

**THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**  
**(ACT NO. 19 OF 1976)**

*[9th February, 1976.]*

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows: --

**CHAPTER I**  
**PRELIMINARY**

**1. Short title, extent and commencement.** - (1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

**2. Definitions.** - In this Act, unless the context otherwise requires, --

a) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(b) "agreement" means an agreement (whether written or oral, partly written and partly oral) between a debtor and creditor and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

**Explanation.** --The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely: --

Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti;

(c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society;

(d) "bonded debt," means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system;

(e) "bonded labour" means any labour or service rendered under the bonded labour system;

(f) "bonded labourer" means a labourer who incurs, or has, is presumed to have, incurred, a bonded debt;

(g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,--

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would--

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced, or partly forced, labour under

which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

<sup>1</sup>**[Explanation.--** For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is "bonded labour system" within the meaning of this clause.]

(h) "family", in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,--

(a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force, and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers in the same locality;

(j) "prescribed" means prescribed by rules made under this Act.

**3. Act to have overriding effect.-** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### ABOLITION OF BONDED LABOUR SYSTEM

**4. Abolition of bonded labour system.-** (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall--

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<sup>1</sup> Inserted by Act 73 of 1985

- (a) make any advance under, or in pursuance of, the bonded labour system, or
- (b) compel any person to render any bonded labour or other form of forced labour.

**5. *Agreement, custom, etc., to be void.*** - On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

### **CHAPTER III**

#### **EXTINGUISHMENTS OF LIABILITY TO REPAY BONDED DEBT**

**6. *Liability to repay bonded debt to stand extinguished.*** - (1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependant was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act:

Provided that the bonded labourer, or an agent authorized by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as means profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

**7. Property of bonded labourer to be freed from mortgage, etc.-** (1) All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

**8. Freed bonded labourer not to be evicted from homestead, etc.-** (1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

**9. Creditor not to accept payment against extinguished debt.-** (1) No creditor shall accept any payment against any bonded debt, which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term, which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

## CHAPTER IV IMPLEMENTING AUTHORITIES

**10. Authorities who may be specified for implementing the provisions of this Act.-** The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

**11. Duty of District Magistrate and other officers to ensure credit.-** The District Magistrate authorized by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

**12. Duty of District Magistrate and officers authorized by him.-** It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

## CHAPTER V

### VIGILANCE COMMITTEES

**13. Vigilance Committees.-** (1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely: --

- (a) the District Magistrate, or a person nominated by him, who shall be the Chairman;
- (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate;
- (c) two social workers, resident in the district, to be nominated by the District Magistrate;
- (d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;
- (e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:--

- (a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;
- (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (c) two social workers, resident in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (d) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;
- (e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;
- (f) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by--

(a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

**14. Functions of Vigilance Committees.-** (1) The functions of each Vigilance Committee shall be,--

(a) to advise the District Magistrate or any officer authorized by him as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to provide for the economic and social rehabilitation of the freed bonded labourers;

(c) to co-ordinate the functions of rural banks and co-operative societies with a view to canalizing adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this Act;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorize one of its members to defend a suit against a freed bonded labourer and the member so authorized shall be deemed, for the purpose of such suit, to be the authorized agent of the freed bonded labourer.

**15. Burden of proof.-** Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

## CHAPTER VI

### OFFENCES AND PROCEDURE FOR TRIAL



**16. Punishment for enforcement of bonded labour.-** Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term, which may extend to three years and also with fine, which may extend to two thousand rupees.

**17. Punishment for advancement of bonded debt.-** Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term, which may extend to three years and also with fine which may extend to two thousand rupees.

**18. Punishment for extracting bonded labour under the bonded labour system.-** Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

**19. Punishment for omission or failure to restore possession of property to bonded labourers.-** Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

**20. Abetment to be an offence.-** Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence, which has been abetted.

**Explanation, --** For the purpose of this Act, "abetment" has the meaning assigned to it in the Indian Penal Code (46 of 1860).

**21. Offences to be tried by Executive Magistrates.-** (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

**22. Cognizance of offences.-** Every offence under this Act shall be cognizable and bail able.

**23. Offences by companies.-** (1) Where an offence under this Act has been committed by a company, 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 offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been 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 be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.--** For the purposes 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.

## CHAPTER VII MISCELLANEOUS

**24. Protection of action taken in good faith.** - No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

**25. Jurisdiction of civil courts barred.-** No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done by or under this Act.

**26. Power to make rules.-** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted in pursuance of sub-section (6) of that section;

(b) the time within which application for restoration of possession of property is to be made, under sub-section (6) of section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committees under clause (a) of sub-section (1) of section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as

the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**27. *Repeal and saving.***-(1) The Bonded Labour System (Abolition) Ordinance, 1975 (Ord. 17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.

## **BONDED LABOUR SYSTEM (ABOLITION) RULES, 1976**

G.S.R. 9(E), dated New Delhi, the 28<sup>th</sup>. February, 1976. In exercise of the powers conferred by sub-section (1), read with sub-section (2) of section 26 of the Bonded Labour System (Abolition) Act, 1976 (19 of 1976), the Central Government hereby makes the following rules, namely: --

**1. *Short title and commencement.*** -- (1) These rules may be called the Bonded Labour System (Abolition) Rules, 1976.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. *Definition.*** -- In these rules, unless the context otherwise requires. --

- (a) "Act" means the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
- (b) "District Vigilance Committee" means a Vigilance Committee constituted for a district under sub-section (1) of Section 13;
- (c) "section" means a section of the Act;
- (d) "Sub-Divisional Vigilance Committee" means a Vigilance Committee constituted, for a sub-division under sub-section (1) of section 13.

**3. *Term of office and vacation of seat of members of District Vigilance Committee.*** --

(1) <sup>1</sup>Every member, of a district Vigilance Committee nominated under clauses (b), (c), (d) of sub-section (2) of Section 13 shall hold office for a period of two year from date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.

(2) Every member referred to in sub-rule (1) --

<sup>2</sup>(a) may, by giving notice in writing <sup>3</sup>[of not less than 30 days] to the authority which nominated him, resign his office and, on such resignation being accepted <sup>4</sup>[or on the expiry of the notice period of 30 days, whichever is earlier], shall be deemed to have vacated his office;

(b) shall be deemed to have vacated his office --

- (i) if he fails to attend three consecutive meetings of the District Vigilance Committee without obtaining leave of the Chairman of such absence:

Provided that the authority, which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending the

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<sup>1</sup> Subs. dt. 12-3-83

<sup>2</sup> Substituted, vide Govt. of India Notification No. G.S.R. 1455, dated 16.11.1978.

<sup>3</sup> Substituted, vide Govt. of India Notification No. G.S.R. 1455, dated 16.11.1978.

<sup>4</sup> *ibid*

three consecutive meetings of the Committee, restore him to membership.

- (ii) if he becomes subject to any of the following disqualifications, namely-
  - (1) is adjudged insolvent;
  - (2) is declared to be of unsound mind by a competent court;
  - (3) is convicted of an offence which, in the opinion of the authority, which nominated him, involves moral turpitude;

(c) may be removed from office if the authority, which nominated such members, is of the opinion that such member has ceased to represent the interest to represent, which he was nominated:

Provided that a member shall not be removed from office under this clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member, nominated to fill casual vacancy shall hold office for the unexpired portion of the term of his predecessor.

**4. Term of office, and vacation of seat, of members of Sub-Divisional Vigilance Committees.** -- <sup>5</sup>(1) Every, member, of a Sub-Divisional Vigilance Committee nominated under clauses (b), (c), (d) and (e) of sub-section (3) of Section 13 shall hold office for a period of two year from the date on which his nomination is notified in the Official Gazette and shall, on the expiry of the said period, continue to hold office until his successor is nominated and shall also be eligible for re-nomination.

(2) Every member referred to in sub-rule (1) –

- (a) may, by giving notice in writing [of not less than 30 days] to the authority which nominated him, resign his office and, on such resignation being accepted [or on the expiry of the notice period of 30 days, whichever is earlier], shall be deemed to have vacated his office; [Substituted, vide Govt. of India Notification No. G.S.R. 1455, dated 16.11.1978]
- (b) shall be deemed to have vacated his office –
  - (i) if he fails to attend three consecutive meetings of the Sub-Divisional Vigilance Committee without obtaining leave of the Chairman of such Committee for such absence:

Provided that the authority, which nominated him may, if it is satisfied that such member was prevented by sufficient cause from attending three consecutive meetings of the Committee, restore him to membership;

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<sup>5</sup> Vide noti. Dt. 12-3-83

(ii) if he becomes subject to any of the following disqualifications, namely—

- (1) is adjudged insolvent;
- (2) is declared to be of unsound mind by a competent court;
- (3) is convicted of an offence, which in the opinion of the authority, which nominated him involves moral turpitude;

(c) may be removed from office if the authority which nominated such member, is of the opinion that such member has ceased to represent the interest to represent which he was nominated:

Provided that a member shall not be removed from office under this clause unless a reasonable opportunity is given to him for showing cause against such removal.

(3) A member nominated to fill a casual vacancy shall hold office for the un-expired portion of the term of his predecessor.

**5. Prescribed authority under Sub-section (6) of Section.** -- An application under sub-section (6) of section 6 for restoration of possession of any property referred to in sub-section (4) or sub-section (5) of that section shall be made to the Executive Magistrate, on whom the powers of a Judicial Magistrate of the first class or of the second class have been conferred under sub-section (1) of Section 21, and within the local limits of whose jurisdiction the said property is, or the applicant has reason to believe is, situated at the time of making the application;

Provided that where there are two Executive Magistrates, on one of whom the powers of a Judicial Magistrate of the first class and on the other the powers of a Judicial Magistrate of the second class have been conferred under sub-section (1), of section 21 having jurisdiction to entertain the applicant for restoration of possession of property referred to in sub-rule (1), the application shall be made to the Executive Magistrate on whom the powers of a Judicial Magistrate of the second class have been conferred.


**6. Time within which an application under Sub-section (6) of Section 6 is to be made.--** An application under sub-section (6) of Section 6 for restoration of possession of any property referred to in sub-section (4) of sub-section (5) of that section shall be made within a period of ninety days from the date on which these rules come into force.

**7. Records to be maintained by District Vigilance Committees to ensure the implementation of Provisions of the Act and Rules.** -- In order to ensure the implementation of the Act and the Rules, every District Vigilance Committee shall maintain the following registers in respect of freed bonded labour within the local limits, of its jurisdiction, namely: --

- (a) a register containing the names and addresses of freed bonded labour;

- (b) a register containing statistics relating to the vocation, occupation and income of every freed bonded labour;
- (c) a register containing details of benefits which the freed bonded labour are receiving, including benefits in the form of land, inputs for agriculture, training in handicrafts and allied occupations, loans at differential rates of interest or employment in urban or non-urban areas;
- (d) a register containing details of cases under sub-section (6) of section 6, sub-section (2) of section 8, sub-section (2) of section 9, section 16, section 17, section 18, section 19 and section 20.

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 सत्यमेव जयते	<b>राजस्थान राज पत्र</b> <b>विशेषांक</b>	<b>Regd. No. RJ. 2539</b> <b>RAJASTHAN GAZETTE</b> <b>Extraordinary</b>
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भाग 4 (ग)

उप खण्ड (II)

राज्य सरकार तथा अन्य राज्य प्राधिकारियों द्वारा जारी किये गये कानूनी

आदेश तथा अधिसूचनाएं।

न्याय विभाग

अधिसूचना

जयपुर, दिसम्बर 11, 1975

एस.ओ.226-दी बोण्डेड लेबर सिस्टम (एबोलीशन) ऑर्डिनेंस, 1975 (केन्द्रीय अध्यादेश सं. 17, सन् 1975) की धारा 21 की उप-धारा(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राजस्थान के राज्यपाल, समस्त जिला मजिस्ट्रेटों, अपर जिला मजिस्ट्रेटों तथा उप-खण्ड मजिस्ट्रेटों को दी बोण्डेड लेबर सिस्टम (एबोलीशन) ऑर्डिनेंस, 1975 के अधीन अपराधों का विचारण करने के लिये न्यायिक मजिस्ट्रेट, प्रथम श्रेणी की शक्तियां, एतद्वारा प्रदान करते हैं।

[संख्या एफ 3 (9) न्याय/75]

आज्ञा से

जी.के.शर्मा

शासन सचिव



**REPORTABLE**

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

**WRIT PETITION (CIVIL) NO. 3922 OF 1985**

PUBLIC UNION FOR CIVIL LIBERTIES

.. Petitioner

Versus

STATE OF TAMIL NADU & ORS.

.. Respondents

**J U D G M E N T**

**K. S. Radhakrishnan, J.**

1. Through this Public Litigation, the petitioner has brought to the notice of this Court tell-tale miseries of bonded labourers in our country and their exploitation and the necessity of identifying and checking the practice of bonded labour in this country and to rehabilitate those who are victims of this practice.

2. This Court, while interpreting the provision of the Bonded Labour System (Abolition) Act, 1976, (for short 'the BLS (A) Act) in the light of the constitutional provision like Article 23, The Minimum Wages Act 1948, Contract Labour (Regulation and Abolition) Act 1970, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979, The Mines Act 1952 gave various directions including the setting up of Vigilance Committees, District Magistrates, etc. for the purpose of identifying and freeing bonded labourers and to draw up a scheme or programme for a better and more meaningful rehabilitation of the freed bonded labourers and to ensure implementation of the BLS (A), Act, 1976. In ***Bandhua Mukti Morcha v. Union of India*** (1984) 3 SCC 161, ***Neerja Chaudhary v. State of M.P.*** (1984) 3 SCC 243 this Court took the view that failure to rehabilitate freed bonded labourers would violate Articles 21 and 23 of the Constitution. In ***P. Sivaswamy v. State of Andhra Pradesh*** (1988) 4 SCC 466 this Court held that the grant of financial assistance by the States of Rs.738/- per family of the released bonded labourers was inadequate for rehabilitation. Court held that the States, employers have a duty to rehabilitate the released bonded labourers.

