

9

18

Gujarat (15)

2-2-2001

**National Human Rights Commission
Sardar Patel Bhavan, New Delhi.**

**Report on the visit of the Member (Dr. KRSJ) to the State of Gujarat
from 20th October, 2001 to 27th October, 2001.**

As was programmed, Shri Arjun Singh, Principal Secretary (Labour), Shri Versh Sinha, Principal Secretary (Education), Shri M.D. Mankad, Secretary (Rural Development), Shri Makwana, Rural Labour Commissioner, Commissioner of Labour and others from the Government of Gujarat, participated in the meeting to review the Bonded Labour and Child Labour situation in the State of Gujarat. Shri Arjun Singh had informed me that he had taken charge only a few months back and told me of the progress made from the last meeting with the State authorities as on date. He had reported that the Labour Department and district authorities were looking after the release of the bonded labour and child labour. The Rural Development Commissioner is in charge of rehabilitation of the bonded labourers in the State. The Government's Labour Offices and Assistant Labour Officers working under the Rural Development Commissioner, visited 36,209 establishments during the period April, 2001 to September, 2001 under the Minimum Wages Act and they did not find any bonded labour, nor did they receive any complaint of existence of bonded labour in the State. The State Government had constituted District Vigilance Committees and Sub-Divisional Vigilance Committees in all the districts and during the same period, 26 meetings were held by the District Vigilance Committees and they also did not notice any bonded labour existing, nor did they receive any complaint in that behalf.

Labour

Labour

Only on April 23, 2001, 12 child labourers were found working in Patel Wafers Dahilimda in Ahmedabad under bondage. They were paying very meagre wages to them. The District Magistrate concerned and the Labour Officer, Ahmedabad, had lodged written complaints to the Police Station for necessary action under the Bonded Labour (Abolition) Act and the children were released and sent under Police protection to their native States along with the Labour Officer.

The Divisional Magistrate, Periaqulam, Tamil Nadu, had sent a complaint to the District Magistrate, Sabarkantha that a child bonded labour by name, Anand, was under bondage and he had requested for the release of

(155

the boy and his rehabilitation. The Labour Officer, A.S.O., and Deputy Mamlatdar of Revenue Department enquired on September 29, 2001. It revealed that Anand had already left to join his parents about three months prior to the date and that, therefore, no further action was taken. The State Government has been keeping a close and continued watch over the situation.

As regards child labour, it was reported that a Child Labour Cell under the charge of Commissioner of Labour was set up as an enforcement machinery for effective implementation of the laws relating to child labour. The Inspectors in the Labour Department have been notified as Child Labour Officers to implement the laws. In pursuance of the Supreme Court judgement, a survey had been conducted within six months thereafter on the status of the child labourers in hazardous and non-hazardous industries during April-May, 1997. A State-wise survey-cum-inspection was conducted under the overall control and supervision of the respective District Collectors. 24,364 personnel were deployed to conduct the survey-cum-inspection as against 7,84,371 registered establishments. They had found, including unregistered establishments, that over 803172 establishments were existing in the State.

In that survey-cum-inspection, 1018 child labourers had been found working in hazardous industries and 146 were found working in non-hazardous industries/occupations. Notices have been issued to the employers who engage children in the hazardous industries, calling upon them to deposit Rs.20,000/- per child with the District Child Labour Rehabilitation-cum-Welfare Fund in terms of the direction of the Supreme Court. The District Child Labour Rehabilitation-cum-Welfare Fund Societies were registered in all the districts of the State except Porbandar whereat the process of registration is under way. 12 defaulting employers were found engaging child labourers. They had deposited a sum of Rs.3,20,000 for 16 child labourers with the District Child Labour Rehabilitation-cum-Welfare Fund Society. 1004 child labourers were found and revenue certificates for recovery were forwarded to the concerned District Collector by the Child Labour Officers for payment of a sum of Rs.20,000/- per child. 12 cases had been filed in the High Court challenging the notices and the High Court granted stay on the condition to deposit Rs.2,40,000/- with the Registry of the High Court, which was complied with. The writ petitions are still pending. As a result, no further action thereon could be pursued. As against others, complaints have been filed in

the courts and statistical data has been provided in the annexure giving details of the number of cases filed and the number of cases disposed of and the amounts realised. The State Government had deposited Rs.3,25,000/- for 67 child labourers at the rate of Rs.5,000/- per child with the District Child Labour Rehabilitation-cum-Welfare Fund Society in terms of the Supreme Court judgement, which amount has been withdrawn by the children but the rehabilitation programme was not implemented. During April-June, 2000, again a campaign against child labour was launched. The details have been furnished in Annexure 'C'. The places at which the establishments are registered and the number of child labourers' homes, respectively, are indicated. A total of 1807 establishments had been visited and 39 child labourers were found employed.

