

A PUBLIC UNION OF CIVIL LIBERTIES
v.
STATE OF TAMIL NADU AND ORS.

MAY 5, 2004

B [RAJENDRA BABU, C.J. AND G.P. MATHUR, J.]

Labour Laws :

C *Bonded Labour System (Abolition) Act, 1976—Migrant Bonded Labourers—Abolition of system—Endeavours for—Various Reports, submissions and affidavits suggested rehabilitation of bonded labour to be main problem in abolition of the system—Involvement of NGO suggested—Directions issued to Union and State Governments to constitute vigilance committees, to make arrangements for rehabilitation on its own or with the help of philanthropic organisations or NGOs and to make arrangements to sensitise the authorities in respect to their duties under the Act.*

E Plight of Migrant Bonded Labourers was brought to the notice of Supreme Court. The Court by its order dated 11.5.97 asked National Human Rights Commission (NHRC) to monitor and implement directions of the Court. NHRC constituted Group of Experts who in its report *inter alia* pointed out that implementation of the Act encompasses three functions namely, identification, release and rehabilitation of bonded labour and suggested involvement of NGO in endeavour to abolish the system. In response to the Report, *Amicus Curiae* suggested to organize Model Workshop involving Distt. Magistrate and other statutory authorities to sensitize them.

G Issuing directions to the Union of State Governments, the Court

H HELD : 1. In view of the Report of the Expert Group, respondents to it by the Governments and that of the *Amicus Curie*, the Report of the NHRC and the various affidavits on record, the major issue that is to be solved is the aspect relating to rehabilitation of bonded labour. Once the bonded labourers are identified and released, they have to

be rehabilitated forthwith. The rehabilitation and related aspects are not given adequate consideration till now. If attention is concentrated to identification and release of bonded labour, they will languish in streets, if there are no well chalked out corresponding plans for rehabilitation. Hence, the primary direction shall be aimed at evolving and implementing rehabilitation plans. Always the State may not be in a position to reach out to the needy. The services of philanthropic organizations or NGOs could very well be utilized for rehabilitating released bonded labourers. State could give necessary financial assistance under proper supervision. [68-E-H; 69-A]

2. Considering the vitality of rehabilitation issue in the endeavours to abolish bonded labour, at this stage, it is directed that all States and Union Territories must submit their status report in the form prescribed by NHRC every six months; shall constitute Vigilance Committees at the District and Sub-Divisional levels in accordance with Section 13 of Bonded Labour System (Abolition) Act, 1976 within a period of six months from the date of judgment 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 labour 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 organizations or NGOs with proven track record and good reputation with basic facilities for rehabilitating released bonded labourers within a period of six months. They 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. They shall submit a plan within a period of six months for sharing the money under the modified Centrally Sponsored Scheme, in case where the States wish to involve such organizations or NGOs. They shall make arrangements to sensitize the District Magistrate and other statutory authorities/committees in respect of their duties under the Act. [69-B-H; 70-A]

A (Under Article 32 of the Constitution of India.)

A.K. Ganguli, (AC), Kapil Sibbal, (AC) (NP), P.P. Malhotra, Ashok Bhan, Ugra Shankar Prasad, P.C. Sen, S.K. Agnihotri, A. Mariarputham, Ms. Aruna Mathur, Javed Mahmud Rao, Raj Kumar Mehta, Janaranjan Das, Ms. S. Mishra, Ms. M. Gahlot, Ms. S. Janani, Ranji Thomas, Ms. Bharati Upadhyaya, V.N. Raghupathy, Ms. Hemantika Wahi, Ms. Monika Bapna, T.V. Ratnam, Ranjan Mukherjee, Sanjay R. Hegde, Ms. Krishna Sarma, V.K. Sidharthan, Naresh K. Sharma, Jagdev Singh Manhas, G. Prakash, K.R. Sasiprabhu, Mrs. V.D. Khanna, Ms. Kamini Jaiswal, V.G. Pragasam, Hemant Sharma, Ms. Anil Katiyar, Satbir Pillavia, Mrs. Kiran Bhardwaj, Ms. A. Subhashini, Jatinder K. Bhatia, R.S. Suri, Ms. Rachna Srivastava, Anil Srivastava, Ms. Kavita Wadia, Praveen Kumar Rai, Navin Prakash, Anurag Sharma, Gopal Prasad, Prakash Shrivastava, Gopal Jain, R.C. Verma, Mukesh Verma, Manish Shanker, Rajiv Mehta, Rudreshwar Singh, R.M. Sharma, Gopal Singh, Mukesh K. Giri, P.N. Ramalingam, V. Balaji, Kumar Rajesh Singh, B.B. Singh, J.S. Attri, Ms. U. Hazarika, Ms. Madhir Sharma, Ms. Sumita Hazarika, R.K. Rathore and D.S. Mehra, for the appearing parties.