3. This Court, dealing while dealing with this case, passed an interim order dated 13<sup>th</sup> May, 1994, (reported in (1994) 5 SCC 116) and gave various directions which are as under:

“(1) To identify the bonded labourers and update the existing list of such bonded labourers as well as to identify the villages where this practice is prevalent.

(2) To identify the employers exploiting the bonded labourers and to initiate appropriate criminal proceedings against such employers.

(3) To extinguish/discharge any existing debt and or bonded liability and to ensure them an alternative means of livelihood.

(4) To appoint an independent body such as a local non-political social action group to collect independent information and details of—

(a) the prevalence of the exploitative practice of bonded labour and

(b) employers or their agents perpetrating the wilful violation of the law by encouraging and abetting the practice of bonded labour.

(5) To provide employment to such bonded labourers as agricultural workers at the prescribed minimum wage rate and/or provide the landless bonded labourers with agricultural land, with a view to ensure an alternative means of livelihood.

(6) To provide adequate shelter, food, education to the children of the bonded labourers and medical facilities to the bonded labourers and their families as part of a rehabilitation package.

(7) To ensure—

(a) regular inspection by the Labour Commissioner concerned to keep the contractors who have in the past employed bonded labourers under watch,

(b) setting up of Vigilance Committees in each district,

(c) the District Magistrates concerned to send quarterly reports to the Supreme Court Legal Aid Committee or to any Commissioner appointed by the court for this purpose,

(d) the setting up of rural credit facilities such as grameen banks, cooperatives etc. from which short-term interest free loans can be availed without security, since the root cause of bonded labour seems to be the lack of availability of funds (credit through an institutional network).

(8) To initiate criminal prosecution against the contractors/employers or their agents who engage bonded labour and employ children below the age of 14 without adequate monetary compensation by paying wages below the minimum wage rate, as prescribed under the Minimum Wages Act.

(9) To initiate criminal prosecution against those employers, contractors or their agents who make part payment of wages by way of Khesri dal which is known to cause permanent disability — lathyrates.

**2.** With specific reference to the State of Madhya Pradesh, this Hon'ble Court gave the following additional directions:

(i) To provide data to this Hon'ble Court in respect of prosecutions launched against various employers already identified in proceedings before this Hon'ble Court as having employed bonded labourers in the context of Harwaha System.

(ii) To investigate and provide data to this Hon'ble Court in respect of the fate of those bonded labourers identified and allegedly freed from the Harwaha System.

(iii) To report the present extent of cultivation of Khesri dal within Rewa and Satna districts as well as such other districts in which it may also be cultivated.

(iv) To report the steps taken by the State Government to prohibit the cultivation and consumption of Khesri dal.

(v) To report the fate of persons already identified as suffering from lathyrism and the steps taken by the State Government to provide free medical aid and facilities to such persons.

(vi) To provide the steps taken, if any, for the rehabilitation of bonded labourers freed from the Harwaha System and the rehabilitation of persons suffering from lathyrism within the State of Madhya Pradesh.”

**3.** All the State Governments should issue directions forthwith to the Collector and District Magistrate of each district for making the necessary compliance. We also direct that all the State Governments would file a detailed report supported by an affidavit of a Senior Officer indicating the manner and the extent to which these directions have been complied with and also indicating therein the programme drawn up for full implementation of these directions. The report of the State Governments should also contain the detailed information required to be furnished in accordance with these directions. These reports be filed by each State Government by the end of August 1994. The matter be listed in the first week of September 1994.

**4.** The Registry to ensure that a copy of this order is made available to each State Government through their standing counsel, in addition to Mr Kapil Sibal, Senior

Advocate and the other learned counsel appearing in these matters.”

4. The National Human Rights Commission (for short the ‘NHRC’) has been entrusted with the responsibility of monitoring and overseeing the implementation of its directions as well as provisions of the BLS (A) Act in all the States and Union Territories vide this Court’s order dated 11.05.1997. The Expert Group constituted by the NHRC submitted its Action Taken Report (ATR) on 6.6.2001 and this Court vide order dated 5.5.2004 reported in ***Public Union for Civil Liberties v. State of Tamil Nadu & Ors.*** (2004) 12 SCC 381 gave the following directions:

“1. All States and Union Territories must submit their status report in the form prescribed by NHRC every six months.

2. All the State Governments and Union Territories shall constitute Vigilance Committees at the district and sub-divisional levels in accordance with Section 13 of the Act, within a period of six months from today.

3. All the State Governments and Union Territories shall make proper arrangements for rehabilitating released bonded labourers. Such rehabilitation could be on land-based basis or non-land basis or skilled/craft-based basis depending upon the choice of bonded labourer and his/her inclination and past experience. If the States are not in a position to make arrangements for such rehabilitation, then it shall identify two philanthropic organisations or NGOs with proven track record

and good reputation, with basic facilities for rehabilitating released bonded labourers within a period of six months.

4. The State Governments and Union Territories shall chalk out a detailed plan for rehabilitating released bonded labourers either by itself or with the involvement of such organisations or NGOs within a period of six months.

5. The Union and State Governments shall submit a plan within a period of six months for sharing the money under the modified Centrally Sponsored Scheme, in the case where the States wish to involve such organisations or NGOs.

6. The State Governments and Union Territories shall make arrangements to sensitise the District Magistrate and other statutory authorities/committees in respect of their duties under the Act.”

5. The NHRC later submitted yet another report on 10.8.2009 highlighting the remedial steps to be taken for eradication of bonded labour and child labour in the country. The NHRC in its report stated that its officials had been conducting detailed reviews on the status of the implementation of the Act in the various States/Union Territories (UTs). The report stated that these reviews were forwarded by the NHRC to the respective States/UTs for the necessary follow up action, and they were required to submit ATR to the NHRC. The NHRC has stated as follows:

“ATRs have been received from most of the State Governments but as they were incomplete they had to be

returned for clarification and furnishing additional information before they could be accepted by the Commission. These States are being reminded and this will continue till follow up action is completed. Repeat visits to a few States (Orissa, M.P., Chattisgarh, Jharkhand, Punjab, Rajasthan, Karnataka and Bihar) have to be undertaken as the track record of compliance with the directions issued by the Commission is considered to be unsatisfactory by these States.”

6. A review noticed that the States/UTs were supposed to receive assistance to the tune of Rs.2 Lakh per district once every 3 years for conducting surveys. However surveys had been conducted only a few States, that too in respect of only a few selected areas. Further, it was also noted that in many instances bonded labourers were found and reported, the district administration had relented and dropped the cases. The NHRC in its report cited the instances of Tamil Nadu to the following effect:

“.... to illustrate, in Tamil Nadu, 25000 cases out of 38,886 (cases of ) bonded labourers identified were dropped leaving only 13,886 bonded labourers;

.... in Malkangiri district (which falls in the KBK region) a survey was conducted in 2001-02 with the help of NGO's (where) 707 bonded labourers were identified but (the) district administration dropped 688 cases leaving only 19 bonded labourers to be release.”



7. The NHRC further states that Investigation/inquiry into specific complaints about bonded labourers were generally left by the States/UTs to be undertaken by the field officers of very low ranks who lack both professionalism as well as sensitivity to conduct such inquiries and even existence of bonded labourers were detected in the States/UTs, States/UTs permitted compromise or settlement though the Act itself does not contemplate such a measure. The NHRC noted with concern that though one of the modes of identifying and detecting existence of bonded labour was conducting raids on households and workplaces, this however, had not been taken recourse to by most States, except the State of Maharashtra. The NHRC in its report stated that even though the guidelines on the methodology of identification of bonded labourers formulated by Shri S.R. Shankaran, Chairman of the Expert Group constituted in the year 2001-02 had been circulated to all the States/UTs but there was no evidence on the ground of them being adopted and implemented. The report further pointed out that according to the Ministry of Labour the following features came out clearly in the reports received from the States:

“a) No fresh surveys are being conducted in the States. Wherever surveys have been conducted in the last few years, no bonded labourers could be found.

b) Whereabouts of about 20,000 bonded labourers are reported to be untraced. Registers about bonded labourers identified, released and rehabilitated are not being maintained as required under Rule 7 of the BLS (A) rules.

c) Budget provisions are not being made on the ground that there are no bonded labourers.

d) All the Union Territories have been reporting that they have no Bonded labourers.”

8. The NHRC accordingly requested this Court to give the following directions to the States/UTs:

“a) Periodical conduct of survey in the affected areas is one of the measures which would source eradication of bonded labour system in compliance with the BLS (A) Act. Section 14(e) of the Act casts a statutory responsibility on the Vigilance Committees constituted in each district such surveys. It suggested that fresh survey be conducted by all States and repeated once in three years.

b) The constitution of Vigilance Committees in all States at district and sub-divisional level was a necessary step in the process of properly conducting surveys. Further these committees should be reconstituted once every 2 years.

c) Since there was a need for a proper methodology for conducting such surveys it also suggests that the Guidelines issued by Shri S.R. Shanakaran, Chairman of the Expert Committee constituted by the NHRC be adopted with suitable modifications to suit local conditions.

d) While disposing of cases under the BLS (A) Act the trying Magistrate should have recourse to the summary procedure as laid down in Section 21(2) of the Act in all cases brought before him.

e) It was also suggested that to make the rehabilitation package under the Centrally Sponsored Scheme more meaningful, there was a need for it not to be confined to the limit of Rs.20,000, at which it stands at present.”

9. This Court, vide its order dated 9.7.2010, directed all the States/UTs to file their response to the NHRC's report. The States/UTs were required to respond at least on the following aspects:

a)

When was the last bi-annual report by the concerned State/UT submitted to the NHRC?

b)

W

When was the last survey, as stipulated under the Act undertaken by the State/UT?

c)

W

Whether the Vigilance Committee for the implementation of the Act has been constituted in all the districts in the States/UTs?

10. This Court vide its order dated 1.10.2010, following the note submitted by the *amicus curiae* on 27.9.2010, directed the Union of India to submit the data as to the amount which the Centre is releasing to the States/UTs and whether they were, in fact, using the amount for the purpose for which they were released.

11. In pursuance to that order, the Union of India filed its affidavit on 16.12.2010. It was noticed that only five states had, till then, furnished utilization certificates to the Union of India indicating

utilization of central funds for survey. This Court, then, passed an order on 16.12.2010 directing the Union of India to call for the utilization certificates from all the States. Union of India later in its affidavit on 25.4.2011 stated that the Ministry of Labour and Employment has provided Rs.494 lakhs as Central Assistance for conducting surveys to the various State Governments during the periods from 2001-2001 to 2009-2010. The Affidavit revealed that, in majority of the States, no surveys have been conducted after the year 2002-2003, namely, Punjab, Rajasthan, Karnataka, Orissa, Bihar, Jharkhand, Arunachal Pradesh, Chhattisgarh, Uttrakhand. It was stated that only a handful of States have conducted surveys in subsequent years, and that in many instances, the Survey Reports were still awaited.

12. This Court then passed an order dated 25.4.2011 directing the States of Haryana and Andhra Pradesh to explain what steps they have taken to implement the provisions of 1976 Act. Noticing that those States were not taking effective steps, this Court passed another order dated 26.8.2011 directing them to submit their Accounts to the Ministry of Labour, Government of India with regard to disbursement

of amounts by Central Government for survey and rehabilitation of bonded labour. The responses from those States are far from satisfactory.

13. The NHRC submitted its revised report dated 3.9.2011 before this Court. We notice that the response from the States to the said report is also not satisfactory. The revised report of the NHRC reiterated that the analysis of the half yearly report sent by the States/UTs reveals the following aspects:

“(i) The reports appear to have been prepared in a very casual and stereotype manner.

(ii) They contain mostly nil information as far as conducting fresh surveys for identification of bonded labourers is concerned.

(iii) In some States like UP nearly 700 released bonded labourers have been awaiting rehabilitation for years due to no provision of funds in the budget needed for rehabilitation.

(iv) The outcome of legal and penal action against the offending employers or bonded labour keepers is nil.

(v) Not a single case has been reported so far which goes to show that an offending employer had been convicted by way of imprisonment.

(vi) It is almost confirmed beyond doubt that (a) efforts at identification of bonded labourers through fresh surveys are lackadaisical and the outcome of such surveys is nil (b) there is inordinate delay in securing rehabilitation of

released labourers and (c) the penalties awarded are not proportional to the judicial severity of the crime.”

14. The NHRC further stated that while examining about 400 cases, only in one case, the Commission found that the ground level situation confirmed to fulfillment of all requirements under the Minimum Wages Act, that the employer paid wages according to the law and has not detained anyone. Report states that workmen are usually recruited to brick kilns by middlemen on payment of an advance or other allurements, but at the close of the brick kilns operations, the advances paid at the time of recruitment are adjusted with wages due to the workmen in an arbitrary manner, to the disadvantage of the worker. It is unnecessary to dilate the matter further. Suffice it to say that on 30.6.2011, in all 2780 cases involving about 1 lakh bonded labourers have been registered in the Commission and presently 841 cases are under consideration of the Commission. The NHRC also specifically brought to the knowledge of this Court, two specific complaints, which are pending for compliance before the Government of Andhra Pradesh and with the Governments of West Bengal, Jharkhand, Bihar and NCT of Delhi. The NHRC has sought proper directions from this Court so that the concerned States would take

steps for reporting compliance to NHRC at the earliest. It is useful to refer to the situations in the States of Andhra Pradesh, West Bengal, Jharkhand, Bihar and NCT of Delhi, which are as follows:

**“RE: ANDHRA PRADESH**

22. The first complaint is with respect to the State of Andhra Pradesh and pertains to the plight of labourers working in stone quarries on National Highway No. 9 at a distance of about 22 kms from Vijaywada. The issue was brought to light in 2005. However, despite repeated efforts when no results were forthcoming, the NHRC constituted a team to interact with the labourers and submit a detailed report. The team accordingly submitted its report “confirming the allegation that as many as 5000 quarry workers at the time of the visit [i.e.30.06.09 to 5.07.09] were living and working under conditions of debt bondage.” Pursuant to the report “even though the Chief Secretary appeared in person before the Commission on 5.10.09 and gave an assurance about the implementation of labour laws and provision of basic facilities, till date that action on the part of the State Government and the District Administration, Krishna remains incomplete and the State Government is seeking time again and again.

