

**Report of Dr. Ashok Sahu, Thematic Special Rapporteur (Child/Bonded/Migrant Labour), NHRC on visit to Kerala (Thiruvananthapuram, Ernakulam and Thrissur) during 11-16 September, 2017.**

**I. General**

1.1 The State of Kerala, known as God's own country, consists of 14 Districts distributed among six regions, namely, North Malabar (far-North Kerala), South Malabar (Northern Kerala), Kochi (Central Kerala), Northern Travancore, Central Travancore (Southern Kerala) and Southern Travancore (far-South Kerala). According to 2011 census, the State had a population of 3.34 crore, S.Cs and STs accounting for 9.10% and 1.45% of the population respectively. The percentage of people below poverty line was only 7.05 in Kerala as against all India average of 21.92 in 2011-12. With lowest population growth rate and highest Human Development Index (HDI), literacy rate, life expectancy and sex ratio indicators among States, Kerala occupies a distinct place in the country. Kerala has a strong tertiary sector comprising of services such as transport, storage, communication, tourism, Ayurvedic treatment, banking, insurance and real estate contributing to about 63% of State GDP as against industrial sector (manufacturing, construction and utilities) and agriculture and allied sector (rice, coconut, tea, coffee, rubber, cashew, spices including pepper, cardamom, vanilla, cinnamon and nutmeg, and fisheries) contributing to about 21% and 16% of State GDP respectively. The high HDI, accompanied by strong service sector is the hallmark of the Kerala phenomenon or the 'Kerala Model of Development'.

1.2 Another distinguishing feature of Kerala is 'migration'. There is substantial out-migration of Keralites, especially to Gulf, whose remittances fuel Kerala's economy. But it also leaves a vacuum in the domestic labour

space which is filled up by large inflow of Domestic Migrant Labour (DML) or Interstate Migrant Labour (IMW) from far off States like Assam & North East, Bengal, Bihar, Chhattisgarh, Jharkhand and Odisha, presently estimated at 3.5 million.

1.3 Besides, Kerala is a labour welfare-centric State. It is promoted through operation of various Labour Welfare Boards, adherence to Labour Laws, fixation of statutory Minimum Wages at a high level and vigorous protection of labour rights.

### **Child Labour**

1.4 According to 61<sup>st</sup> Round of National Sample Survey, 2004-05, child workforce in Kerala was estimated at only 0.11 lakh. Kerala is one of the States with least incidence of child labour, with many areas declared as child labour free zones. Reason for this is attributed to high literacy rate, free and compulsory education, effective enforcement and monitoring and keen interest shown by NGOs, media and civil society.

1.5 The State Government has taken following measures to tackle the problem of child labour:

- The Enforcement mechanism consists of 101 Assistant Labour Commissioners operating as Floor level Inspectors, 14 District Labour Officers operating as District level Inspectors, 3 Joint Labour Commissioners operating as Regional level Inspectors and Labour Commissioner/ Additional Labour Commissioner operating at State level. During 2015, 3394 Inspections were carried out resulting in 2

Prosecutions and 1 Conviction. The corresponding figures for 2016 are 1446, 1 and 0 and for 2017 (upto July) 875, 2 and 1 respectively.

- So far as Monitoring Committees are concerned, Core Committee on Child Labour, State level Monitoring Committee and District level Monitoring Committees are functioning. As per the direction of the National Commission for Protection of Child Rights, District level Task Forces have been constituted, convened by District level Officers concerned. Child Labour Rehabilitation cum Welfare Society is currently functioning in all Districts chaired by the District Collectors.
- So far as awareness generation is concerned, the Government of Kerala has been conducting various programmes including Seminars and Workshops in cooperation with NGOs and various Government Departments.
- 5 Districts have been declared as Child Labour free Districts.

### **Bonded Labour**

1.6 Kerala claims to be a bonded labour-free State. However, according to the Socio-Economic Caste Census, 2011, conducted by the Ministry of Rural Development, the number of rehabilitated bonded labour households in Kerala stood at 95 (Ernakulam: 6 and Thrissur: 2).