They have forwarded the names and details of the child labourers to the Education Department on 17.7.1997 to make necessary arrangements for their compulsory education. A survey was conducted by the District Collector, Valsad, in February, 2000. 4112 establishments had been inspected and no child labour was found working in the process. From October to December, 2001, a special campaign for implementation of the labour laws has been going on.

The Education Secretary had stated that the Gujarat Family Education Act, 1961 was enacted for compulsory education of the children which has come into force since 1964. The defaulting parents were to pay the penalty for not sending their children to the school. The Gram Panchayat also was made accountable for its implementation. Every year, after conducting a survey of the child labour, rehabilitation of children is being undertaken for imparting formal education. Even at the work places where the children are found working together, about 10 in number, under the special scheme, the educated among them have been given incentives for imparting education to the uneducated ones. But, the details of the areas in which these educational camps are working, have not been furnished.

I had pointed out that the implementation of the bonded labour and child labour programme in the Gujarat State is most disappointing. Except that 12 child labourers were found working and they too are being sent away to the places of their origin, no other tangible work has been done by the Government of Gujarat. Even the child labourers released under the special drive, were not being educated by the informal or formal schemes. Each department attempts to claim performance of duty, but without specific

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21
4

(155)

details relating to the rehabilitation and release of the child labourers working in the hazardous/non-hazardous establishments. I had pointed out that child labourers and bonded labourers will be found in large numbers in agricultural sector, cotton, plucking and reeling, Zarry industry, handicrafts, brick-kilns, diamond cutting and polishing, road and building construction work, etc. Had meaningful and effective steps been taken for identification of the bonded labourers or child labourers, it would have been easy to detect, identify and have them released. It is on account of lack of will on the part of the enforcement officers, except the false show of performance of duty, no sincere attempt appears to have been made by the officers. So long as poverty and illiteracy continues unabated, bonded labour and child labour is bound to exist and continue to persist. It is the duty of the officers to sincerely implement the Act and the relevant labour laws. The Principal Secretary (Labour), and the Labour Commissioner, who have since been posted recently, have promised to carry out resurvey of the bonded labour and child labour and effectively implement the rehabilitation scheme. The Rural Development Secretary was not able to place any material for rehabilitation since no one was detected or released from bondage, but he too promised to effectively implement the rehabilitation schemes as and when the bonded labourers/child labourers are released by the concerned authorities. I had also suggested to have the Gram Panchayat Act amended, making the Gram Panchayat accountable for constant vigilance on the existence of the bonded labour in their respective villages and inform the Vigilance Committees and seek their cooperation and community participation in release and rehabilitation of the bonded labourers/bonded child labourers.

I had informed them that as a result of the remit of the bonded labour cases by the Supreme Court to the Commission, apart from its statutory duty, the latter is required to submit quarterly reports to the Supreme Court on the progress of release and rehabilitation of the bonded labourers and child labourers and that, therefore, a monthly consolidated report should be submitted to the N.H.R.C. on the progress of the work done by the State authorities, after collecting monthly reports from all the District Collectors, etc. They have promised to do so. With the disappointing note, the day's review work was concluded.

On 24th October, a meeting organised with the NGOs and attended by the Labour Commissioner and other officers of the State Government was successful. Shri Sukhdev Patel, Director of 'Champion for Child Labour',

an Ahmedabad based NGO, had stated that child labour is prevalent in manufacture of silver ornaments, road construction, carpet weaving, garment packing, etc. Out of 17 blocks in the Kutch area, they have identified in six months a large number of children, out of school, as potential child labourers. In Surat and Panchmahal districts, the District Collectors did not cooperate in identification and release of the child labourers under the National Child Labour Programme. In diamond cutting, polishing, powerlooms, the child labour is prevalent in a large number. In 1997, 258 girl child labourers were identified engaged in Orpet Ajanta Clocks, in Oorvi of Rajkot district. Shri Animesh, a Kutch-based NGO, had stated that migrant labourers with the children are found working in the construction work and in the Kutch district. Shri Anmol Saran, representing the Centre for Social Justice, an NGO, had stated that child labour is prevalent because of poverty and illiteracy. Identification and release of the children from the hazardous industries itself is not sufficient, their economic empowerment and imparting of formal as well as informal education be undertaken effectively. Then only relapse of the child into child labour or bondage could be successfully averted. A scheme also may be devised by the Government to provide incentives for employment or self-employment of the parents of child labour. Then only the programme of abolition of the child labour and their rehabilitation could become successful.