**RE: WEST BENGAL, JHARKHAND, BIHAR AND NCT OF DELHI**

23. The second complaint of then NHRC pertains to the plight of bonded children from West Bengal, Jharkhand and Bihar working under bonded conditions in certain Zari Factories of Kotlamubarakpur Police



Station area of Delhi had been released and rescued through raids “no steps have been taken by the administration of NCT of Delhi for issue of release certificates to the victims and for their rehabilitation. Instead of handing over the release certificates to the victims, these were sent to the Resident Commissioners of the three originating States namely West Bengal, Jharkhand and Bihar.” The NHRC has further pointed out that “in the process more than 2 years lapsed and the children who were supposed to have been rehabilitated by now could not be rehabilitated due to acts of negligence both of the part of Government of NCT of Delhi [as] also [the] Government[s] of Bihar, West Bengal and Jharkhand.” Even though the complaint dates back to 2005 and proceedings were initiated by the NHRC in 2006, “till date there is no confirmation from the” States concerned “as to whether all the 129 working children who were rescued and released from work in the Zari making units of NCT of Delhi have been fully rehabilitated.”

15. Shri A.K. Ganguly, learned senior counsel who assisted the Court as *Amicus Curiae*, submitted that in the light of the NHRC report dated 10.8.2009 and the affidavits filed by the States/UTs and the Union of India and subsequent revised report of NHRC dated 3.9.2011, it is imperative that certain directions are to be issued to the various States/UTs for proper implementation of the provisions of the 1976 Act.

16. After hearing the *amicus curiae* and other learned counsel appearing in these proceedings and also taking note of the previous orders passed by this Court, we are inclined to give the following directions, apart from the directions already issued:

- (1) Fresh surveys be conducted periodically once in three years in all the States/UTs in accordance with the provisions of the Act and the revised report, the findings of the survey should be made a part of a computerized data base available on the websites of all concerned.
- (2) The responsibility of conducting the surveys is on the District Level Vigilance Committees and Sub Divisional Vigilance Committees of the States/UTs and such committees should submit their reports to the NHRC. This should be done in every three years and Committees also should be reconstituted in every three years.
- (3) Bonded labour, it may be noticed, is rampant in brick kilns, stone quarries, crushing mines, beedi manufacturing, carpet weaving, construction industries, agriculture, in rural and urban unorganized and informal sector, power looms and cotton handlooms, fish processing etc. The Vigilance Committees are directed to give more attention to these areas and take prompt action in case violation is noticed.
- (4) Large numbers of children are working as domestic help in the urban, town and rural areas with no chance to go to schools even though the education from standard I to VIII

is compulsory under the Right of Children to Free and Compulsory Education Act, 2009. Local Panchayats and local bodies should identify such children and ensure that they get proper education. We are not unmindful of the fact that in some households they treat the domestic help just like their children and give food, clothing and education but they are exception.

- (5) Many of the States/UTs reporting NIL status with respect to existence of Bonded labourers. This might be due to the faulty methodology adopted by them for conducting such surveys. Guidelines on the methodology of identification of bonded labourers formulated by Shri SR Shankaran, Chairman of the Expert Group constituted by the NHRC be followed and implemented by all the States/UTs with suitable modifications to suit local conditions.
- (6) All the States/UTs should calculate firm requirements of fund for rehabilitation of freed bonded labourers and steps be taken to enhance the rehabilitation package from the present limit of Rs.20,000.
- (7) The District Magistrates are directed to effectively implement Sections 10, 11 and 12 of the Act and we expect them to discharge their functions with due diligence, with empathy and sensitivity, taking note of the fact that the Act is a welfare legislation.
- (8) The District Magistrate and the State Government / UTs would see that the Minimum Wages Act, the Workmen Compensation Act, the Inter- State Migrant Workmen Act,

Child Labour (Prohibition and Regulation) Act are also properly and effectively implemented.

- (9) Directions are issued to all *Gram Panchayats*, local bodies to report, in case they come across any case of bonded labour, to the District Magistrate who will take appropriate follow up action under the Act.
- (10) The States of Andhra Pradesh, West Bengal, Jharkhand, Bihar and the NCT of Delhi are directed to ensure compliance with orders passed by the NHRC as highlighted in its revised report.”
- (11) The States and the Union Territories should continue to submit 6 monthly reports to NHRC.
- (12) All the States / UTs to constitute Vigilance Committee, if not already constituted within six months.”

17. This Court has already given various directions in its order dated 5.5.2004 passed in ***Public Union for Civil Liberties v. State of Tamil Nadu and Others*** (2004) 12 SCC 381, authorizing the NHRC to monitor the implementation of the provisions of the 1976 Act which we re-iterate and direct NHRC to effectively monitor and implement the provisions of the Act. The orders passed by this Court, time to time, in writ petitions are to be duly complied with the NHRC, Union of India, States and UTs.

18. The Writ Petitions are accordingly disposed of so as to enable the NHRC to take appropriate steps and effectively supervise for carrying out the directions issued by this Court and the provision of BLS (A) Act. If the States/UTs are not implementing the directions given by this Court, NHRC is free to move this Court for further orders. We record our deep appreciation to the efforts made by learned senior counsel – Shri A.K. Ganguli and for sparing his valuable time for a public cause. This Court is deeply indebted to him which we place on record.

.....J  
(K. S. RADHAKRISHNAN)

.....J.  
(DIPAK MISRA)

New Delhi,  
October 15, 2012

F. No.S-11012/01/2015-BL  
Government of India  
Ministry of Labour & Employment

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Jaisalmer House,  
26 Man Singh Road,  
New Delhi-110011.

May 18, 2016

**OFFICE MEMORANDUM**

**Sub: Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016**

The Centrally Sponsored Scheme for Rehabilitation of Bonded Labourers 1978 was last revised in May 2000. In an evaluation of the performance of the scheme and consultation with stakeholders, it was realised that the scheme was not effective in elimination of Bonded Labour System and a revamp was necessary in the larger public interest. A draft scheme was accordingly prepared by the Ministry and circulated to all State Governments, NHRC, various concerned Ministries of Government of India and the same was also published in the official website of the Ministry for eliciting comments and suggestions from the public and other concerned citizens. Based on the suggestions and inputs received from all quarters including the Social Partners, Central Government has approved the revamped Scheme w.e.f. 17.05.2016. Copy of the revamped Scheme is appended hereto.

2. The revamped scheme shall henceforth be known as a Central Sector Scheme which does not entail State share in the cash component of the rehabilitation package. The non-cash component of the erstwhile CSP scheme will continue as it is, with minor modifications to suit the changing needs of the time.

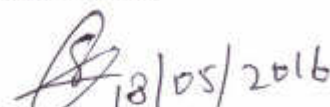
3. I am directed to convey the approval of Central Government of the said scheme for implementation by the State Governments/UT Administrations through their District Magistrates/Collectors/Sub-Divisional Magistrates.

Encl.: As above.

Chief Secretary (all State Governments)  
Administrator (all UT Administrations)  
District Magistrate/Collector (All)

Copy to:

Principal Secretary to the Prime Minister  
Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,  
Comptroller & Auditor General of India  
National Human Rights Commission

  
(J.S. Sidhu)

Deputy Secretary to the Government of India

जे. एस. सिन्धु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi



**Central Sector Scheme**  
**for**  
**Rehabilitation of Bonded Labourer - 2016**

**1. INTRODUCTION**

1.1 Bonded Labour System in India is characterized by a long-term relationship between employer and employee, which is usually solidified through a loan or social obligation, and is embedded intricately in India's socio-economic culture marked by class/caste relations. Bonded labour contracts are not purely economic; in India, they are reinforced by custom or coercion in many sectors. The Constitution of India which was adopted by the Constituent Assembly on 26<sup>th</sup> November 1949 as the Magna Carta of Civil liberties, enshrines under dedicated Article 23, a specific provision declaring traffic in human beings, *begar* and similar forms of forced labour to be punishable offence.

1.2 The Government of India has ratified the ILO Convention C029 on 30<sup>th</sup> November 1954 which *inter alia* defines forced labour as "all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily"

1.3 The traditional form of bondage or forced labour in India are known as Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti. However, with the passage of time, new dimensions of bondage have crept in under different names. The system is much more intricate than mere economic or labour relations; it reflects the stratified social structure where one or more social groups work without consideration of minimum wages or other right-based labour standards just for the sake of honouring social custom or for fear of possible reprisal in case of non-conformity, which more often than not are characterised by physical violence, ostracisation, etc.

1.4 Emerging forms of forced labour and traffic in human beings, especially of children and other disadvantaged sections of society, require a holistic approach for law enforcement as well as comprehensive rehabilitation mechanism for social, psychological, educational and economic rehabilitation.

**2. EVOLUTION OF THE SCHEME**

2.1 The issue of 'bonded labour' came to the list of national priority when it was included in the old 20-Point Programme in 1975. The Bonded Labour System (Abolition) Ordinance was promulgated on 25th October, 1975. This was later on replaced by the Bonded Labour System (Abolition) Act, 1976 (hereinafter referred to as the Act). This Act provides for the abolition of the system of bonded labour with simultaneous liquidation of their debts. Since the subject is included in the Concurrent List, the Union Government stepped in to assist the State Governments in their task of rehabilitation of released bonded labourers. Accordingly, Ministry of





Labour & Employment launched a Centrally Sponsored Scheme for rehabilitation of bonded labourers in May, 1978.

2.2 Originally the Scheme provided for rehabilitation assistance up to a ceiling limit of Rs. 4000/- per bonded labour to be equally shared by Central Government and State Governments on (50:50) basis. This amount was raised to Rs.6250/- w.e.f 1.2.86; and to Rs.10,000/- w.e.f. 1.4.95. Out of this, Rs.1000/- was to be given as subsistence allowance to meet travel expenses etc. to the state of origin, in case the released bonded labour was to be repatriated to his or her native place/ State or for their subsistence until they are rehabilitated. With effect from 1.4.1999, only Rehabilitation assistance was enhanced to Rs. 20,000/-. The scheme was last revised in May 2000 wherein survey component, awareness generation activities and evaluation studies were included as additional items in the existing scheme.

### 3. OVERVIEW OF PERFORMANCE OF THE SCHEME AND NEED FOR REVISION

3.1 From the year 1978 to 2014-15, the Central Government has released ₹81.826 crores towards its share of rehabilitation assistance in respect of 280213 released bonded labourers in the entire country. The State Governments have contributed equal amount i.e. ₹81.826 crores thus taking the total amount to about ₹ 164 crores. The annual average expenditure has thus remained at the level of ₹2.21 crore. It has become a regular feature to surrender money under this scheme in the absence of adequate proposals from the States and operation of the scheme remained restricted to only 18 states.

3.2 Evaluation studies and other field level inputs indicate certain shortcomings in the existing scheme which *inter alia* includes: (i) Lack of regular monitoring; (ii) No mechanism to monitor court cases and convictions; (iii) Inadequate and unattractive rehabilitation package; (iv) Lack of flexibility of the scheme to address the needs of special category beneficiaries such as children including orphans, differently abled, trans-genders, people rescued from organised and forced begging rings and women and children rescued from trafficking and sexual exploitation including prostitution; (v) Lack of institutionalized mechanism to keep an account of the other major benefits listed in the existing scheme such as agricultural land, dwelling unit, skill training, education etc.; and (vi) Ineffectiveness of awareness generation camps. Hence, there was a strong need to update the scheme for making it more effective.

### 4. CONSULTATION WITH STAKEHOLDERS & REVISION

4.1 Accordingly, Ministry of Labour & Employment conducted an in-depth study of all the operational limitations as listed above. Important stakeholders such as National Human Rights Commission, International Labour Organization, NGOs and activists working for bonded labours, UNESCO and other intellectuals were consulted for charting out the broad contours of the revised scheme. The draft scheme with approval of the competent authority was circulated for Inter-Ministerial and stakeholder consultation and copy of the same was also made available on the Ministry's website for eliciting views of the public. The draft was also circulated to all

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उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
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State Governments and Union Territories. The draft scheme duly incorporating the views of stakeholders was considered by the Standing Finance Committee (SFC) for consideration and approval. The SFC memorandum was appraised by the Ministry including the IFD by circulation and approved by the Hon'ble LEM as per norms of delegation of financial powers.

4.2 The revised scheme incorporates all relevant inputs and comments of stakeholders and addresses all the operational issues of the existing scheme in a holistic manner. Hereafter, Ministry of Labour & Employment and State Governments will follow the below mentioned guidelines for administration of the Bonded Labour Rehabilitation Scheme:

## **5. REVISED SCHEME AND GUIDELINES**

(i) The revised Scheme shall be a Central Sector Scheme and shall come into effect from 17<sup>th</sup> May, 2016. The State Governments shall not be required to pay any matching contribution for the purpose of cash rehabilitation assistance.

(ii) The Rehabilitation package shall be Rs.1,00,000/- per adult male beneficiary. Beneficiary shall have the option to either deposit it in an annuity scheme or receive cash grant. The District Administration will assess the cash requirement of the beneficiary and exercise its best judgement in the matter and put the money under annuity scheme with the consent of the said adult male.

(iii) For special category beneficiaries such as children including orphans or those rescued from organised and forced begging rings or other forms of forced child labour, and women, the amount of rehabilitation assistance shall be ₹2 lakhs out of which at least ₹1,25,000/- shall be deposited in an annuity scheme in the name of each beneficiary and the balance amount shall be transferred to the beneficiary account through ECS.

(iv) In cases of bonded or forced labour involving extreme cases of deprivation or marginalization such as trans-genders, or women or children rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies etc., or trafficking, or in cases of differently abled persons, or in situations where the District Magistrate deems fit, the rehabilitation assistance shall be ₹3 lakhs, out of which at least ₹2 lakhs shall be deposited in an annuity scheme in the name of each beneficiary and ₹1 lakh shall be transferred to the beneficiary account through ECS.

