



# राष्ट्रीय मानव अधिकार आयोग National Human Rights Commission

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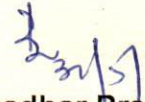
**Subject: Advisory to identify, release and rehabilitate bonded labourers during Covid-19 pandemic**

As you are aware that the National Human Rights Commission (NHRC) is mandated by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all in the country. Towards fulfillment of its mandate, the Commission is deeply concerned about the rights of the vulnerable and marginalized sections of the society which have been disproportionately impacted by the COVID-19 pandemic and the resultant lockdowns.

2. The Commission, pursuant to the orders of the Hon'ble Supreme Court in Writ Petition (Civil) 503/2020 issued guidelines for protection, release and rehabilitation of bonded labourers during Covid-19 pandemic on 9<sup>th</sup> December 2020 vide D.O.No L-19/113/2020-Law. The guidelines were sent through post to all the Chief Secretaries/ Administrators of States/ UTs for necessary action.

3. Further, keeping in view the challenges posed by the second wave of Covid-19, the Commission now issues the '**Advisory to identify, release and rehabilitate bonded labourers during Covid-19**' (Annexure), which has been prepared in consultation with Civil Society Organizations and other stakeholders covering the aspects of prevention, identification, rescue, as well as rehabilitation of the bonded labourers.

4. May I request you to direct the concerned authorities to ensure that prompt actions are taken to protect the vulnerable from being exploited and to implement the recommendations made in the advisory. You are also requested to please submit the action taken report within four weeks for information of the Commission.

  
(Bimbadhar Pradhan)  
Secretary General

Encl: Advisory

1. The Secretary to the Government of India  
Ministry of Labour and Employment  
Shram Shakti Bhawan, New Delhi
2. Chief Secretary (all States)/Administrators (all UTs)





## NATIONAL HUMAN RIGHTS COMMISSION

### **Advisory to identify, release and rehabilitate bonded labourers during Covid-19 pandemic**

The impact of Covid-19 pandemic has a disproportionate adverse impact on the socio-economically disadvantaged segments in the country. The impoverished indigenous and marginalized population groups face multiple disadvantages in life that can exacerbate social exclusion and discrimination. The second wave has also deepened the existing problems of bonded labourers with a huge number of them being unorganised and migrant workers who are on the fringes or outside the socio-economic security umbrella, which makes them more vulnerable and easy target for human trafficking. Bonded labourers are prone to severe medical problems which can add to the existing threat of the second wave of the Covid-19. Thus, it is important that governance at all levels must be prepared in ensuring that medical resources are provided to the bonded labour community in this existing pandemic that has already claimed so many lives.

On December 2020, the National Human Rights Commission under the directions of the Honourable Supreme Court issued a '*Comprehensive Guidelines for All States/ UTs for Identification, Release and Rehabilitation of Bonded Labourers during COVID-19 Situation*'.

Further, keeping in view the challenges posed by the second wave, the NHRC issues this advisory which covers the aspects of prevention, identification, rescue, as well as rehabilitation of the bonded labourers in the prevailing COVID pandemic and ensure that prompt actions are taken by the government authorities to protect the vulnerable from being exploited.

#### **I. Prevention**

1. Panchayats may be asked to maintain a record of information about persons living in the village and those migrated to towns/cities for work. The register will maintain details of the labourers, middlemen, location of the workplace and track the movement of labourers.
2. The District Administration should coordinate with the railway authorities in the district to monitor any such conditions where there is enough reason to suspect the trafficking of labourers and should immediately investigate if it involves children.
3. The District Administration should sensitize and direct the relevant authorities to monitor and interfere any suspicious activity/ movement of people in bus stations, bus stops, inter-district/ inter-state check posts etc. where there is a possible element of bonded labour.
4. State Government should consider creating dedicated funds for providing free ration and healthcare to the vulnerable and daily wagers who lost jobs due to Covid-19 pandemic. The state should direct the district administrations to identify households in extreme vulnerable conditions and provide essential social security cover. This will prevent trafficking for bonded labour.