## **Migrant Labour**

1.7 As indicated in para 1.2 migration from and to Kerala requires serious attention. So far as problems of non-resident Keralite workers are concerned, they are looked after by State Department of NORKA in liaison with the Ministries of External Affairs and Overseas Indian Affairs and Missions abroad. At times, the problem of in-migration of non-resident Keralites occasioned by global economic slowdown, crises in destination countries etc. arises necessitating rehabilitation, but it is addressed through convergence of existing schemes as considered necessary. Hence more focus is laid on Domestic Migrant Labour (DML).

1.8 In this context, an elaborate Study, namely, 'Domestic Migrant Labour' was conducted by the Gulati Institute of Finance and Taxation (GIFT), an autonomous Institution of Government of Kerala, in 2013, whose highlights are given below:

- Large international migration, precipitating fall in fertility and rapid industrialisation (a key pull factor) have seen Kerala attract domestic migration in large numbers in recent years. Migration triggering causes (push factors) are comparatively low level of wages, lack of employment opportunities and increasing unviability of the agricultural sector and its seasonal nature in labour despatching States.

- Earlier migrants to Kerala were mostly from neighbouring States of Tamil Nadu and Andhra Pradesh seeking employment in professions dominated by manual labour such as earth work, road work, unskilled jobs in construction and in services like ironing clothes and as cooks and waiters. The present wave of migration differs from the earlier ones in terms of patterns of migration, settlement and mobility. The DML stock is spread across both rural and urban areas and has percolated into all professions (construction, hotels and restaurants, brick kilns, jewellery works, bakeries, head-load works, hospitality and in manufacturing industries of all kinds), gradually shifting from unskilled to skilled work.
- Long distance trains connecting Assam, Bengal, Bihar, Odisha and elsewhere have been a facilitator.
- DML in Kerala is over 2 million, mostly males in the age group of 18 to 29 years. Duration of stay in Kerala is between 1-2, 2-3 and above 3 years but the workers have worked not necessarily in one place.
- It would not suffice to think of DML as single set as it is beset with differing backgrounds (religion/caste) and needs (food habits).
- Channel of migration was historically through contractors. Gradually it is shifting towards friends and relatives. Some migrants are fresh while others have worked elsewhere before migrating to Kerala.

- Higher minimum wage in Kerala is the most attractive feature. Going by the number of days of employment, there is no unemployment or underemployment. Outward remittance is around Rs.70,000/- per annum per person. It is mostly through banking channels.
- Most DMLs have identity card of one type or other, Voter's ID card being most common. Some have PAN card or ID card issued by Gram Panchayats.
- Language groups stay, cook and work together, sometimes 7 or more persons staying in a room. Clustering of settlement can both be an advantage (no security threat) and disadvantage (communal orientation). But contractors and group leaders seem to have strict control over the movement and activities of the labourers. The overcrowding appears overbearing requiring policy intervention for protecting DML as well as local population.
- There are instances where large migrant population provokes substantial unease translated into xenophobia, racism or lesser form of hostility towards migrants. The local public has very low opinion about DML and see them as a threat to health (as carriers of diseases eliminated from Kerala like malaria), public hygiene (like dumping food

and other wastes into common lands and rivers and canals thus polluting environment), security and law and order.

- While wage rates generally do not differ from unit to unit, perks do, causing shift of DML from one establishment to another, termed as 'job hopping'.
- Employers have no complaints about dedication of DML to work though sometimes the quality of local labour is stated to be better.
- While some DMLs have registered for ESI and EF benefits, others are stated to have resisted it. Health Dept. also has faced problems in dealing with workers afflicted by communicable diseases like TB and AIDS.
- Sub-contracting system is still prevalent as it is viewed as beneficial to employers by relieving them from (a) the burden of identifying and relieving labourers when in need, (b) worries of negotiating wages, (c) keeping a labour force 'permanently temporary' through frequent rotation/change of jobs and (d) adherence to labour laws and other mandatory welfare schemes relating to permanent labour.
- **Recommendations**
  - (i) A computerised single point one-time registration system covering the jurisdiction of many Departments of Government like labour,

health, social welfare, police, education and Local Self Government (LSG) whereby all benefits to the DML will converge;