(v) The above benefits would be additional to other land and housing elements, etc. of the original scheme as mentioned below:

- (1) Allotment of house-site and agricultural land;
- (2) Land development;
- (3) Provision of low cost dwelling units;
- (4) Animal husbandry, dairy, poultry, piggery etc.;
- (5) Wage employment, enforcement of minimum wages etc.;



जे. एस. सिन्धु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
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- (6) Collection and processing of minor forest products;
- (7) Supply of essential commodities under targeted public distribution system; and
- (8) Education for children.

(vi) In cases where, on the conclusion of the summary trial, the District Magistrate(DM)/Sub-Divisional Magistrate (SDM) concludes that the alleged bonded labourer is, in fact, not in a condition of bondage, but requires socio-economic assistance, the DM/SDM, may provide state assistance under any other scheme administered by them.

(vii) In cases where, the DM/SDM find that immediate assistance is necessary for care and protection of the rescued persons during the pendency of the summary trial, such assistance including fooding, lodging, medical assistance, legal aid, provisions for victim's or witness' protection, etc., shall be provided under any other law or scheme forthwith, notwithstanding the entitlements prescribed under this scheme.

(viii) State Governments/UTAs shall be required to concentrate their efforts on the following activities:

(a) The District Administration in a convergence approach shall undertake measures for providing safe and secure environment for the capacity building of child bonded labourers in coordination with all relevant Government departments. Accordingly, facilities for, ensuring their proper education, psycho social counselling short stay home till education upto class 12th, skill development shall be an integral component of the rehabilitation package.

(b) For addressing the special needs of female freed bonded labourers, State Government shall also provide financial and other assistance for marriage, apart from other capacity building measures mentioned at sub para (a).

(c) For addressing the needs of the disabled persons, special care should be made available by the State as per national policy for disabled people apart from other capacity building measures mentioned at sub para (a) and (b).

(d) For adult bonded labour who do not come under any of the above categories, employable skill development training shall be a compulsory element of rehabilitation.

(ix) The benefits prescribed hereinbefore shall be, in addition to, other cash or non-cash benefits which a beneficiary under this scheme is entitled to, by or under any other scheme or law applicable for the time being in force.

(x) The amount of assistance for survey of bonded labourers shall be ₹4.50 lakh per district. This amount can be utilised to finance the NGO efforts for identification of bonded labour as per State Government norms. Central Government will

जे. एस. सिद्धी/J. S. SIDHI  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
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reimburse this amount upon satisfactory performance in each identification project. The component of assistance shall be as per the following table:

S.No.	Cost involved in survey	Funds Permissible
1.	Cost of printing of questionnaire (average 2000 questionnaires @ ₹5 each)	₹10,000
2.	Costing of imparting training to investigators/field staff for collecting information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5)	₹25,000
3.	Cost of collecting primary data from field (payment to 10 investigators/field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days)	₹3,00,000
4.	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months)	₹80,000
5.	Cost of computerisation of data/information	₹35,000
	<b>Total</b>	<b>₹4,50,000</b>

(xi) The expenditure on awareness generation shall be reimbursed on case by case basis subject to maximum limit of ₹10 lakh per State per annum, as per the following components:

S.No.	Cost components	Funds Permissible
1.	Cost of campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc.	₹7 lakh
2.	Campaigns through local newspapers	₹1 lakh
3.	Cost of performance by folk cultural troupes including cost of travelling	₹2 lakh
	<b>Total</b>	<b>₹10 lakh</b>

(xii) The existing norms of grants of ₹1 lakh for evaluatory studies shall be maintained as such.

S.No.	Cost components	Funds Permissible
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective	₹8,000.00



	rehabilitation of bonded labourers including cost of mailing of questionnaire	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
4.	Printing and binding of the report (20 original copies)	₹10,000.00
5.	Misc. expenses including travelling expenses	₹10,000.00
	<b>Total</b>	<b>₹1,00,000.00</b>

(xiii) A Bonded Labour Rehabilitation Fund shall be created at the District level by each State with a permanent corpus of at least Rs.10 lakhs at the disposal of the District Magistrate which should be renewable. This fund will be utilised for extending immediate help to the released bonded labourers. The entire penalties recovered from the perpetrators of the bonded labour upon conviction, may be deposited in this special fund.

(xiv) Immediate assistance of at least ₹5,000/- shall be provided by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund at the disposal of the District Magistrate. Where the DM is satisfied that a particular rescued person requires more than Rs.5,000, he or she may disburse such higher amount as deemed fit, but limited to the maximum entitlement prescribed under this scheme. Any such advance amount shall be deducted from the Central cash assistance amount.

## **6. SUBMISSION OF PROPOSAL TO THE CENTRAL GOVERNMENT**

6.1 The District Magistrate shall submit claims to the District NCLP (National Child Labour Project) Society, set up under the revised guidelines of the NCLP Scheme 2016, in the prescribed proforma, along with documents as specified in the check list (Annexure I and II).

6.2 Each such proposal shall have (i) details of cash and non-cash assistance and rehabilitation facilities provided by the State Government (Annexure-III); and (ii) the quantum of penalty/imprisonment awarded to the accused in the Summary Trial as provided under the Act.

6.3 In cases where the Summary Trial under Sec 21 of the Act has not been concluded as per Rules, but the DM/SDM has arrived at a prima facie finding and proof of bondage, then the proposal for cash assistance shall not be stopped for want of details of conviction. However, final disbursement of case assistance shall be made upon proof of bondage and other legal consequences as per judicial process.

6.4 Upon receipt of claims, the District NCLP Society will then scrutinise all documents and submit its proposals, from time to time, to the Central Government, i.e. Ministry of Labour and Employment.(MoLE). The claims shall be furnished under the Major Head 2230/2552 as the case may be.





## 7. Release of Funds

7.1 As per modalities of release of funds approved by the Ministry of Finance, admissible reimbursement under the revised scheme, will be released by MoLE, directly to the District NCLP (National Child Labour Project) Society, and the District Project Society in turn will release the fund including the interest, to the implementing agencies which shall include the district administration, for the purpose of the Bonded Labourer Rehabilitation Scheme forthwith.

7.2 The account of District NCLP Society in respect of the BLR Scheme shall be subject to the same audit norms as applicable to the NCLP scheme. Any future alterations in release of fund and accounting procedures by Central government for the NCLP scheme shall be equally applicable *mutatis mutandis* to the BLR Scheme.

7.3 Wherever the District NCLP society does not exist, the Ministry shall immediately, but not later than 30 calendar days reckoned from the date of notification of this scheme, notify a new NCLP society under the NCLP scheme.

## 8. Implementation and Monitoring

8.1 The implementation and monitoring of the BLR scheme shall be carried out by the Central Monitoring Committee, prescribed under the NCLP scheme, but with JS/DG(LW) as member-convenor for the purpose of BLR Scheme.

8.2 At the State level, the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme.

8.3 At the district and sub-divisional level the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme assisted by the Vigilance Committees, as prescribed under the Act and Rules.



जे. एस. सिन्धु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi

**Central Sector Scheme for Rehabilitation of Bonded Labourer -2016****Revised performa for details of Bonded Labour****I. IDENTIFICATION PARTICULARS**

- i. Name :
- ii. Father/Mother's Name :
- iii. Gender: Male/ Female/ Other
- iv. Age :
- v. Whether special/ other category\* : Y/N
- vi. Whether physically disabled : Y/N
- vii. If yes, details thereof :
- viii. Village :
- ix. Taluk :
- x. Block :
- xi. District :
- xii. State :
- xiii. Aadhar and UWIN (NSS) No. (if available) :  
*\*Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

**II. PARTICULARS OF FAMILY MEMBERS:**

Sl. No.	Name	Relation to Respondent	Age	Sex	Education	Occupation	Remarks

**III. PARTICULARS OF OCCUPATION:**

- i. Nature of Occupation
- ii. Duration of the Occupation
- iii. Whether free to work elsewhere or to quit the job with present employer : Y/N
- iv. If no, specify the reasons

**IV. WORKING CONDITIONS:**

- i. Wages agreed upon by the Employer
- ii. Wages paid in kind (per day/week/month/year)
- iii. Wages paid in cash (per day/week/month/year)
- iv. Any other non-cash/kind benefit received from the employer
- v. Details of the Punishment for absence or slackness in work
- vi. Daily hours of work

**V. NATURE OF BONDAGE [ in lieu of advance/ debt]**

- i. Amount of loan/Advance received (cash/kind):

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 उप सचिव/Deputy Secretary  
 श्रम एवं रोजगार मंत्रालय  
 Ministry of Labour & Employment  
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- ii. Rate of Interest:
- iii. Purpose of borrowings:
- iv. Who has taken the loan and his relation with the Respondent:
- v. Mode of repayment:
- vi. Number of year working for the loan taken
- vii. When will the loan get repaid along with interest
- viii. Is any other member of the family also bonded: Yes /No  
If yes, please indicate his/her:

Name	Age	Duration of Work	Loan Taken	Interest, if any	Hours of work	Wages paid

#### VI. PARTICULARS OF ASSETS [of the Bonded Labour]:

- i. Land owned :
- ii. Milch animals/bullocks/sheep/goat/poultry :
- iii. Does he/she live in own homestead or in employer's land :
- iv. House owned or rented :
- v. Education Level :

#### VII. PARTICULARS OF EMPLOYERS

- i. Name & Address :
- ii. Father/Mother's Name :
- iii. Occupation :
- iv. No. of bonded labourers under the same employer :
- v. Aadhar No. :
- vi. Any instance of beating/commission of atrocity/violence by the employer as reported to the Vigilance Committee (please specify) :

#### VIII. RELEASE AND REHABILITATION

- i. Whether the respondent is aware of the provision of the BLS(Abolition) Act :
- ii. Whether the respondent is aware of the scheme for rehabilitation of bonded labour :
- iii. Whether the respondent was released in the past under the BLS (Abolition) Act and Rules:
- iv. Whether the respondent has received the benefit under the BLS (Abolition) Act and Rules:

#### VERIFICATION

It is certified that the facts stated in the above questionnaire are true to the information provided by the respondent which has been read over and explained to him in his mother tongue.

Date :

Place :

Signature of the Surveyor  
(Name)



जे. एस. सिधु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
अस एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
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**Central Sector Scheme for Rehabilitation of Bonded Labourer -  
2016**

**Proposal for Release of Central Assistance for Rehabilitation of Bonded Labourers:**

- i. Number of the labourers required to be rehabilitated :  
(Release certificate should be attached for every bonded labour rehabilitated)
- ii. Category wise break-up of Beneficiaries as General, OBC, SCs and STs and Special Categories wise break-up of beneficiaries as adult male, women, transgenders, differently abled persons, minor boys, minor girls, persons released from special categories in the below mentioned table:

S.No.	Gender	Special Category	Number
1.	Male	Adult	
		Boys below 18	
		Total	
2.	Female	Adult	
		Girls below 18	
		Total	
3.	Special/ Other Category as specified in para 5 (iii) and 5(iv)	Adult male	
		Adult female	
		Children below 18	
		Differently-abled persons	
		Trans-gender	
		Total	

\* "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government. The medical certificate issued by medical authority should be provided with the proposal.

- iii. Total amount of Central Assistance Required:

S. No.	Category	Total Number	Prescribed limit as per the bonded labour scheme ( in Rs.) (in 000')	Total Amount
1	Adult male member		100	
2	Adult Female/ Minor boys and Girls		200	
3	Special/ Other		300	





	category as specified at para 5 (iii) and 5 (iv) of this Scheme			
	<b>Total</b>			
	Balance available at Bonded Labour Rehabilitation Fund*			

\* Bonded Labour Rehabilitation Fund will be used to provide immediate financial assistance to the rehabilitate bonded labour with at least Rs.10.00 lakh as a corpus for this fund.

- iv. Name of the District (s) where these bonded labourers (category wise) have been identified :

S.No.	Name of the District (s)	Name of the State	Number of bonded labour		
			Identified	Released	Rehabilitated
1					
2,3,..					
<b>Total</b>					

- v. Mode of identification :

- vi. Whether the rehabilitation scheme has been formulated and approved by the competent authority? :

*(copy of the scheme must be attached)*

- vi. The detailed statement of assistance provided by State Government/UT (abstract with detailed names of bonded labour to be provided):

- vii. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No

If yes indicate the details of pending utilization certificates :

Name of the State/UT						
Sl. No.	Component for Central Assistance received	Name of the District (s)	Year in which funds released	Amount of Central Assistance (Rs.)	Amount for which Utilization certificates is submitted (Rs.)	Reasons for non-submission of utilization certificates
1						
2,3, so on						
<b>Total</b>	<b>Name of the State/UT</b>					

## Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

### Format for Release Certificate      BL Case NO.....

(Order of the JMFC/JMSC under Section 12 of the Bonded Labour System  
(Abolition) Act, 1976)

A Colour passport  
signed photograph  
of the bonded  
labour released  
should be passed in  
this box

1. Name :
2. Father/Mother's Name :
3. Age :
4. Whether special category\* : Y/N
5. If yes, details thereof :
6. Whether physically disabled# : Y/N
7. If yes, details thereof :
8. Address where bonded labour is identified :
9. Male/Female/trans-gender:
10. Aadhar/UWIN(NSS) No. (if available) :
11. Jan Dhan A/c No with IFSC code:
12. Address of Bonded Labour
13. Name of the Captor/Bonder :
14. Aadhar Card no. of Captor/Bonder :
15. Address of Captor/Bonder :
16. Date of conviction & Release Order :
17. Quantum of Punishment under Chapter VI:
18. Amount of Debt Extinguished u/s 6:
19. Extent and nature of property freed u/s 7:

*\* Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

*# "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government.*

Given under my hand and seal on date \_\_\_\_\_

Signature

Name

District Magistrate/ Sub- Divisional Magistrate

District....., State.....,

Seal

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उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
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**Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016**  
**Proposal for Release of Central Assistance for Conducting Survey of Bonded Labourers:**

- i. Name of District (s) where survey will be conducted :
- ii. Duration of Survey with timelines for its completion :
- iii. Whether any survey was conducted in the past, in the district (s) : (Y/N)
  - (a) if yes indicate year and month of the survey:
  - (b) if no, the reasons :
- iv. Name of the agency (ies) which conducted survey in the past:
- v. Name of the agency (ies) which will be conducting survey:
- vi. Item wise breakup of the cost of the proposed survey per sensitive district :

S. no.	Item	Cost involved
1	Cost of printing of questionnaire (average 2000 @ ₹5 each = ₹10,000)	
2	Costing of imparting training to investigators/field staff for information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5 = ₹25000)	
3	Cost of collecting primary data from field (payment to 10 investigators / field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days = ₹3,00,000)	
4	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months = ₹80,000)	
5	Costing of imparting training to investigators/field staff (₹35,000)	
	<b>Total</b>	

- vii. Whether previous survey, if conducted any, have been done within one year of releasing Central assistance: (Y/N)
- viii. If yes, then details of findings, recommendations to be provided
- ix. Whether reports of the survey conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
  - (a) If yes, details thereof
  - (b) If no, reasons thereof
- x. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
  - (a) If yes indicate the details of pending utilization certificates :

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)



जे. एस. सिधु/J. S. SIDHU  
 उप सचिव/Deputy Secretary  
 श्रम एवं रोजगार मंत्रालय  
 Ministry of Labour & Employment  
 भारत सरकार/Govt. of India  
 नई दिल्ली/New Delhi



## Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

### Proposal for Availing Central Assistance for Awareness Generation Activities:

- i. List of activities proposed to be undertaken for awareness generation:
- ii. Name of the agencies which will undertake awareness generation activities. Whether it is Government or Private:
- iii. Item-wise break-up of the cost involving in awareness generation activities.