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5. The State Government through its labour department should spread awareness on MGNREGA provisions in villages so that mass movement of vulnerable people to cities/ towns in search for employment are avoided. This will also help people to stay and work in their own villages and prevent any form of bondage.
6. The District Administration can consider coordinating with local NGOs working on labour issues to provide information on illegal migration.

## II. Identification

7. The Panchayat should take steps immediate to monitor and inform the District Magistrate if they have identified or receive any complaints from family members on child/ bonded labour conditions in the workplace of the labourer.
8. The District Magistrate should constitute/ activate the Vigilance Committee as per the Bonded Labour System (Abolition) Act, 1976. The Committee as per its mandate should conduct survey of any offence of which cognizance ought to be taken under this Act.
9. Further, the District Magistrate should constitute teams with relevant department officials to inspect industries/ brick kiln/ other workplaces and identify if labourers are working under bonded labour conditions. The team should carry out inspections atleast twice in a month.

## III. Rescue

10. The District Magistrate/Sub-Divisional Magistrate should investigate within 24 hours upon receiving a complaint of bonded labour system. And if found a case of bonded labour during investigation, the procedures for rescue during Covid-19 issued by NHRC or the Standard Operating Procedures of the Centre/ State should be initiated immediately.
11. Due to the current pandemic, the DM/SDM must ensure that the rescue team is trained on COVID-19 precautions and a thermal screening of the team is mandatory before conducting a rescue /spot inquiry. The team member with signs and symptoms of COVID-19 should be avoided in order to reduce the exposure of the infection.
12. During the process of rescue, the rescue team should ensure that the face masks and sanitizers are provided to the labourers and physical distance is adequately maintained among the labourers.
13. Upon rescue, the DM or SDM should ensure and arrange for basic health screening and Covid tests of rescued bonded labourers to avoid the spread of virus. Basic awareness should be provided on health & hygiene during Covid-19 like the practice of physical distancing, respiratory hygiene, cough etiquette, hand hygiene etc. to the rescued labourers.
14. If any rescued labourer is suspected for COVID-19, arrangements should be made to immediately escort the labourer to the nearest health facility to access free testing and treatment. Released Bonded Labourers should be vaccinated and if possible vaccination should cover all age groups.

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15. The DM/SDM should enquire and verify upon the relevant evidences indicating bonded labour conditions as per the SOPs issued by the Centre/ State Government. Efforts should be made by the officials to recover unpaid wages of the labourers on the spot as delay in payment of wages can make the victims vulnerable to re-bondage.
16. The DM/ SDM should ensure that the rescued labourers are provided with Release Certificates on priority and within 24 hours of the rescue. Transport facilities should be arranged if the workers are willing to return to their home.

#### **IV. Rehabilitation & Repatriation**

17. Immediate cash assistance upto Rs. 20, 000/- as prescribed in the Central Sector Scheme 2016 shall be provided immediately by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund at the disposal of the District Magistrate.
18. Considering the adverse effect of Covid-19 on the marginalized society, the District Administration must ensure that additional cash and non-cash benefits other than the provisions in the CSS-2016 scheme be made available for the rescued labourers as part of social security cover to avoid the possibilities of re-bondage.
19. The labour officials should initiate the immediate procedures to open bank accounts, application for procuring ID cards, enrolment to health care and employment generation schemes for benefit of the released bonded labourers.
20. The District Administration should undertake all the measures to provide a safe and healthy environment for children of rescued bonded labourers/ child labourers in coordination with relevant Government departments. Health screening, psycho social counselling and education shall be an integral component of the rehabilitation package.
21. The District Administration should bear the expenses of providing safe transportation facilities to the released labourers. The process must be in compliance with the travel norms and health care instructions issued by the government.
22. The DM/ SDM or the assigned officer shall coordinate with both rehabilitation and rescue location's police and district administration for quick and safe transfer.
23. It must also be ensured that the labourers are received properly by the district administration and Covid-19 protocols are implemented such as isolation or quarantine.
24. The State Governments should ensure that the food security packages provided in the state to the vulnerable are also extended to the released bonded labourers for a considerable period of time.
25. The Panchayats should educate and spread awareness among people in the village about the existing livelihood opportunities amidst the Covid-19 effect. The Schemes include the Pradhan Manthri Garib Kalyan Rojgar Abhiyaan (employment-cum-rural public works campaign), MG National Rural Employment Guarantee Act and other state government initiatives. Enrolment of released labourers in these initiatives will prevent re-bondage.
26. In cases where the rescued bonded labourers are not willing to go back to their native place, proper protocols should be followed in places of their work and they must be ensured access to basic benefits.