- (ii) Provision of affordable group housing and associated services (water, electricity, sanitation, toilets, washrooms ensuring a green environment etc.);
- (iii) Provision of social security to cover accidents, serious illness, death, and loss of limbs and Provident Fund which can be administered through one of the existing Boards;
- (iv) Undertake awareness generation programmes both amongst employers and DMLs regarding labour laws like minimum wages, Occupational Safety and Health (OSH) etc. and rights and responsibilities;
- (v) Integration of DML with local people through socio-educational and cultural exchanges through active involvement of peer leaders and activists; and
- (vi) Help line in Assamese, Begali, Hindi and Odia languages.

1.9 The State Government has taken following measures to tackle the problem of migrant labour:

- The employment of these workers is regulated mainly by the provisions of the Inter-State Migrant Workers (Regulation of Employment and



Conditions of Service) Act, 1979, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Contract Labour (Regulation and Abolition) Act, 1970 and the Kerala Shops & Commercial Establishment Act, 1960, the first one being most important providing for registration of workmen and licensing of contractors. The Assistant Labour Officer Gr.II is the Inspecting authority under this law. During the inspection, the Inspector verifies the service records and license to ensure minimum wages, hygienic conditions, accommodation facilities etc.

- In the event of apprehended incidence and to prevent outbreak of communicable diseases in the area where migrant workmen reside, State Government have constituted a District level squad including District Labour Officer from Labour Department as Convenor, District Medical Officer from Health Department, Deputy Director from Local Self Government and Inspector of Factories and Boilers Department as Members to conduct regular inspections across the State to ensure better health and sanitary conditions of Interstate Migrant Workers.
- The labour Department has been conducting medical camps and information dissemination programmes with the support of Health

Department and other NGOs in worksites and places where the ISM workers congregate.

- A helpline call centre is working in the Labour Commissionerate in Malayalam, English and Hindi language.
- Bhavanam Foundation, Kerala (A Government of Kerala undertaking) is implementing the “Apna Ghar project” which aims at providing good quality decent hostels with all basic facilities at affordable rent to ISM workers across Kerala.
- Government of Kerala had introduced a scheme namely, ‘Kerala Migrant Workers Welfare Scheme, 2010’ for the voluntary registration of the guest workers and to provide welfare benefits like accident benefit, fatal diseases treatment, terminal benefits, educational grant for children, death benefit, transportation of body to native place, inpatient treatment etc. Unfortunately, being a voluntary registration Scheme, as per the records of the Kerala Building and Other Construction Workers Welfare Fund Board, the response was poor.
- The Government of Kerala proposes to introduce another Free Insurance Scheme for Guest workers, namely, ‘AAWAZ’, which envisages a cashless and paperless medical treatment benefit of Rs.15,000/- per year per individual using bio-metric cards together with an accidental death

insurance of Rs.2 lakh, contemplated similar to the RSBY Scheme. The Scheme will enable creation of a concrete data base of guest workers and provide them with unique ID Card. The benefits under AAWAZ are expected to be available w.e.f. 1<sup>st</sup> November, 2017, the 61<sup>st</sup> anniversary of formation of Kerala State.

1.9 Against this background, discussions were held at Thiruvananthapuram with State level officials and at District headquarters of Ernakulam and Thrissur with District level officials and field visits were made in all these places, whose outcomes are discussed below.