S. no.	Item	Cost involved (in ₹)
1	Cost of Campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc. (max. fund permissible is ₹7 lakh)	
2	Campaigns through local newspapers (max. fund permissible is ₹1 lakh)	
3	Cost of performance by folk cultural troupes including cost of travelling (max. fund permissible is ₹2 lakh)	
	Total	

- iv. Whether awareness generation activities have been done within 6 months of releasing Central assistance in preceding years. (Y/N)
- v. Whether reports of the awareness generation activities conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
  - (c) If yes, details thereof
  - (d) If no, reasons thereof
- vi. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
  - (b) If yes indicate the details of pending utilization certificates :



जे. एस. सिद्धु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
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## Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

### **Proposal for Availing Central Assistance for Evaluation Studies:**

- i. List of activities proposed to be undertaken for Evaluation Studies;
- ii. Name of the agencies which will undertake the evaluation. Whether it is Government or Private;
- iii. Item-wise break-up of the cost involving in evaluation studies:

S.No.	Cost components	Cost involved
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective rehabilitation of bonded labourers including cost of mailing of questionnaire (Rs.8,000)	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months= Rs.36,000)	
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months= Rs.36,00)	
4.	Printing and binding of the report (20 original copies) (Rs. 10,000)	
5.	Misc. expenses including travelling expenses (Rs.10,000)	
	<b>Total</b>	



## Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

### Form of Utilisation Certificate

#### Form 19-A of GFR

Sl. No.	Letter No. and Date (attach copy)	Amount
1.		
2,3,...		
	Total	

Certified that out of Rs.....of grant-in-aid sanctioned during the year \_\_\_\_\_ in favour of \_\_\_\_\_ Under the Ministry of Labour and Employment letter no. \_\_\_\_\_ dated the \_\_\_\_\_ given in the margin, a sum of Rs. \_\_\_\_\_ has been utilized for the purpose of Central Sector Scheme for Rehabilitation of Bonded Labour for which it was sanctioned and the balance of Rs. \_\_\_\_\_ remaining unutilized at the end of the year has been surrendered to the Ministry of Labour and Employment, Government of India vide letter no. \_\_\_\_\_ dated the \_\_\_\_\_/will be adjusted towards the grants-in-aid payable during the next year \_\_\_\_\_.

2. Certified that I have satisfied myself that the conditions on which the grants-in-aids were sanctioned have been duly fulfilled/are being fulfilled and that I have exercised the following checks to see that the money was actually utilized for the purpose for which it was sanctioned.

Kinds of Checks exercised.\*

- 1.
- 2.

Signature of the Chairperson of District NCLP Society .....

Designation.....

State Govt./UT Administration

Date \_\_\_\_\_

Seal



जे. एस. सिधु/J. S. SIDHU  
उप सचिव/Deputy Secretary  
श्रम एवं रोजगार मंत्रालय  
Ministry of Labour & Employment  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi

**Annexure-III**

**Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016**

<b><u>Detailed Abstract of Assistance provided by State/District Administration to Released Bonded Labourers</u></b>											
Ministry of Labour and Employment sanctioned letter No. _____ dated _____ Amount of _____											
S. No.	Name of the freed Bonded Labour	No. and Date of BL case as per release Certificate	Quantum of punishment to the Convict/ Accused	Benefits provided by State Government (in kind) and its monetary value and cash component in case of educational assistance							Immediate Cash Assistance provided out of District BLR Fund
				House/ site	Agri. land	Land Development	AH/Dairy/ Poultry etc.	Minor forest products	Ration	Edu. Asst.	
1											
2											
3											
Total											

Signature of the Chairperson of District NCLP Society .....

Designation.....

State Govt./UT Administration

Date .....

Seal



# KNOW YOUR RIGHTS

BONDED LABOUR



National Human Rights Commission



**Know Your Rights Series**

# **BONDED LABOUR**



**National Human Rights Commission  
Faridkot House, Copernicus Marg  
New Delhi-110001**

## **Know Your Rights Series:**

### **Bonded Labour**

This publication is intended to assist a wide audience to achieve a better understanding of the basic human rights.

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## **Bonded Labour**

There still exists in different parts of our country a system under which the debtor or his descendents have to work along with one or more than one member of the family for the creditor for a specified or an unspecified period without any market wage or without minimum wage notified by the Government in order to discharge a debt. This system originated from the uneven social structure characterized by feudal and semifeudal conditions. It is an outcome of certain categories of indebtedness, like customary obligations, forced labour, *begar* or indebtedness which have been prevailing for a long time involving certain economically exploited, helpless and weaker sections of society. They agree to render service to the creditor in lieu of a debt. At times, several generations work under bondage for the repayment of a paltry sum, which had been taken by some remote ancestor, often at usurious rates of interest. This is an unequal exchange system which in its totality represents one of the worst violations of basic human rights and a disgrace to the dignity of labour.

### **Magnitude of the problem:**

Labour implies service. A person who renders such service is a labourer. A bonded labourer is one who renders service on account of bonded debt. Such an occasion may arise due to social or economic compulsions which force the labourer to render service to another under terms and conditions of service and employment which are invariably totally disadvantageous to that person.

The terms and conditions under which such service is rendered have been laid down in Section 2(g) of Bonded Labour System (Abolition) Act. The responsibility for identification of bonded labour system through survey has been entrusted to Vigilance Committees u/s 14(e) of the Act.

If Vigilance Committees would have been constituted for all the districts and sub divisions and reconstituted whenever due and would have proceeded to conduct periodic surveys with imagination and sensitivity it would have been possible to arrive at some definite figure about the magnitude of the problem. That regrettably has not been the case so far.

In the absence of an alternative national level household survey (the first such survey was conducted by Gandhi Peace Foundation in collaboration with V.V. Giri National Labour Institute in 1978-79 but the methodology adopted not being scientific its findings were not acceptable to Government) it is not possible to arrive at any definitive conclusion about the total number of bonded labourers in the country.

According to the information made available by State Governments/UTs 2,86,000 bonded labourers have been identified through survey at the initial stage after the BLS(A) Act came into force. In the absence of information about procedure adopted for such survey it is not possible to authenticate the accuracy of such a figure.

### **Causes of bonded labour system:**

Absence of stable and durable avenues of employment leading to unemployment and under employment, denial of minimum wages notified by the appropriate Government in respect of a scheduled employment, the pernicious practice of payment of wages in kind forcing the labourer in a monetized economy to approach a money lender for loan/debt/advance in cash to defray a number of household expenses, landlessness and assetlessness, pernicious caste hierarchy, landless and assetless families being forced to migrate from one part of the territory of India to another in search of alternative or better quality jobs with higher wages at the destination point and getting into bondage at that point due to (a) faulty system of advances (b) usurious rate of interest on the amount advanced (c) faulty system of adjustment of wages with the amount advanced (d) loss of freedom to leave worksite in the face of advance persisting unliquidated (e) pervasive ignorance, illiteracy, social backwardness and (f) lack of organization on the part of debtors to bargain for what is just, fair and equitable, lack of alternative means of cheap credit for ceremonial, consumption and development purposes are responsible for origin, perpetuation and reinforcement of bonded labour system.

The factors that trigger off the pernicious bonded labour system are: crisis and death in the family due to prolonged illness natural calamity/accident, sudden loss of employment, cheating and loan design by money lender, non-sustainable expenses on wedding and other social functions, alcoholism, migration and trafficking.

In varying degrees the State Govts. tend to ignore or refuse to acknowledge the existence of bonded labour in their respective States on the faulty premise that identification of bonded labour system may bring a slur or bad name on the government and administration. Authorities are found mostly unresponsive to the complaints of bonded labour brought to their notice. Instead of acting promptly on such complaints and initiating the process of identification and release of bonded labourers, they are even found helping the bonded labour keepers to arrange the dispersal of bonded labourers after hurriedly settling their accounts.

## **Sectors of the Economy where Bonded Labour System is Prevalent**

Though the bonded labour system is deeply embedded in feudal and semi-feudal social structure, it is also prevalent in advanced agriculture with landlord serf relationship and in the non-agricultural sectors.

- High incidence of bonded labour system in the agriculture sector is found in the States of Andhra Pradesh, Bihar, Haryana, Karnataka, Maharashtra, Orissa, Punjab, Tamilnadu and Madhya Pradesh.
- In the non-agriculture sector, it is prevalent in brick kilns, stone quarries, beedi manufacturing, carpet-weaving, match and fire works industry, pottery, construction projects and bonded child labour in the sericulture processing industry.
- Migrant bonded labour involving States such as Bihar, Jharkhand, Chattisgarh, Tamilnadu, Madhya Pradesh, Orissa, Rajasthan, present a heightened form of deprivation and exploitation often amounting to bonded labour system;
- Domestic workers, *jogins* and *devdasis* are subjected to exploitation in the form of bonded labour system.

## **Characteristics of the Bonded Labour System**

Bonded Labour System is not a one time or one occupation phenomenon. It may occur and recur at any point of time in any industry, occupation or process. Prevalence of the system is dependent on the relationship which obtains at the workplace between the employer and

the employee. If the relationship is just, fair and equitable based on dignity, decency, equality and freedom there is no cause for worry. If instead the relationship is based on extortion, torture, expropriation and exploitation, all the excitement and joy associated with work is lost and the worker is reduced to the level of a serf.

In other words, existence of a creditor debtor relationship with loss of freedom is the principal characteristic of bonded labour system. Such loss of freedom may be of different forms such as:-

- Loss of freedom of employment or alternative avenues of employment for a decent livelihood;
- Loss of freedom to earn minimum wage notified by the appropriate government in respect of a scheduled employment;
- Loss of freedom to move from one part of the territory of India to another;
- Loss of freedom to appropriate or sell at market value any of his property or product of labour or the labour of a member of his family or any person dependent on him.

## **Constitutional and Legal Safeguards**

The Constitution of India guarantees all its citizens – justice - social, economic and political; freedom of thought, expression, belief, faith and worship; equality of status and of opportunity and fraternity, dignity of individual and unity of the nation.

### **Article 23**

#### **Prohibition of traffic in human beings and forced labour**

- 1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- 2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

## **Article 39**

### **Certain principles of policy to be followed by the States**

Article 39(a) provides that the citizens, men and women equally, have the right to an adequate means of livelihood; Article 39 (d) provides that there is equal pay for equal work for both men and women and Article 39 (e) provides that the health and strength of workers, men and women, and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

## **Article 42**

### **Provision for just and humane conditions of work and maternity relief**

The State shall make provision for securing just and humane conditions of work and maternity relief.

## **Article 43**

### **Living wage etc. for workers**

The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work and living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

### **Legal Provisions in the National Context**

The issue of 'bonded labour' came to forefront at the national level when it was included in the old 20-Point Programme announced to the nation by the then Prime Minister – Smt. Indira Gandhi on 1.7.75. Thereafter based on the Constitutional provision, '*The Bonded Labour System (Abolition) Ordinance*' was promulgated on 25.10.1975 which was subsequently replaced by *The Bonded Labour System (Abolition) Act, 1976* but effective from 25.10.75, the date when the Ordinance had been promulgated.

Any person who was a bonded labourer on 25<sup>th</sup> October 1975 stood freed and discharged from any obligation to render bonded service and repay debt with effect from this date. He is to be set at liberty regardless of loans/debts/advances he might have owed to the landlord/moneylender/bonded labour keeper.

The Bonded Labour System (Abolition) Act has a Statement of Objects and Reason, 7 chapters and 24 sections as its substantive content. It can be broadly divided into the following:-

- Definition
- Consequences which follow the date of commencement of the Act.
- Relief to the aggrieved
- Structure of implementing authorities
- Legal and penal provisions.

These are analysed seriatim as below:

## **1. Definition**

The Act defines advance, agreement, ascendant or descendant, bonded debt, bonded labour, bonded labourer, bonded labour system, family and nominal wages.

## **2. Consequences which follow on the date of commencement of the Act**

The following consequences follow:

- With abolition of bonded labour system w.e.f 25.10.1975, bonded labourers stand freed and discharged from any obligation to render bonded labour.
- All customs, traditions, contracts, agreements or instruments by virtue of which a person or any member of the family dependent on such person is required to render bonded labour shall be void.
- Every obligation of a bonded labourer to repay any bonded debt shall be deemed to have been extinguished.