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## V. Legal-Aid

27. For offences under laws other than Bonded Labour System (Abolition) Act, 1976, where statements under Section 161 CrPC are required to be recorded, the DM or SDM shall ensure that the same is done at the earliest, prior to repatriation and with appropriate Covid guidelines.
28. Given the risks involved in travel during the ongoing COVID-19 pandemic, the DM/SDM along with the police authorities shall make efforts to ensure that the testimony of the released bonded labour is recorded by the concerned court through video conferencing.
29. Public Prosecutors should follow the guidelines issued by the courts for conducting trial through video conference.
30. In the wave of Covid-19, where a person released from bondage has been repatriated, but if later physically summoned by the Magistrate for evidence in trial, should be provided with adequate safety and the proper health care norms be followed during and post-trial.
31. Public Prosecutors shall be given adequate virtual training on bonded labour system to ensure awareness on the issue, need for speedy trial and justice.
32. The district administration should involve the State/District legal services authority to provide legal awareness and counselling to the victims of bonded labour through virtual platform.

**In all the above actions, the district administration/ state government should direct its officials to treat the bonded labourers with dignity and respect.**

## Recommendations for the Central and State Governments

- i. The Principal Secretary, Labour Department, to appoint a State Nodal Officer not below the rank of Under Secretary to coordinate with the Ministry of Labour and Employment for status on submitted proposals and reimbursement of cash assistance under various components of Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016.
- ii. The district administration should ensure that the district bonded labour rehabilitation fund with a permanent corpus mentioned in the Scheme is available for immediate cash and travel assistance to released bonded labourers, post rescue.
- iii. The State Labour Department shall create a helpline number connected with the labour officials in the district, to provide immediate help to labourers in distress at workplaces.
- iv. The State Government should arrange virtual trainings for the State/ District officials working on bonded labour issues. The trainings should be conducted at least twice in a calendar year on following: Bonded Labour System (Abolition) Act, 1976, Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 and Standard Operating Procedures to identify, rescue, release and rehabilitate bonded labourers.

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- v. The State Government should maintain a database of bonded labour rescues and rehabilitation. It should also mention the number of survey/inspection conducted by the authorities to identify bonded labour.
- vi. The Chief Secretary may issue directions to the concerned department to prepare a State Action Plan for preventing and rehabilitating victims of bonded labour and labour trafficking during the Covid-19 pandemic.
- vii. The Union Labour Ministry and State Labour Departments should update their websites regularly and ensure that data is properly managed with updated information.
- viii. The Chief Secretary of the State to issue letters to all DMs/DCs and get an updated list of the Functional Vigilance Committees at District/Sub-Divisional level.
- ix. The district administration, as far as possible, should try to avoid procedural delay in issuing cash and non-cash benefits for released bonded labourers during Covid-19. These packages will ensure effective and better rehabilitation of the labourers.
- x. The Ministry of Labour & Employment should consider immediate disbursement of fund if the procedures are duly followed by the state governments. Any undue delay in disbursement of funds would delay the process of rehabilitation assistance to the bonded labourers.
- xi. Efforts should be made by the District Administration to work closely with the Education Department to encourage enrolment of children into schools, to minimize the number of children falling out of education system and into child labour.

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