One, Shri Patwa, an NGO for social work among women and child labourers, stated that women and children are the worst affected among the migrant labourers, or the labourers working in various industries. Among the non-school going children, girls are in majority. They should be given informal and formal education to make them aware of their educational potential and to pursue education without relapsing into bondage.

One, Shri Jaish Bakrol, a Baroda-based NGO, had stated that bonded labour system is prevalent in the State, especially in Baroda district in three Taluks – Savli, Muval, etc. they have identified 493 bonded labourers and 153 child labourers. Instead of paying the minimum wage of Rs.36/- per day, only Rs.12-20 are being paid. The Zamindar engages a large number of bonded labourers and pays only a meagre amount. In spite of bringing it to the notice of the District Collector, no action was taken by him. The Deputy Collector was sent to the places, who did not take any action. On the other hand, he had ensured compromise between the bonded labourers and the employers and thereby frustrated the efforts made by one NGO. No

coordinated work between the NGOs and the Government officials had been organised to tackle the problem.

Smt. Meenakshi, a representative of the Centre for Sethna, an Ahmedabad NGO, had stated that in the entire State, migrant labour from Rajasthan and Madhya Pradesh is available in a large number. The women work as maid servants. The girl children are employed in making crackers and in unorganised sectors, beauty parlours, hotels, salt factories, agriculture, etc. Along with migrant labourers, child labourers are also employed. Therefore, it is difficult to separate children from their parents. She suggested that education should be made compulsory in the State. The responsibility and accountability be fixed on the district authorities. The NGO should be associated with the remedial action taken by the Government. Quality education should be given to the children released from the bondage of child labour. The children up to the age of 18 years are still working under bondage as child labourers. Unless the age of the children is raised from 14 to 18 years, many a child will go under the garb and remain as child labourers. Child marriages are prevalent in the State. Police, judiciary and the media be sensitized in the release and rehabilitation of child labour. She had suggested various remedial measures for successful implementation and rehabilitation schemes.

Smt. Malini Upadhyaya, an NGO working for street children, had stated that in the railway stations in the State of Gujarat and in Kutch district, a large number of children are working as child labourers. Shelters should be set up for them with facilities to have bath, sanitation, etc.

Karshad Bai M. Ralhan, a Gujarat-based NGO for mill workers, had stated that because of the closure of the textile factories, a large number of children are working and many of them are turning into child prostitutes. Education should be imparted to the children in the evening time either as a formal or informal process.

One, Shri Chandubhai also agreed with him and stated that since the textile industries were closed, workers were not having any work. Many of them are addicted to drinking and children are made to work to supplement the family income. Mahendra Jethmalani, an NGO working for the Forest workers and agricultural workers, had stated that Dalits and Adivasis, due to their poverty, work in these two areas. The minimum wages prescribed by the Government at Rs.34/- per head per day, as was suggested earlier, only

(158)

12-20 rupees are being paid. In Forest Department, Government being the model employer, was to pay the minimum wages and evolve other remunerative schemes for their health, etc. Though an announcement was made by the Minister of Labour to increase the minimum wages to Rs.53/-, even after two years, till date, the minimum wages have not been revised. Even the existing minimum wages are not being paid. For forest workers, Rs.76/- minimum wages were fixed. Even Rs.26/- is not being paid in actual terms. Though the Government have prescribed that a worker working for 900 days in four years, should be regularised as a permanent employee of the State, no action has so far been taken in this regard.

Shri Vipul Pandiya, working for construction workers in Panchmahal district, has stated that in ten Taluks, the migrant labour is found still working. Minimum wages are not being paid. Underground cable workers, out of a total number of 50,000, engaged in laying the cables in the city of Ahmedabad, instead of receiving the minimum wages, are getting wages as per piece rate for the work being extracted from them. There are no shelter homes in the urban areas for them. Police harass them constantly. Most of the labourers come from Andhra Pradesh, Madhya Pradesh and Orissa. The builders give them advance and make them work for long hours. There is no effective enforcement by the officials.

Shri Nimase Desai, a film producer, also participated in the meeting. He said that the media should focus their attention to the problem of child labourers and construction workers and sensitize them for the violators and create awareness of their rights, etc.