- No suit or any other proceeding shall lie in any civil Court or any other authority for recovery of any bonded debt.
- Every decree or order for recovery of bonded debt not fully satisfied before commencement of the Act shall be deemed to have been fully satisfied.
- Every attachment for the recovery of bonded debt shall stand vacated.
- Any movable property of the bonded labourer, if seized and removed from his custody shall be restored to him.
- Any property possession of which was forcibly taken over by the creditor shall be restored to the possession of the person from whom seized.
- Any suit or proceeding for the enforcement of any obligation under the bonded labour system shall stand dismissed.
- Every bonded labourer who has been detained in Civil Prison shall be released from detention forthwith.
- Any property of a bonded labourer under mortgage, charge, lien or any other encumbrance, if related to public debt shall stand freed and discharged from such mortgage.
- Freed bonded labourers shall not be evicted from the homestead land.

### **3. Relief to the aggrieved:**

- The aggrieved person may apply to the prescribed authority for restoration of possession of property (if it is not restored within 80 days from the date of commencement of the Act).
- The prescribed authority may pass an instant order directing the creditor to restore such property to the possession of the aggrieved.
- Any order by the prescribed authority to this effect shall be deemed to be an order by a Civil Court.
- The aggrieved party may apply to have the sale of his property set aside if the property was sold before commencement of the Act.

- If the mortgaged property is not restored to the possession of the bonded labourer or there is some delay the bonded labourer shall be entitled to recover such mesne profits as may be determined by the Civil Court.

#### **4. Structure of implementing authority:**

The law provides for the duties and responsibilities of the District Magistrate and every officer specified by him. They have to ensure that the provisions of the Act are properly carried out (this has been dealt at length in Chapter-VII). The law also provides for the constitution of Vigilance Committees at the district and sub-divisional level, duties and responsibilities of such Committees in the area of identification and rehabilitation of freed bonded labourers.

#### **5. Legal and Penal Provisions:**

The Act provides for punishment for compelling any person to render any bonded labour. It also provides for (a) punishment for advancement of bonded debt (b) punishment for extracting bonded labour system (c) punishment for omission or failure to restore possession of property of bonded labourers and (d) abatement. The Act provides for appointment of Executive Magistrates for trial of all such offences and also provides for vesting them with powers of a judicial magistrate, first or second class for summary trial of all offences under the Act. The law also bars the jurisdiction of Civil Courts in respect of any matter to which the provisions of the Act are applicable.

### **Section 374 IPC**

#### **Unlawful Compulsory Labour**

Whoever unlawfully compels any person to labour against the will of that person, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

#### **International Safeguards**

- According to the Forced Labour Convention of 1930 (No.29) [Article 2 (1)] – the term “forced or compulsory labour” means all work or service which is extracted from any person under the menace of

any penalty and for which the said person has not offered himself voluntarily.

- The ILO Convention states that member countries are to suppress the use of forced or compulsory labour in all its forms within the shortest possible period. (India ratified the ILO Convention on Forced Labour (No.29) on 30.11.1954).
- Article 4 of the Universal Declaration of Human Rights, 1948 states that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”
- The UN Supplementary Convention on the Abolition of Slavery (1956) – defines debt bondage as “the status or condition arising from a pledge by a debtor of his personal service or those of a person under his control as a security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”
- In the ILO Report on Stopping Forced Labour (2001) – the term, bonded labour refers to a worker who rendered service under condition of bondage arising from economic consideration, notably indebtedness through a loan or an advance. Where debt is the root cause of bondage, the implication is that the worker (or dependents or heirs) is tied to a particular creditor for a specified or unspecified period until the loan along with the interest which is at usurious rates has been fully repaid.

### **Ground Level Realities:-**

- Many States take a stand that there are no bonded labourers in their States and that all that was required to be done has been done.
- Eradication of bonded labour is not a one-time event. It can occur and recur any time in any industry/occupation/process.
- Though bonded labour is largely found in agriculture, it is also present in several other industries/occupations like brick kilns, stone quarries, rice mills, salt manufacturing works, leather tanning units etc.;

- There could be inter-state migrant workmen who would also come in the category of bonded labourers.
- The problems of bonded child labour are as complex as are those of women bonded labour and migrant bonded labour.
- Issues relating to land, generation of employment which is full, freely chosen and productive (ILO Convention No. 122 which India has ratified) and extension of credit facility are not addressed together in a holistic manner.
- Unless the rehabilitation process is promptly completed there is every likelihood of the released bonded labourer relapsing into debt bondage again.

### **Safeguards for Release of Bonded Labourers and Prevention from their lapsing into bondage again**

- Identification, release and rehabilitation should be simultaneous.
- Between identification and release, there should not be any gap, and in the same way between release and start of rehabilitation process.
- It is important to ensure that release certificates in respect of individual bonded labourers identified as such are issued promptly in the language which is intelligible to the bonded labourer.
- Prosecution of employers must go simultaneously but separately with identification and release of bonded labourers.
- Delay in conviction of the bonded labour keeper or even his eventual acquittal should not inhibit or stall the rehabilitation process.

### **Scheme for Rehabilitation of Bonded Labour**

In order to assist the State Governments in their task of securing physical and psychological rehabilitation of released bonded labourers, the Ministry of Labour launched a Centrally Sponsored Scheme on 50:50 basis in May 1978. The scheme has undergone qualitative changes from time to time and has been progressively liberalized. The rehabilitation assistance has since been enhanced from Rs. 10,000/- to Rs. 20,000/- per bonded labourer w.e.f. May, 2000 and in the case of seven North

Eastern States, 100% central assistance if they express their inability to provide their share.

The modified scheme also provides for financial assistance to the State Governments/UTs for conducting survey of bonded labourers, awareness generation activities and impact evaluation.

Detailed guidelines have been issued to the State Governments for implementing the scheme. The State Governments have also been advised to integrate/dovetail the Centrally Sponsored Scheme for rehabilitation of bonded labourer with other ongoing poverty alleviation schemes such as Swarna Jayanti Gram Swaraj Rozgar Yojana (SJGSRY), Special Component Plan for Scheduled Castes, Tribal Sub Plan etc.

The problems of contract and migrant bonded labour are one of the most complex and sensitive. As a matter of fact, it is this problem which has become the subject matter of large number of public interest litigations before the Hon'ble Supreme Court and High Courts. The Bonded Labour System (Abolition) Act was amended in April, 1985 by adding an explanation to Section 2 and bringing contract and migrant labour within the purview of the Act if such labourers meet the ingredients of bonded labour system as defined in Section 2(g) of the Act. The modus operandi of recruitment of contract/migrant labour is as under:-

- on the eve of the season (say brick kilns) recruiting agents are deputed by the principal employer to recruit contract/migrant labour from one part of the territory of India to another;
- the recruiting agents pay advances to the labourers and bring them to the worksite usually with family members with promises and allurements of good wages and better conditions of work;
- the documentary evidence in support of payment of advances remains with the recruiting agents; the contents are never shared with the workmen;
- the promises are never kept;
- no sooner the workmen arrive at the worksite they are subjected to ruthless exploitation;
- the working hours are unduly long;

- there is no weekly off; no payment of any OT for work in excess of the stipulated working hours i.e. 8 hours a day and 48 hours a week;
- no wages are paid and the workmen continue to incur advances for their day to day biological survival;
- advances paid are adjusted against wages due in a unilateral, arbitrary and unjust manner;
- statutory entitlements like journey allowance, displacement allowance and wages during journey period are never paid;
- the workmen will all along be told, 'you cannot leave the worksite until and unless the advances paid to you are fully liquidated';
- the workmen have no clue as to when the advances will be fully liquidated since they have no access to the documentary evidence in support of payment of advance which is with the recruiting agents only;
- thus the contract/migrant workmen come fully within the purview of bonded labour system as it occurs within the meaning of Section 2(g) of BLS(A) Act.

Accordingly, the rehabilitation package provided by the concerned State Governments for the freed bonded labourers includes the following major components:

- Allotment of house-site and agricultural land;
- Land development;
- Provision of low cost dwelling units;
- Animal husbandry, dairy, poultry, piggery etc.;
- Training for acquiring new skills; developing existing skills;
- Wage employment, enforcement of minimum wages etc.;
- Collection and processing of minor forest products;
- Supply of essential commodities under targeted public distribution system;
- Education for children;

- Protection of civil rights.

## **Components of the Scheme for Rehabilitation of Bonded Labour**

The Centrally Sponsored Scheme for rehabilitation of bonded labour has the following components:

- Each State Government is required to identify sensitive districts where bonded labour system has taken deep roots, find reasons for the existence of the system and suggest remedial measures.
- Conduct surveys on a regular basis – to find incidence of bondage, causes and forms of bondage, etc.
- Government of India provides a sum of Rs. 2 lakh per district to conduct such surveys. This amount is provided to a particular district once in 3 years.
- An annual grant of Rs.10 lakh per State Government is provided for awareness generation purposes.
- Each State Government is required to conduct five Evaluatory Studies in 5 districts/regions of the State every year through reputed research organizations/ academic institutions/ NGOs.
- Rehabilitation grant has been enhanced from Rs. 10,000/- to Rs. 20,000/- per freed bonded labourer, which is to be shared by the Central and State Government on 50:50 basis. Out of this, Rs. 1000/- are required to be paid immediately on release of a bonded labourer as subsistence allowance.

## **Role of District Magistrates in Rehabilitation**

- District Magistrates have to ensure the release of identified bonded labourers on the basis of the reports submitted by the Vigilance Committees after conducting a survey at the district and sub divisional level.
- They would also formulate suitable schemes for the rehabilitation of freed bonded labourers – land based, non-land based and skill/ craft based occupations; keeping in view the preferences, felt needs and interests of the beneficiaries.

## **The Supreme Court's Directive**

Several important judgements have been pronounced at the end of public interest litigations admitted as a Writ Petition by the Supreme Court under Article 32 of the Constitution. Clear, precise and authoritative directions have been issued by the apex Court to competent authorities responsible for the enforcement of the provisions of the Bonded Labour System (Abolition) Act, 1976. Names of the cases in which these judgements were delivered and a gist of the directions contained in them are listed as under:

### **1. AIR 1984 Supreme Court 802**

**P.N. Bhagwati, R.S.Pathak and Amarendranath Sen JJ**

**Writ Petition No.2135 of 1982**

**Bandhua Mukti Morcha Vs. Union of India and others**

**Date of judgement - 16.12.1983**

### **Gist of important directions:**

- Whenever it is shown that a labourer is made to provide forced labour the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration and he is, therefore, a bonded labourer entitled to the benefits under the law.
- Government of Haryana should without any further delay and within 6 weeks from 16.12.1983 constitute a Vigilance Committee in each sub-division of a district.
- Government of Haryana will instruct the District Magistrates of all the districts in the State to take up the work of identification of bonded labour as one of their top priority tasks.
- The State government, the Vigilance Committees and the District Magistrates will take the assistance of non-political social action groups and voluntary agencies for the purpose of ensuring implementation of the provisions of law.
- There is no substance in the contention of the State government that the workmen in the stone quarries and crushers might be



providing forced labour, but they were not working under bonded labour system.

- The State government should draw up within 3 months from 16.12.1983 a scheme for rehabilitation of freed bonded labourers in the light of the guidelines sent by Secretary, Ministry of Labour on 02.09.1982.
- The State government should adopt a non-formal and unorthodox approach in implementation of the law which is an important instrument for ensuring human dignity.
- The Central and State governments will take all necessary steps for the purpose of ensuring that minimum wages are paid directly to the workmen employed in the stone quarries and stone crushers and not thorough middlemen.

## **2. AIR 1984 Supreme Court 1099**

**P.N.Bhagwati and Amarendranath Sen JJ**

**Writ Petition (Criminal) No.1263 of 1982**

**Neerja Chaudhury Vs. State of Madhya Pradesh**

**Date of judgement - 08.05.1984**

### **Gist of important directions:**

- Rehabilitation must follow in the quick footsteps of identification and release, if not, released bonded labourers would be driven by poverty, helplessness and despair into serfdom once again.
- Social action groups operating at the grass root level should be fully involved with the task of identification and release of bonded labourers.
- The district and sub-divisional level Vigilance Committees should be reorganized and activated. Their meetings should be held at more frequent intervals than now.
- Officers who are posted at different levels to deal with the problem of bonded labour system should be properly trained and sensitized so that they may develop a sense of involvement with the misery and suffering of the poor.

- Officers who are socially committed, naturally motivated, inspired by idealism, unpolluted by all kinds of pulls and pressures and are prepared to brave opposition should be encouraged and their efforts commended by way of suitable public recognition.
- An intensive survey of the areas which are traditionally prone to debt bondage should be undertaken by the Vigilance Committees with the assistance of social action groups operating in such areas.
- The pace and progress of schemes under implementation must be evaluated. Such evaluation should be target group oriented.

### **3. 1987 (Supplementary) Supreme Court cases 141**

**P.N. Bhagawati, CJ and K. N. Singh J**

**Santhal Pargana Antyodaya Ashram Versus State of Bihar and Others**

**Writ Petition No.13450 of 1983**

**Date of judgement - 19.12.1986**

#### **Gist of main directions:**

- All persons who have been found to be bonded (2515) by K.B.Saxena Committee should be released within 2 weeks from the date of the order.
- The Collector should issue a release certificate to each of the persons so released.
- Each of the released bonded labourers shall be paid a sum of Rs. 3000-00 by way of interim relief.
- Such payment shall be made in the following manner:
  - Rs. 500-00 simultaneously with release
  - Rs. 2500-00 within 2 weeks from the date of release.
- The released bonded labourers (2515) must be rehabilitated by the State government on a permanent basis.
- Implementation of the rehabilitation programme should not wait on account of the pendency of the present proceeding in the apex Court.

- The State government will submit within 2 weeks from the date of receipt of the order a report setting out the permanent rehabilitation programme formulated by them for scrutiny and approval by the Court.
- Other recommendations in K. B. Saxena Committee report shall be implemented as far as possible within one month from the date of receipt of order of the Court.

The Apex Court in its order dated 11-11-1997 in *Public Union for Civil Liberties v. State of Tamil Nadu & Others* (Writ Petition Civil No. 3922 of 1985) case directed that the National Human Rights Commission (NHRC) should be involved in monitoring the pace and progress of implementation of the law, national policy and programme of action as also directions of the apex Court issued from time to time. The NHRC is monitoring the bonded labour situation in the country.