The Judgment of the Court was delivered by

E **RAJENDRA BABU, CJ.** : The plight of migrant bonded labourers from Tamilnadu, who were being subjected to exploitation in Madhya Pradesh, was originally brought to the notice of this Court through this petition. Later the scope of this petition was expanded so as to cover the problems relating to the bonded labourers in all States and Union Territories in the country. This Court vide Order dated 11-5-1997 asked the National Human Rights Commission (NHRC) to take over the monitoring of the implementation of the directions of this Court and that of the provisions of the Bonded Labour System (Abolition) Act, 1976 (the Act). It is brought to our notice that the NHRC has been interacting with the Ministry of Labour and with Special Rapporteurs, with the State Governments to evolve suitable measures to solve the problem of bonded labour. In the meantime the NHRC constituted a Group of Experts to closely examine the matter and to prepare a report on the status, suggest methods of improving the existing schemes, suggest recommendations to effectively implement the laws for abolition of bonded labour system and other

connected matters. An Action-taken-Report filed by the NHRC was considered by this Court on 19-1-2001. A

On 6-6-2001 the Report of Expert Group was submitted to this Court. First part of this Report contains a status report on the work relating to the abolition of the bonded labour system in the various States. Then the report detailed the position of the various existing schemes and made several recommendations to improve the present works relating to the abolition of bonded labour system. They also made considered proposals to amend the Act so as to make the Act more effective. The Report correctly pointed out that the implementation of the Act encompasses three functions, namely, identification, release and rehabilitation of bonded labour. They also suggested involving NGOs in the endeavours to abolish bonded labour. As per directions of this Court, State Governments, Union Territories and learned *Amicus Curiae* submitted their responses to the report of Expert Group. In his response dated 5-9-2002, learned *Amicus Curiae* made two important suggestions. Firstly to organize Model Workshop in an appropriate district in any State involving the District Magistrate and other statutory authorities/committees not only to sensitize them in respect of their duties under the Act but also to help them in achieving the objectives of the statute in full measure and secondly, to establish a Model Rehabilitation Centre. In its Report dated 27-3-2003, the NHRC agrees with the suggestions made by learned *Amicus Curiae*. B C D E

The Union of India, in response to the report of the learned *Amicus Curiae* submitted that the central issue in solving bonded labour system is the rehabilitation of released bonded labours. They also detailed the various schemes and financial assistance packages that are made available from the Union coffers. It is also submitted that the Ministry of Labour in consultation with the NHRC is preparing a detail manual for identification, release and rehabilitation of the bonded labourers, particularly in planning and executing the suitable rehabilitation package for the released bonded labourers. Therefore, they submitted that any specific rehabilitation package couldn't be considered ideal for all the released bonded labourers who are required to be rehabilitated at various places. In response to the NHRC Report dated 27-3-2003, the Union submitted that in any case rehabilitation centre is established, sufficient land area would have to be provided at a F G H

- A particular place by the State Government concerned; which would be tremendous task for the State government in the present socio-economic conditions. In this context, the Union made clear their preference to the existing centrally sponsored scheme, wherein a freed bonded labour is rehabilitated on land based basis, non-land basis and skilled/craft based basis depending upon the choice of bonded labour and his/her inclination and past experience. It is also submitted that the Ministry of Labour release grants to the State governments for rehabilitation of bonded labour on receipt of complete proposals from the State Government concerned.
- Under the modified Centrally Sponsored Scheme for rehabilitation of bonded labour effective from May 2000 the rehabilitation assistance to the extent of Rs. 20,000 per bonded labour is provided for his/her rehabilitation. The Central and State governments on 50:50 bases share the expenditure. In case of North-Eastern States and Sikkim 100% rehabilitation grants are provided by the Central Government. The migrant bonded labourers, as per guidelines, are to be rehabilitated at the place of his/her choice. And under this scheme, the State Governments shall provide Rs. 1000 as substance allowance to a bonded labour immediately on his/her identification.

- After going through the detailed Report of the Expert Group, responses to it by the Governments and that of the learned *Amicus Curiae*, the Report of the NHRC and the various Affidavits on record, we could easily arrive at the conclusion that the major issue that is to be solved is the aspects relating to rehabilitation of bonded labours. Once the bonded labours are identified and released, they have to be rehabilitated forthwith. It is a sad reality that the rehabilitation and related aspects of bonded labours are not given adequate consideration till now. If we are now concentrating our attention to identification and release of bonded labours, they will languish in streets, if there are no well chalked out corresponding plans for rehabilitation. Hence, in our considered opinion the primary direction shall be aimed at evolving and implementing rehabilitation plans.
- In modern days Civil Society is playing a greater role in nation building exercise. The commendable roles played by NGOs in very many situations strengthen the confidence of general public in NGOs. Always the State may not be in a position to reach out to the needy. As we have experienced in the past, Civil Society could efficiently fill up this gap. Now it is time for more interaction between Civil Society and State machinery

in implementing social service schemes. The services of philanthropic organizations or NGOs could very well be utilized for rehabilitating released bonded labours. State could give necessary financial assistance under proper supervision. A

Considering the vitality of rehabilitation issue in the endeavors to abolish bonded labours, at this stage, we are issuing the following directions. B

1. All States and Union Territories must submit their status report in the form prescribed by NHRC in every six months. C
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. D
3. All the State Governments and Union Territories shall make proper arrangements for rehabilitating released bonded labours. Such rehabilitation could be on land-based basis or non-land basis or skilled/craft based basis depending upon the choice of bonded labour 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 organizations or NGOs with proven track record and good reputation with basic facilities for rehabilitating released bonded labours within a period of six months. E
4. The State Governments and Union Territories shall chalk out a detailed plan for rehabilitating released bonded labours either by itself or with the involvement of such organizations or NGOs within a period of six months. F
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 organizations or NGOs. G
6. The State Governments and Union Territories shall make H

A arrangements to sensitize the District Magistrate and other statutory authorities/committees in respect of their duties under the Act.

B The Union and State governments are directed to file Affidavits delineating the above aspects within a period of six months. All other aspects pointed out by the NHRC and other directions suggested to be issued by the learned *Amicus Curiae* would be considered thereafter.

C Before parting with, it is necessary to place on record that this Court is beholden to the learned *Amicus Curiae* Mr. A K Ganguly (Senior Advocate) for the services rendered by him.

K.K.T.

Matter is pending.