## **II. Meeting at Thiruvananthapuram**

2.1 The meeting at Thiruvananthapuram was attended by State Additional Labour Commissioner and other officials of Labour Department. At the outset I explained the purpose of my visit stating that as we perceive the State of Kerala to be at the forefront among different States in India in labour administration and welfare matters with fixation and payment of highest level of minimum wages and existence and operation of many labour Welfare Boards. However, as the problems of bonded, child and migrant labour are omnipresent in India, both in obvert and covert forms, with new trends emerging, the officials were requested to make their observations regarding their prevalence in the State and steps being taken to mitigate their adverse

effects. It was pointed out in the meeting that the problem of bonded labour does not exist in Kerala as a result of which the State is submitting a 'nil' report to NHRC. Similarly, the problem of child labour is not acute in the State though it is noticed in a marginal way in form of employment in households, eateries and brick kilns. But the State has to deal with issue of migrant labour head on as Kerala domestic labour, with better education, skills and networking, has a tendency to migrate abroad, especially to the Gulf, thereby creating a vacuum, which is filled by labour migration from States like Assam, Bengal, Bihar and Odisha. Various ameliorative measures being taken, as elaborated in para 1.5 and 1.9 were reiterated in the meeting. In respect of Bonded Labour, it was explained that even though the State is free from bonded labour in the traditional sense, it should be noted that new forms of bonded labour are emerging, like informal sector employees engaged in small unorganised sector enterprises taking advance and getting bonded to the employers, which is called 'neo-bondage'. This is required to be captured by an appropriate Survey, for which there is provision for funding by the Central Government in the new Scheme and consequently be dealt with. The participants felt that the prevalence of neo-bondage in Kerala may not be significant as the level of industrialisation is much less and awareness generation much high. Similarly, a new Survey on Child Labour, availing financial support from the Government of

India should capture whether education of children, while working for the family, is being compromised or not. It was impressed upon the officials that one has to differentiate between benign and distress migration. While out-migration from Kerala mostly belongs to the former category, the in-migration to Kerala may fall in both categories. Hence efforts are to be made to lessen the adverse impact of distress migration. The State Government was requested to make available the benefits accruing from various Labour Welfare Boards to the migrant workers to the extent possible. Some participants felt that the density of population in Kerala being very high, unbridled in-migration may create problems in future.

2.2 A field visit was made to a construction site at Thiruvananthapuram, namely, Tamara Hotels and Convention Centre, where the representatives of the construction agency including a Safety Engineer and some migrant workers, mostly from Bengal, were interacted with. There are about 150 migrant labour employed in the establishment coming from the States of Assam, Bengal, Bihar and Odisha in different trades related to building construction both in skilled and unskilled capacity. They are being provided with accommodation with potable water, where they cook their food. Wages are being paid on time and being credited to their respective Bank accounts. Health check-ups are being done and medical facilities and safety gadgets are

provided. None of the married migrant worker had brought his family. They had come directly being aware of job opportunities in Kerala from their relatives and work continuously for a period spanning from nine months to two years. On being asked what motivated them to migrate from Bengal which is a developed State, they responded by stating that they were attracted by higher wages being paid regularly and overall peaceful working and physical environment. Language has not proved to be a barrier.

### **III. Visit to Ernakulam**

3.1 A meeting with District level officials was held at Ernakulam which was attended by Joint labour Commissioner and other officials of labour Department, officials of District Child Protection Office and State and District Childline, Kochi. At the outset the purpose of the meeting was explained and District-level issues were taken up for discussion. It was indicated that bonded labour is not prevalent in the District. The prevalence of child labour is minimal, most of them coming from other States. But there is substantial in-migration to the District from States like Assam & North-East, Bengal, Bihar and Odisha, which can be characterised as distress migration. However, efforts are being made to provide all possible benefits to migrant workers including timely payment of wages and bonus, medical and ESI facilities etc. Some element of job hopping from one establishment to another was being noticed.

Registration of new migrants is required to be done methodically. Childline officials stated that while child workers were identified in some private factories and as domestic workers, they are mostly from Eastern and North-Eastern States. Efforts are being made to educate children in English, Hindi, Malayalam and Bengali medium to the extent possible. It was interesting to note that some of the migrant children and rescued child workers have opted for Malayalam medium and have excelled in it.