From the narrative of the events by the NGOs, it is clear that absolutely there is no coordination between the NGOs and Government and Government officials are not cooperating with the NGOs working in the respective areas of operation. Laxity and apathy on the part of the Government officials are responsible for non-implementation of the welfare measures. They hardly take interest, despite the NGOs' bringing the incidents to their notice. The Labour Commissioner had promised that he would proceed to Baroda and conduct a fresh survey of the bonded labourers in the three Taluks mentioned earlier. Equally, he would take up the matter with the Government of Gujarat regarding forest workers' cases. His information was that matters are sub judice, being pending in the High Court. I had stated that the NGOs are free to contact NHRC and inform it of the non-cooperation by the concerned officers, in which case, the

Commission would appropriately take action to ensure that bonded labourers and child labourers employed in hazardous industries are released and rehabilitated. They were also requested to give us the complaint so that appropriate procedure could be adopted to deal with them. Shri Nampoothiri, Special Representative, was also requested to coordinate with the NGOs and the Government. He had stated that a major part of the complaints of the NGOs is substantially true. He has been closely interacting with them. He was not sending any special reports against the officers for the reason that they would be embittered and would be reluctant to do the genuine work, they are expected to perform. With a view to seeing that the work is done, he did not submit reports against them. I had requested him to inform the Commission when his persuasion fails, to give any material results so that the Commission could deal with the cases appropriately.

On 25th October, Shri Kumaraswamy, I.G. (Police), in charge of Human Rights in the State, was called to review the work of the undertrial prisoners and progress of the TADA cases. Though he tried to offer his remarks on these three projects, I took notice that no personal involvement was found. He was not aware of the existence of the number of TADA cases in the State of Gujarat which is the largest in the country, next to Rajasthan. Except stating that law and order situation in the State is satisfactory, rest of the information was not up to the mark.

I was informed that an E.N.T. doctor by name, Dr. Nand Lal K. Manseta, a Specialist ENT Surgeon, Ellis Bridge ENT Hospital, has been running Shiva Ashram under which 100 deaf and dumb children are being given coaching, aid and education. He has been running the Ashram. I had visited the Ashram on the 26th October. He had taken three projects – (i) taken at the young age of deficiency in hearing and speech. 100 children varying between the age of 5 and 10 years, are being treated by him, (ii) giving therapy for speech restoration and hearing. Some of the children are given hearing aids. The method of education by the instructors was demonstrated and the children repeated their vocal pronunciation, etc. They are quick in memory for repetition. They are kept in boarding in the Ashram. Similarly, 30 girl children varying in age between 7 and 15 years, are being given education in the Ashram by the committed teachers. A separate hostel has been constructed for them. Their kitchen also was visited. They have been providing nutritious food to the children. The third project is Old Age Home. At present, 70 senior citizens, men and women

(170)

are in the Old Age Home. The building was constructed and given by the family members of a former Home Minister whose statue has been installed in the building. The accommodation is spacious and the senior citizens are being looked after well. Separate rooms for men or women or dormitories have been constructed and provided for. In this, those who can afford to pay voluntarily, an amount is being received from them and those who are not able to pay, are freely provided with boarding, lodging and medical treatment. I had lauded Shri Nand Lal's humanitarian work being done to the handicapped and disabled children and neglected senior citizens.

On 26th October, I had read in the 'Times of India' reported by Lena Misra that Shri Suresh Mangal Bhai Valmiki of Kota village in Gandhinagar district was slapped with a notice for eviction and to pull down his house. He and his family members with kids came to Gandhinagar and protested, demanding justice against the atrocities being committed by the higher castes in the village. The details have been mentioned thereon. I had phoned to the District Collector, Gandhinagar, and enquired whether he had seen the report. He had stated that he had seen it. He was in touch with the local officers and would take appropriate action. I requested him to furnish the report by the evening of the day. Accordingly, in the evening he, accompanied by the District Panchayat Officer, Deputy Collector and Welfare Officer, came to me. He had stated that in that village only three families of Valmiki community (Scheduled Castes) are living. They have constructed houses and encroached the land. Along with others, notices have been issued by the Mamlatdar for eviction. The matter is sub judice. There is no security for them in the village. The villagers have been threatening to pull down their houses. He had instructed the Deputy Collector to inquire into the details and submit the report. He had also met the Dalits and assured protection to them. I had suggested that the District Panchayat Officer (a senior IAS officer) himself should conduct the inquiry as to the causes for atrocities on the Dalits. On my enquiry, the Deputy Collector informed me that the Dalits had constructed houses about 35 years ago, but the villagers alleged that they have constructed only three years back and the matters are sub judice. I had suggested that the District Panchayat Officer should personally inspect to find whether the houses are in objectionable area. If it is not, arrangements should be made to assign pattas to them. In case the area is found to be objectionable or causes inconveniences to the public, alternative arrangements should be made to allow land to them and construct houses under Indira Awas Yojana or any other scheme and give possession to them. Thereafter, their houses may be

116

demolished. Arrangements also may be made under appropriate schemes for the families are properly rehabilitated without being under the pressure of the villagers for employment. The Collector had promised to comply with and said that he would send a written report after the inquiry has been conducted by the District Panchayat Officer.

(Dr. Justice K. Ramaswamy)
Member

Hon'ble Chairman

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