaritans, as no steps were taken by the Governments to help those migrant workers.*

*..it is a pity to see the migrant labourers walking for days together to reach their native places and in the process, some of them had lost their lives due to accidents. The Government authorities of all the States should have extended their human services to those migrant labourers.”*

The Andhra Pradesh High Court has also observed:

*“This court notices that the labour who have left their ancestral homes and villages and moved to the cities for better livelihood to ensure that all of us live in comfort are on the roads today.*

*If at this stage this court does not react and pass these orders, this court would be failing in its role as a protector and alleviator of suffering.”*

The purpose of putting every relevant observation passed by the Hon'ble Supreme Court and different High Courts on record is to highlight the fact that on such an important issue the CPIO has given a cryptic one liner reply almost as if its importance is not known to the CPIO. The Commission is pained to see such a callous and non-serious attitude of the CPIO while handling the RTI application, more so, during such times of pandemic when every citizen is worried about the frayed lives of the country's poor and has precipitated an unprecedented humanitarian crisis for migrant workers.

The Commission records its severe admonition against the CPIO for such negligent handling of the RTI application concerning an issue of such wide implications. The CPIO appears to be completely unaware of the provisions of the RTI Act as had he been aware, he could have transferred the same to the appropriate authority in the Chief Labour Commissioner's office to obtain the collated information from them. He should note that such poor handling shows complete laxity towards the implementation of the RTI Act which was enacted to promote transparency and accountability in the country and in case such a lapse is repeated in future, the Commission will be constrained to initiate penal action against him.

Having said so, the main issue before the Commission is to consider whether the information sought by the Complainant should have been uploaded on the website of the Respondent Authority or not as this is the relief sought by the complainant. At this point, it is pertinent to quote verbatim the instruction given by the Chief Labour Commissioner to all the regional heads. The main paras are extracted below for ready reference:

*“As you all are well aware that huge number of migrant workers are impacted due to the lock down in view of spread of COVID-19. Number of migrant workers are stranded and placed in various temporary shelters/relief camps arranged by state Government authorities, employers at work place itself and also there are some localities where migrant workers are generally clustered. In view of above a comprehensive data in respect of the migrant workers are urgently required within three days. The details collected should be in three different categories that is mentioned as below .-*

*(A) Relief Camps/Shette (District Wise)*

*(B) Employers Whose Labour is IN-SITU at work place*

*(C) Local where Migrant Workers are generally Clustered (other than, A, and B')*

*The data is to be collected by the District Administrative and the manner in which the data is to be collected has been mentioned in the enclosed performa along with the two number of Annexure -I and Annexure - II that is regarding list of occupation and list-of sectors .*

*It is reiterated that data as mentioned above is urgently required so all Deputy CLC(c)/Regional Labour commissioner(c)/Assistant Labour commissioner(c) as per the list enclosed have been nominated as nodal officers. They are required to constantly being in coordination with the State Government and District Administration Authorities for obtaining the details of migrant workers in relief camps arranged by them (district wise) and also with the employers who have arranged their own camps at work place itself and also the other localities where migrant workers are stranded and clustered.*

*You are also advised to with take immediate action in above direction and may also depute other officers/staff under you for the above task. You may also take assistance from local EPFO and ESIC officials.”*

The Commission observed that the above mentioned D.O. letter dated 08.04.2020 which has been referred to by the complainant was issued keeping in mind the urgent necessity of providing relief to almost 3 crore population of

our country and was to be followed in letter and spirit. The urgency of the matter can also be established from the fact that the data was to be submitted within 03 days itself from the date of the issue of the letter. This issue has gained more importance after the issue of 16 migrants being run over by a goods train while they were sleeping on the railway tracks during their journey back to their respective hometowns. As a matter of fact, the number of people who are moving is huge and this becomes a matter of concern for every single individual.

Undoubtedly, the need of the hour is to get concrete data regarding the number of stranded migrant workers across the country so that necessary measures may be taken by the concerned State Governments/ UTs to provide some relief to them.

During the hearing, the appellant also brought to the notice of the Commission that in April 1992, India ratified the Labour Statistics Convention, 1985 and as per the footnote appended to the said list of ILO Conventions, the Union Ministry of Labour and Employment has indicated that India has ratified the Labour Statistics Convention, 1985 to the extent of Article 8 of Part II. The Commission while verifying the authenticity of this submission found that India has ratified Article 8 of Part II of the Labour Statistics Convention, 1985 on 01.04.1992 which is still in force and for the purpose of implementing the said ILO Convention, India is under an international obligation to collect data about all categories of workers across India even under normal circumstances. This makes it clear that the duty to collect data about migrant workers across India arises not solely from the said D.O. letter but first and foremost from the international obligation as a member of ILO who has ratified the said International Convention. Therefore, the Respondent Authority is under a bounden duty to collect information about migrant workers and make the same publicly accessible even during normal times.