3.2 A field visit was made to a construction site, namely, Asset Lebrand at Kadbanthara, Ernakulam where out of about 170 labour employed, 150 were migrant labourers, 20 of them being from Odisha, rest coming from Bengal, and Bihar. Apart from interacting with the managerial staff in English, being a native of Odisha State, I could have an intensive dialogue with the Odia-speaking migrant workers. They were from two Districts of Odisha, namely, Khurda and Nayagarh. Some of the workers had been working with the company for a long period of time (in one case for about 12 years) moving from one camp-site to another along with the company. New workers have followed the old and experienced ones, gradually being upgraded from unskilled to skilled ones which has resulted in payment of about 40% higher wages. It was noticed that some of the workers were quite educated. On being asked if such workers can be given some training so that they can join the

skilled category quickly, the management replied that they have already tied up with some Training Organisations in this regard. The workers wanted to know from me whether they will be able to get back the PF dues which are getting deducted from their wages. I replied in the affirmative while advising them to keep a tab on the PF deposits, which stand computerised now, through their Unique Identification Numbers.

3.3 A visit was made to 'Sneha Bhavan', a privately run Shelter Home for boys being financed by Kochi Municipality. Apart from usual facilities being provided in Shelter Homes, the inmates are getting services like coaching by Special Educator, weekly tuition, counselling etc. it was informed that separate Shelter Homes were being run for girls as well as senior boys. It was impressed upon the management that in case of senior boys and girls, more emphasis should be put on vocational training so that inmates can earn a decent livelihood after exiting from Shelter Homes.

#### **IV. Visit to Thrissur**

4.1 The meeting with District-level officials was held at Thrissur which was attended by District labour Officers and other officials of Labour Department, District Social Justice Officer, District Childline Coordinator and protection Officer of the District Child Protection Unit. At the outset the purpose of the meeting was explained. Since the problem of bonded and child labour is



virtually non-existent in the District, discussions centred around the issue relating to migrant labour. A large number of migrant workers from States like Assam, Bengal, Bihar, Chhattisgarh, Jharkhand and Odisha are working in this District. Some of these are contract workers but the State Government is looking after their interests as well. The Labour Department is concentrating on health, working condition, Operation Mushkan etc. and there is no significant labour dispute. The officials, however, stated that the local population has grievance relating to poor hygienic habits of the migrants. The Social Justice Officer stated that their organization is looking after ICDS, Aanganwadis, counselling services in Government and aided schools, bridge counselling for school dropouts and Shelter Homes for children.

4.2 A visit was made to the worksite of Lulu Convention Centre and Five Star Hotel where migrant workers coming from Assam were interacted with. These workers were found to be mostly happy, living together in groups of about 25 people, engaging a cook to prepare their meals, earning more money than they can in their home States and repatriating them through banking channel to their families.

4.3 I visited the Government Children's Home at Thrissur for boys. Even though capacity for keeping about 100 inmates exists, presently about 57 boys coming from different backgrounds, referred to by the CWC, are being kept.

## V. Conclusion

5.1 The visit to Kerala was an interesting experience especially in terms of understanding various nuances of domestic migrant labour, who are contributing to economic advancement both in States of origin (through remittances) and destination (by increasing production and productivity). Hence their contribution is required to be recognised and welfare promoted. The recommendations are annexed. NHRC may like to take up relevant issues with concerned Ministries and State Governments.

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**Recommendations**

- (i) The State Government of Kerala should conduct Baseline Surveys relating to child and bonded labour as and when considered appropriate.
- (ii) There is an urgent need for having a reasonably accurate data base of Domestic Migrant Labour (DML). This entails some sort of registration both by States of origin and destination. Hence constant interaction and hand holding between all of them is necessary.
- (iii) In this regard as well as promoting welfare of DML, the success of the AAWAZ Scheme (to be launched shortly) will be keenly watched.
- (iv) The welfare measures meant for DML should be so framed that they help them as well as their families. It also requires in-built portability to certain extent. For example, the DMLs engaged in building and construction industry, by obtaining necessary certificate from their employers in Kerala, can be registered as building and construction workers in their native States to avail cess financed benefits for their families there.
- (v) Recommendations made in the Gulati Report (summarised in the last bullet of para 1.8) merit serious attention.