

To

The Hon'ble Chairperson

National Human Rights Commission

GPO complex, Manav Adhikar Bhawan

C Block, INA, New Delhi, Delhi 110023

Justice Girish Chandra Gupta,
Chairman, WBHRC

Petitioner

Respected Sir,

Train services including suburban trains were suspended on 21st March 2020 consequent to Janata curfew imposed by the central government as a precautionary measure to contain the spread of coronavirus. The suburban trains provide services to the cities of Mumbai, Kolkata, Chennai and Secundrabad. These trains help in facilitating movement of passengers within the cities and suburbs. These trains as a matter of fact provide a lifeline to the dwellers of suburbs. There is no viable alternative to the suburban trains for the poor including the lower middle class. There are in West Bengal six main lines and 19 branch lines. The suburban railway operates more than 1500 services, carrying 35,00,000 people daily. The suburban train services run from 03.00a.m until 02.00 a.m. and the fares range from ₹ 5 to ₹ 20. They cover short distances up to 150Km.

This system is operated by two zones of Indian Railways; the Eastern Railway Zone and the South-Eastern Railway Zone. These zones are further divided into the Howrah and Sealdah division for the Eastern Railway and the Kharagpur division for the South-Eastern Railway. The Howrah, Sealdah and Kolkata railway stations are the three major terminals serving the network in the city.

Train services were resumed conservatively on 14th May 2020. Hindustan Times dated 14th May 2020 reported that the PM told the Chief Ministers of the country that "resumption of train services is needed to rev up the economic activity".¹

Western Railway resumed selected services on 15th June 2020 with defined protocol and SOP only for movement of essential staff as identified by the state government.² The privileged class of passengers was enlarged on 19th September 2020 to include 10% employees of private banks.³ On 20th September 2020, 10% staffs of cooperative and private banks were allowed to travel with unique QR code e-passes.⁴

¹ See Annexure 1 on page 1 of the compendium

² See Annexure 2 on page 3 of the compendium

³ See Annexure 3 on page 5 of the compendium

⁴ See Annexure 4 on page 7 of the compendium

On 11th September 2020 Outlook India.com quoted Sanjay Kumar Mohanty the General Manager of South-Eastern Railways to have said "we will work out a strategy for resuming suburban train services in a graded manner," it was also reported that "the railways will soon hold a meeting with the West Bengal government for working out a strategy to resume suburban train services in the state in a graded manner".⁵ It is significant that the state government had already on 28th August 2020 requested the railways to allow a limited number of local trains to be operated along with Kolkata Metro maintaining the norms of physical distancing and health hygiene protocols.⁶

Unlock 4.0 guidelines were released by the Ministry of Home affairs on 29th August 2020 providing "State/UT governments shall not impose any local lockdown outside the containment zones, without prior consultation with the central government".⁷ Restrictions on interstate and intrastate movement were lifted. Metro trains were allowed to be operated with effect from 7th September 2020. Congregations with a ceiling of 100 persons wearing masks and maintaining social distance and user of hand wash or sanitiser was allowed with effect from 21st September 2020.⁸

In the aforesaid backdrop Times of India carried a news item on 10th September 2020 under the caption "No immediate plan to resume suburban train services: Eastern Railway GM".⁹ Aggrieved by the aforesaid decision to continue the suspension of suburban trains in gross violation of human rights the petitioner thought it necessary to lodge a complaint with you for necessary recommendation so that the suburban train services can be resumed without any further loss of time. The reasons why the aforesaid decision is bad in law, violative of human rights and blatantly opposed to the constitutional safeguards are inter-alia as follows:

Right to move freely throughout the territory of India is a fundamental right guaranteed under article 19(1)(d) of the Constitution of India. It is true that under clause (5) reasonable restrictions on the exercise of the right may be imposed in the interest of the general public. Public interest is nothing but the general welfare of the public. It can also be said that public interest is "that which is best for society as a whole". The views expressed by the General Manager Eastern Railway quoted above do not pass the test indicated above.

The impugned decision runs counter to Article 21 of the Constitution of India which guarantees the right to life and personal liberty of every person. Right to life means more than mere survival or animal existence. All that makes a man's life meaningful, complete and worth living are included in the right to life. Needless to say that a restriction which deprives a person of his right to earn his livelihood is the worst kind of violation of his right to life. Personal liberty guaranteed under article 21, it has been held, includes the right of locomotion, except in so far as it is included in article 19 (1) (d).

Article 25 of the Universal Declaration of Human Rights provides inter alia as follows:-

"everyone has the right to a standard of living adequate for the health and well-being of himself and of his family including food, clothing, housing and medical care and necessary social services and the

⁵ See Annexure 5 on page 8 of the compendium

⁶ See Annexure 6 on page 9 of the compendium

⁷ See Annexure 7 on page 11 of the compendium

⁸ Ibid

⁹ See Annexure 8 on page 13 of the compendium