While referring to several news reports of a press briefing by Ms. Punya Salila Srivastava, Joint Secretary, Union Ministry of Home Affairs (MHA), the appellant stated that there are four crore migrant labourers according to the 2011 Census data. According to the data furnished at the press briefing held on 23.05.2020 by the senior officer of the MHA, only 75 lakh migrant workers are said to have returned home on special Shramik trains run by the Indian

Railways and buses organised by the State Governments as on that date. In other words, going by the figures collected during the 2011 Census, at least 3.25 crore migrant workers might be continuing to live in States other than their domicile States, even today and this makes his point even stronger that there is a dire need for developing policy prescriptions and making arrangements to alleviate the suffering of migrant workers who continue to be stranded in various parts of the country.

Keeping in view the submissions of the appellant and the poor response from the respondent, the Commission considers the contentions of the complainant to be well founded, and strongly opines that what is required is to immediately place the data regarding migrant workers on the website of the Respondent Authority. It is pertinent to note that given the uncertainties of the present times, any further delay in disclosing these details or evading the disclosure will only compound the difficulties of either side, the government and that of the unfortunate migrant workers.

Moreover, being a matter of national importance during this pandemic, it is likely that there will be more requests for information on similar lines from the citizens in the immediate future which necessitates expeditious action on the part of the Respondent office to voluntarily disclose as much data as possible so that citizens do not have to file RTI Applications to seek such basic yet significant information. Section 4(2) of RTI Act may be noted in this regard which mandates every public authority to provide as much information suo-moto to the public at regular intervals through various means of communication, including the Internet, so that the public need not resort to the use of RTI Act.

Here, reference may be had to the following observation of the Hon'ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497:

*“37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of*

*the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.”*

Similarly, the Hon’ble High Court of Delhi in *General Manager Finance Air India Ltd & Anr v. Virender Singh*, LPA No. 205/2012, Decided On: 16.07.2012 regarding the disclosure of information for public interest, held:

*“8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance.”*

Moreover, the purpose and object of the promulgation of the RTI Act, 2005 was to make the public authorities more transparent and accountable to the public and to provide freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.

The foregoing excerpts lend adequate emphasis on the need for the Respondent office to act in a manner which is favourable to dispensation of justice. Although this bench is conscious of the fact that under Section 18 of the RTI Act, directions for disclosure of information is not warranted, however, keeping in view the extraordinary circumstances that necessitated this complaint, it is prudent to cloak the requirement of the Complainant in the letter and spirit of the RTI Act. In doing so, the Commission invokes section 25(5) of the RTI Act and issues an advisory to the respondent authority to maintain a robust and dynamic website for placing all data related to migrant workers therein as and when it is received from different Regional Heads. At this point, it is necessary for the CPIO to put his best possible efforts to collect this data from different Regional Heads and place the same on their website immediately even if it is done in a piecemeal manner. It is also necessary to

continue to update this data from time to time as additional data is received from various quarters.

**Decision:**

In view of the above observations, an advisory is issued u/s 25(5) of the RTI Act to the Chief Labour Commissioner, to suo-moto upload maximum data as available with them in relation to the migrant workers stranded in relief camps or shelters organised by governments or at the workplace of their employers or generally clustered in any district and wherever possible cumulative numbers of the migrant workers and the names of the districts from where the data is collected should also be uploaded in compliance with Section 4 of the RTI Act, 2005, having regard to the peculiar circumstances prevalent in the country. The website should be continuously updated as and when additional data on this subject matter is received from time to time. The Chief Labour Commissioner is advised to ensure compliance of this advisory in letter and spirit and to submit a compliance report to the Commission within a period of 01 week from today. The present CPIO is directed to serve a copy of this order on the Chief Labour Commissioner for his immediate and necessary action.

**The complaint is disposed of accordingly.**

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचनाआयुक्त)

Authenticated true copy  
(अभिप्रमाणितसत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date

**Copy to:**

2.The Chief Labour Commissioner  
Ministry of Labour and Employment  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi - 110001