In order to ensure compliance of the above directions, the Ministry of Labour constituted a Task Force, comprising officers of the Central Government and the Government of Haryana who are responsible for enforcement of various labour laws. The Task Force is required to undertake periodic visits and inspections of the stone quarries and crushers to ascertain facts about working and living condition of the workers. The task force is carrying out its assignment by meeting regularly and submitting reports to the Central as well as the State Government indicating therein status of compliance on the part of the concerned authorities with the statutory provisions and the directions of the Supreme Court.

### **Initiatives of the National Human Rights Commission**

- The Supreme Court in the Writ Petition (No.3922/1985) – *Public Union for Civil Liberties v. State of Tamil Nadu & Others* – requested the NHRC to get involved in the monitoring of the implementation of the *Bonded Labour System (Abolition) Act, 1976*.
- The Supreme Court stated that the NHRC should follow the manner indicated in the order passed by the Supreme Court on 11-11-1997 in Writ Petition No.1900 of 1981 requesting the NHRC to be involved in the supervision of the working of the Agra Women's Protective Home to "ensure that the Home functions in the manner as is expected for achieving the objects for which it has been set

up” and that “the concerned authorities would promptly comply with the directives given by the NHRC”.

- The NHRC views the responsibility assigned to it from the angle of the Constitutional guarantee [Article 23(1) of the Constitution of India] incorporated in the *Bonded Labour System (Abolition) Act, 1976*.
- The NHRC took up the monitoring of implementation of the *Bonded Labour System (Abolition) Act, 1976* in early 1998. It focused attention on 13 states – Andhra Pradesh, Arunachal Pradesh, Bihar, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh, identified as bonded labour prone areas by the Union Labour Ministry on the basis of several study reports.
- The Commission has been monitoring the implementation of the *Bonded Labour System (Abolition) Act, 1976* through its Special Rapporteurs.
- Several reviews in the States have been conducted by the Chairperson, Members, and Special Rapporteur of the Commission.
- The Commission keeps the Supreme Court informed about the steps taken by it to discharge the responsibility entrusted.
- In the year 2000, the Commission constituted an expert group to prepare a report on the status/improvement of the existing scheme and recommendation to effectively implement laws for the abolition of the bonded labour system.
- The group in its report gave its findings on the present status, the position of the existing schemes and recommendations relating to the law. It also gave an Action plan for the NHRC indicating that the task of monitoring entrusted to the NHRC by the Supreme Court requires the Commission’s involvement in all the three functions, namely **Identification**, **Release** and **Rehabilitation** of bonded labour.

The Commission is pursuing with the States/UT Governments to complete the mandatory measures under the *Bonded Labour Act*, namely–

1. Specifying authorities for implementing the provisions of the Act (Section 10);

2. Constitution of Vigilance Committees in each district and each sub-division (Section 13);
3. Authorizing the Executive Magistrates to exercise powers of Judicial Magistrates for the trial of the offences under the Act (Section 21);
4. Identifying the sensitive districts and industries where bonded labour system is being practised in one form or the other.

### **Incidence of witnesses turning hostile in cases under Bonded Labour System (Abolition) Act, 1976.**

A Group was constituted by the Commission to examine the incidence of witnesses turning hostile in cases against the erring employers under the Bonded Labour System (Abolition) Act. The meeting of the Group was held on 7.7.2005 under the Chairmanship of Member NHRC and it was decided that the Commission would obtain periodical information on persecution of cases from the bonded labour-prone States.

The panel also recommended that the NHRC, in furtherance of its functions under Section 12B of the Protection of Human Rights Act 1993, may intervene in the Special case No.48/200 pending before the Additional District and Session Judge, Mandya after seeking permission of the court. In view of the non-initiative of the District Magistrates & Superintendents of Police and the apathy of the State Government, the Panel suggested that Hon'ble Chairperson may address D O letters to all the Chief Ministers of the States/UTs. It was also suggested that guidelines may be issued to District Magistrates for summary trial under Section 21 of the BLS(A). Hon'ble Chairperson Dr. Justice Shri A. S. Anand wrote to all the Chief Minister/ Administrator on 12.9.2006 regarding non-initiative by the District Magistrates and the Superintendents of Police in discharging their duties under the provisions of the Bonded Labour System (Abolition) Act, which has resulted in a large number of witnesses turning hostile, either due to threat or coercion by the accused or the harassment caused by the inordinate delay in proceedings under the judicial system.

### **Half Yearly Report from States/UTs**

As per the directions of the Commission dated 7<sup>th</sup> December 2001, two proformae were devised for obtaining the information from the State Governments/UTs on Bonded Labour. Proforma-I is for seeking information

relating to the identification, release, rehabilitation and prosecution of bonded labour status as on 31-12-2001 and proforma-II is for obtaining quarterly reports.

The Hon'ble Supreme Court vide its order dated 5<sup>th</sup> May, 2004 directed all to the Union and State Governments to file affidavits on the following directions within a period of six months: -

- (a) All States and Union Territories must submit their status report in the form prescribed by NHRC in every six months (*So far the Commission has been seeking reports from States/UTs on quarterly basis*);
- (b) All the State Governments and Union Territories shall constitute Vigilance Committees at the District and Sub-Divisional Levels in accordance with Sector 13 of the Act, within a period of six months;
- (c) All the State Governments and Union Territories shall make proper arrangements for rehabilitating released bonded labourers. Such rehabilitation could be land-based, non-land based and art/craft/skill based, depending upon the preferences and interests of the released bonded labourer and his/her inclination and past experience. If the States are not in a position to make arrangements for such rehabilitation, then it shall identify two philanthropic organisations or NGOs with proven track record and good reputation with basic facilities for rehabilitating released bonded labourers within a period of six months;
- (d) The State Governments and Union Territories shall chalk out a detailed plan for rehabilitating released bonded labourers either by itself or with the involvement of such organizations or NGOs within a period of six months;
- (e) The Union and State Governments shall submit a plan within a period of six months for sharing the money under the modified Centrally Sponsored Scheme, in the case where the States wish to involve such organizations or NGOs;
- (f) The State Governments and Union Territories shall make arrangements to sensitize the District Magistrate and other

statutory authorities/committees in respect of their duties under the Act.

The Commission has organized a National Level Workshop on Elimination of Bonded Labour System and Child Labour in Delhi on 27<sup>th</sup> June 2007. The representatives from the Central/ State Governments/ UTs took part in the workshop. On the basis of detailed deliberations, the following guidelines emerged for implementation by the concerned authorities of the States/Central Governments:-

1. Art 23 of the Constitution prohibits all forms of forced labour including begar. It makes no difference whether the person who is forced to give his labour or service to another is remunerated or not;
2. When a person provides labour or service to another for a remuneration, which is less than minimum wage, the labour or service provided by him falls within the scope and ambit of forced labour under Art 23;
3. An intensive survey of the areas, which have been traditionally prone to the system of debt bondage, should be undertaken by the Vigilance Committees with the assistance of the social action groups operating in such areas;
4. Officers who are posted at different levels to deal with the problem of bonded labour system should be properly trained and sensitized so that they may develop a sense of involvement with the misery and suffering of the poor;
5. Every officer who is placed in charge of identification, release and rehabilitation of bonded labourers should be made fully conscious of his/her responsibilities. He/she should be imbued with a sense of purpose and dedication, which is necessary for successful accomplishment of the task. There must be a sense of urgency and seriousness of concern in regard to the speed of rehabilitation among the officials who have been made responsible for the same;
6. A release certificate to each of the bonded labourers so released should be issued forthwith by the concerned Collector/DM or the SDM or the Executive Magistrate vested with powers of a judicial magistrate. The certificate should be in the local language and

should be handed over to the persons so released simultaneously;

7. The State Government must rehabilitate the released bonded labourers on a permanent basis;
8. Rehabilitation must follow in the quick footsteps of identification and release; if not, released bonded labourers would be driven by poverty, helplessness and despair into serfdom once again;
9. Adequate funds should be released under the Centrally Sponsored Scheme for rehabilitation of all released bonded labourers;
10. The Collector/DM/Dy. Commissioner of the district with such other officers who have been assigned the responsibility of supervising implementation of the rehabilitation scheme shall ensure that the full amount intended for the freed labourers reaches them;
11. Prosecution should invariably be launched in all cases of bondage and pursued vigorously so as to affirm and publicize the determination of the Govt. This need not, however, be linked with release of the bonded labourer from bondage and his/ her rehabilitation which will have to proceed independently as a matter of high priority;
12. The Bonded Labour System (Abolition) Act, 1976 (Section 16-19) provides for imprisonment upto 3 years and a fine upto Rs.2,000/- to whoever compels any person to render any bonded labour and whoever advances any bonded debt. Every offence under this Act is cognizable and bailable;
13. Section 21 of Bonded Labour System (Abolition) Act, 1976 provides that the offences under the law to be tried by Executive Magistrates. The State government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be;
14. All offences under this Act may be tried summarily by a Magistrate;
15. The provisions of SC/ST (Prevention of Atrocities) Act, 1989 wherever victims of bonded labour system are SC/STs should be stringently applied;



16. The following registers are required to be maintained under Rule 7 of BLS(A) Rules, 1976:-
- (a) a register containing the names and addresses of the freed bonded labourer (s);
  - (b) a register containing statistics relating to the vocation, occupation & income of every bonded labourer;
  - (c) a register containing the details of the benefits which the free bonded labourers are receiving including benefits in the form of land, inputs for agriculture, training in handicrafts and allied occupations, loans at differential rates of interest of employment in urban or non-urban areas; and
  - (d) a register containing details of cases under sub section (6) of section 6, sub section (2) of section 8, Sub Section (2) of Section 9, Section 16, Section 17, Section 18, Section 19 & Section 20.
17. Migrant workers, according to the spirit of the directions given by the Supreme Court in series of judgements, are to be asked as to where they would like to be rehabilitated i.e. at the originating point or at the destinations State. They cannot just be dispatched to their native States and left in the lurch there, which would be violative of the letter and spirit of Supreme Court judgement;
18. Vigilance Committees have to go out and conduct field surveys by adopting a non-formal, unorthodox and non-threatening approach and are not required to occupy static positions. They will never be able to identify bonded labourers by sitting in their arm chair offices and not going out and making discrete enquiries;
19. There is a provision for payment of immediate financial relief of Rs.1000/- to each of the identified and released bonded labourer. This financial assistance is most important because it relieves the bonded labourer of his immediate financial hardship. It may be ensured that this immediate financial relief is paid to each of the bonded labourers released.
20. A comprehensive list showing complete details such as residential address in the State of origin etc. may be prepared in respect of

those bonded labourers who were identified in the State, but were sent to their parent State for rehabilitation. A copy of the list may be forwarded to the NHRC as well as to the Labour Commissioners of the States to which they originally belonged;

21. Convergence should be effected between Govt. Departments and also with NGOs. This would mean the following:
  - Pooling of resources from a variety of sources;
  - Integrating them imaginatively and skilfully to achieve the objective of a meaningful, effective and permanent rehabilitation.
22. The Collectors/DMs/Deputy Commissioners would be the Centre of Convergence efforts in regard to all actions relating to bonded labour and child labour;
23. The Constitution of District and Sub-Division level Vigilance Committees will have to be taken up with high priority and sense of urgency wherever those are not in place. Periodic meeting of these Committees should be conducted within the stipulated time frame. The Vigilance Committee should undertake a review of the present status of already-rehabilitated bonded labourers, fresh plan for rehabilitation of identified bonded labourers and close monitoring of the bonded labour-prone areas/ industries etc. Cooperation and participation of NGOs and other social service organizations may also be explored in these Vigilance Committees so that the information received from such organisations may be useful in taking corrective action;
24. District Magistrates have been empowered under Section 10, 11 and 12 of the Bonded Labour System (Abolition) Act, 1976 All the DMs should have positive and proactive attitude and approach towards abolition of bonded labour system and should exercise their powers judiciously, diligently and with empathy and sensitivity;
25. There has to be a periodic review of the actual functioning of the Vigilance Committees constituted and such of those members who are non-functional should be eased out & replaced by new members; this can be done by constituting a State Level Committee.

26. The minimum number of meetings and the format for the VCs, to submit minutes and information on a periodic basis, have to be specified by separate notifications and these must be strictly enforced;
27. To ensure rehabilitation of transferred bonded labour at their native place, the release order should be sent demi-officially to the District Collector of the district concerned with a copy each to DG (Welfare) and NHRC;
28. The important task will be to achieve comprehensive psychological rehabilitation of the families along with physical and economic rehabilitation.
29. Severe punishment must be meted out to all brokers and middlemen who traffic child labour and export children to other States. A dedicated Control Room needs to be set up at the State Headquarters. A flying squad for providing protection to field level functionaries and NGOs engaged in the release operations should also be attached to the Control Room.

The aforesaid guidelines conveyed to all concerned for implementations.

\* \* \* \* \*

**National Human Rights Commission**

Faridkot House,  
Copernicus Marg  
New Delhi-110001

Facilitation Centre (Madad): 011-23385368

Mobile No. : 9810298900 (For Complaints)

Fax: (011): 23386521 (Complaints) 23384863 (Administration)/  
23382734 (Investigation)

Email: [covdnhrc@nic.in](mailto:covdnhrc@nic.in) (General) / [jrlaw@nic.in](mailto:jrlaw@nic.in)(Complaints)

Web-Site: [www.nhrc.nic.in](http://www.nhrc.nic.in)

# KNOW YOUR RIGHTS



bonded labour

# KNOW YOUR RIGHTS



**राष्ट्रीय मानवाधिकार आयोग द्वारा बंधुआ श्रम उन्मूलन विषय पर दिनांक 29.01.2016 को हरिश्चन्द्र माथुर राज्य लोक प्रशासन संस्थान, जयपुर में आयोजित एक दिवसीय कार्यशाला का कार्यवृत्त**

दिनांक 29.01.2016 को राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली द्वारा राजस्थान सरकार के साथ संयुक्त रूप से बंधुआ श्रम उन्मूलन पर एक दिवसीय कार्यशाला का आयोजन किया गया। यह कार्यशाला हरिश्चन्द्र माथुर राज्य लोक प्रशासन संस्थान, जवाहर लाल नेहरू मार्ग, जयपुर के भगवत सिंह मेहता सभागार में आयोजित की गई। कार्यशाला में भाग लेने वाले प्रतिभागियों की सूची संलग्न है।

कार्यशाला का आरंभ मुख्य अतिथि जस्टिस डी० मुरुगेशन, माननीय सदस्य, राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली के द्वारा दीप प्रज्वलन तथा मां सरस्वती की प्रतिमा पर माल्यापर्ण से हुआ। कार्यशाला में उपस्थित राजस्थान के विभिन्न जिलों से आये हुये जिला कलेक्टर, पुलिस अधीक्षक, उपखण्ड अधिकारी, श्रम अधिकारी, रिसर्च स्कॉलर, ईट भट्टा श्रमिकों तथा नियोजकों की एसोसिएशन के पदाधिकारियों, एन०जी०ओ०, प्रेस व मिडिया एवं राज्य सरकार के वरिष्ठ अधिकारियों का स्वागत करते हुये शासन सचिव, श्रम व नियोजन, राजस्थान सरकार श्री रजत कुमार मिश्र ने आशा व्यक्त की कि राष्ट्रीय मानवाधिकार आयोग के तत्वाधान में आयोजित एक दिवसीय कार्यशाला में राष्ट्रीय मानवाधिकार आयोग के माननीय सदस्य डी० मुरुगेशन तथा बड़ी संख्या में विभिन्न जिलों से आये प्रशासन एवं पुलिस के अधिकारियों की उपस्थिति से आशा है कि यह कार्यशाला प्रदेश में बंधुआ श्रमिकों के उन्मूलन की दिशा में अपने उद्देश्यों को प्राप्त करने में सफल होगी।

कार्यशाला में उदघाटन सत्र की अध्यक्षता कर रहे श्री ए० मुखोपाध्याय, अतिरिक्त मुख्य सचिव (गृह) राजस्थान सरकार ने अपने उद्बोधन में कहा कि बंधुआ श्रमिकों के उन्मूलन के लिये बनाये गये कानून तथा इस संबंध में समय-समय पर जारी की गई गाईड-लाईन से सभी भली-भांति परिचित है, लेकिन हमे अपना ध्यान इस तरफ देना होगा कि इस समस्या की जड़े मुख्य रूप से हमारी सामाजिक व्यवस्था तथा बाजार की शक्तियों में गहरे रूप से जमी हुई है। श्रम के लिए सहज रूप से अधिक संख्या में व्यक्तियों के उपलब्ध होने की वजह से उनके तथा नियोजता के बीच असमानता के आधार पर मोल-भाव होता है और वही से बंधुआ श्रम की समस्या प्रारंभ होती है। अतः हमे अपना पुरा ध्यान ऐसे व्यक्तियों को ग्रामीण विकास की विभिन्न योजनाओं में रोजगार उपलब्ध कराने की तरफ देना होगा तभी बंधुआ श्रमिकों की



समस्या से छुटकारा पाया जा सकता है और उनका वास्तविक पुनर्वास किया जा सकता है।

कार्यशाला के मुख्य अतिथि जस्टिस डी० मुरुगेशन, माननीय सदस्य, राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली ने उदघाटन सत्र में अपने प्रमुख उद्बोधन में कहा कि बंधुआ श्रमिकों के उन्मूलन के लिए वर्ष 1976 में कानून बनाया गया था लेकिन हम बंधुआ श्रमिकों के उन्मूलन की बात अभी भी कर रहे हैं यह अपने आप में चिंता का विषय है। बंधुआ श्रमिकों को मुक्त कराने के संबंध में प्राप्त विभिन्न शिकायतें जो आयोग को प्राप्त होती हैं उन पर विभिन्न राज्यों से जो रिपोर्ट आयोग के पास आती हैं उनको देखने से पता चलता है कि इन शिकायतों के निस्तारण में अलग-अलग जगह अलग-अलग तरीकों से काम किया जाता है। यह स्थिति संतोषजनक नहीं है। इसलिए आयोग द्वारा यह निर्णय लिया गया कि स्वयं प्रत्येक राज्य तथा संबंधित जिले में जाकर देखा जाये। जस्टिस डी० मुरुगेशन ने अपने उद्बोधन में आगे बताया कि आयोग के पास 95 % शिकायतें एन०जी०ओ० से प्राप्त होती हैं तथा 'विजीलेंस कमेटी' की तरफ से कोई शिकायत प्राप्त नहीं होती है। बंधुआ श्रम के संबंध में सबसे अधिक प्रभावित होने वाले वर्ग में अनुसूचित जाति तथा अनुसूचित जन-जाति के व्यक्ति, महिलाएं तथा बच्चे आते हैं। यदि मुक्त कराये गये बंधुआ श्रमिक उसी जिले के हैं तो समस्या नहीं आती है, लेकिन यदि यह श्रमिक अन्य राज्य अथवा अन्य जिले के रहने वाले हैं तो हमें पूरी प्रक्रिया में विशेष सावधानी बरतने की आवश्यकता है। राजस्थान में ईट भट्टा तथा पत्थर पीसने के संस्थानों में बंधुआ श्रमिकों के होने की सूचना प्राप्त होती रहती है और इस संबंध में जिला स्तर पर गठित विजीलेंस कमेटियों की महत्वपूर्ण भूमिका है। अपने उद्बोधन में उन्होंने यह भी कहा कि बंधुआ श्रमिकों का चिन्हिकरण अत्यधिक महत्वपूर्ण है तथा इस संबंध में पर्याप्त जन जागृति उत्पन्न करने की आवश्यकता है।

उदघाटन सत्र के बाद कार्यशाला के तकनीकी सत्र प्रारंभ हुये। प्रथम तकनीकी सत्र में श्री रजत कुमार मिश्र, शासन सचिव, श्रम व नियोजन, राजस्थान सरकार ने प्रस्तुतिकरण किया और बंधुआ श्रमिकों के पुनर्वास के संबंध में राजस्थान सरकार द्वारा अपनायी गयी विभिन्न योजनाओं एवं लागू किये गये नवाचारों के बारे में जानकारी दी।

दूसरे तकनीकी सत्र में श्री बिपीन मलिक, संयुक्त सचिव, श्रम व रोजगार मंत्रालय, भारत सरकार ने प्रस्तुतिकरण किया जिसमें उन्होंने बंधुओं श्रमिकों के पुनर्वास



के संबंध में भारत सरकार के विभिन्न कार्यक्रमों तथा उनमें प्रस्तावित महत्वपूर्ण बदलावों के संबंध में प्रतिभागियों को जानकारी उपलब्ध करायी।

तकनीकी सत्र की समाप्ति पर कार्यशाला की अध्यक्षता कर रहे हैं जस्टिस डी० मुरुगेशन ने कार्यशाला में उपस्थित विभिन्न जिलों से आये जिला कलेक्टरों, पुलिस अधीक्षकों एवं उप जिला मजिस्ट्रेटों के विचार आमंत्रित किये। भीलवाड़ा, अजमेर, बांरा तथा सीकर के जिला कलेक्टर तथा अलवर के पुलिस अधीक्षक आदि ने महत्वपूर्ण जानकारी दी।

दोपहर के भोजन के बाद प्रारंभ हुये सत्र में कार्यशाला में उपस्थित एन०जी०ओ०, बंधुआ श्रमिकों की यूनियन के प्रतिनिधियों तथा ईट भट्टा मालिकों की एसोसिएशन के पदाधिकारियों के साथ चर्चा प्रारंभ की गई। यह चर्चा काफी सार्थक रही तथा चर्चा में बंधुआ श्रम से पीड़ित व्यक्तियों का प्रतिनिधित्व करने वाले स्वयंसेवी संगठनों (एन०जी०ओ०) तथा ईट भट्टों में काम करने वाले श्रमिकों के प्रतिनिधियों द्वारा मुख्य रूप से निम्नलिखित बिन्दु ध्यान में लाये गये:-

1. राजस्थान में बंधुआ श्रमिकों का नियमित रूप से सर्वे नहीं करवाया जाता
2. शिकायत दर्ज कराने के बाद बंधक श्रमिक का स्टेटमेन्ट दर्ज नहीं किया जाता
3. बंधुआ श्रमिकों एवं उनके प्रतिनिधियों को पुलिस सुरक्षा आवश्यक है
4. बंधुआ श्रमिक के नियोक्ता के खिलाफ अभियोजन प्रस्तुत किया जाना चाहिए
5. बंधुआ श्रमिक परिवारों के राशन कार्ड धारकों को बीपीएल के समान लाभ दिया जाये
6. उपखण्ड अधिकारियों को बंधुआ श्रमिकों के प्रति उनके उत्तरदायित्व की जानकारी दी जानी चाहिए
7. बंधुआ श्रमिकों को एक मुश्त राशि नहीं दी जाये
8. बंधुआ श्रमिकों को मुक्ति प्रमाण-पत्र देने में काफी विलम्ब देखा गया है

ईट भट्टा मालिकों की एसोसिएशन के पदाधिकारियों ने भी चर्चा में भाग लेते हुये निम्नलिखित विचार प्रकट किये:-

1. श्रमिकों की आर्थिक स्थिति अच्छी नहीं होने पर उनकी आर्थिक मदद की जाती है तथा एक स्थान से आर्थिक मदद लेने के बाद यह श्रमिक एन०जी०ओ० या यूनियन के संपर्क में आकर अन्य ईट भट्टे मालिक से संपर्क कर लेते हैं और उनसे भी आर्थिक मदद ले लेते हैं तथा पहले ईट भट्टे मालिक के विरुद्ध बंधक श्रमिक होने का झूठा मुकदमा दायर करवा दिया जाता है



2. यूनियन पदाधिकारी श्रमिकों को बहकावे में लाकर अधिनियम के प्रावधानों का दुरुपयोग करते हैं

इसके बाद खुली चर्चा प्रारंभ हुई जिसमें विभिन्न प्रतिभागियों ने बंधुआ श्रम के क्षेत्र में अपने-अपने अनुभवों के बारे में बताया और बंधुआ श्रमिकों के लिये दी जाने वाली पुनर्वास सहायता राशि में बढ़ोतरी करने की आवश्यकता बताई। खुली चर्चा में राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली के श्री ए०के० पारासर, जोइन्ट रजिस्ट्रार (लॉ) एवं श्री ओ०पी० व्यास, असिस्टेन्ट रजिस्ट्रार (लॉ) ने भी भाग लिया।

कार्यशाला का समापन करते हुये जस्टिस डी० मुरुगेशन, माननीय सदस्य, राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली ने कहा कि बंधुआ श्रम मानव अधिकारों के हनन का सबसे घृणित रूप है और जब तक हम सब में पूर्ण प्रतिबद्धता नहीं होगी इस समस्या का समाधान करना बहुत कठिन है। इस संबंध में जिला स्तर पर गठित विजीलेंस कमेटियों की बहुत महत्वपूर्ण भूमिका है। अधिनियम के तहत जिला कलेक्टर को धारा-10, धारा-11, धारा-12 तथा धारा-21 के तहत चार प्रकार के महत्वपूर्ण दायित्व दिये गये हैं और इन दायित्वों के निर्वहन में यह विजीलेंस कमेटियां एक सलाहकार के रूप में महत्वपूर्ण कार्य कर सकती हैं। इस संबंध में उपखण्ड स्तर पर विजीलेंस कमेटियों का गठित होना भी उतना ही आवश्यक है।

राष्ट्रीय मानवाधिकार आयोग, नई दिल्ली द्वारा आयोजित इस कार्यशाला में हुए उपरोक्त विचार विमर्श के बाद निम्नलिखित निर्णय लिये गये :-

1. जिन प्रकरणों में बंधुआ श्रमिक को 20,000/- रु० की पुनर्वास सहायता दी जाती है उन प्रकरणों में यह अवश्य ध्यान रखा जाये कि ऐसे बंधुआ श्रमिकों को मुक्ति प्रमाण-पत्र जारी कर दिये गये हैं तथा उसी समय उनके नियोक्ताओं के विरुद्ध अभियोजन दायर करने की कार्यवाही भी प्रारंभ हो चुकी है
2. प्रायः उप जिला मजिस्ट्रेट बंधुआ श्रम के संबंध में शिकायत प्राप्त होने पर ही कार्यवाही करते हैं जबकि उन्हें अपने क्षेत्र में भ्रमण के आधार पर उपलब्ध जानकारी के अनुसार स्वयं ही स्वप्रेरणा से संज्ञान लेकर (Suq moto) बंधुआ श्रमिकों को मुक्त कराने की कार्यवाही करनी चाहिये
3. अधिनियम की धारा-13 के तहत जिला स्तर पर गठित विजीलेंस कमेटियों में अनुसूचित जाति/जन जाति तथा सामाजिक कार्यकर्ताओं को मनोनीत करने की प्रक्रिया 1 माह में पूर्ण की जावे। इसी प्रकार प्रत्येक उपखण्ड स्तर पर जहां

विजीलेंस कमेटियां गठित नहीं हैं उनके गठन की कार्यवाही भी 1 माह में पूरी कर सूचित किया जावे

4. समस्त जिला मजिस्ट्रेट एवं पुलिस अधीक्षक इस बात का ध्यान रखे कि अधिनियम की धारा 3 के अनुसार इस अधिनियम का अध्यारोही प्रभाव (Over riding effect) है तथा धारा-22 के अनुसार इस अधिनियम के तहत किया गया कोई भी अपराध संज्ञेय अपराध (Cognizable offence) की श्रेणी में आता है। अतः बंधुआ श्रम पद्धति (उन्मूलन) अधिनियम, 1976 की पालना कराना उनका आज्ञापक कर्तव्य (Mandatory Duty) है

कार्याशाला के अंत में शासन सचिव, श्रम व नियोजन, राजस्थान सरकार द्वारा जस्टिस डी0 मुरुगेशन एवं अन्य प्रतिभागियों का धन्यवाद ज्ञापन किया गया