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**Report on the visit of Dr. Justice K. Ramaswamy, Member NHRC to
Bhopal on 25-26 April 2002.**

Dr. Justice K. Ramaswamy, Member NHRC visited Bhopal on 25-26 April 2002 to review the Bonded Labour and Child Labour situation in MP. He was accompanied by Shri Chaman Lal, Special Rapporteur of the Commission. The review was carried out in a meeting held in the Conference Hall of the State Secretariat on 26 April. The list of the participants is attached as Annexure I.

Shri K.M. Acharya, Principal Secretary, Labour Department welcomed the Hon'ble Member NHRC and the participants. Shri Chaman Lal Special Rapporteur explained the mandatory involvement of the NHRC in monitoring the implementation of the Bonded Labour Act and Child Labour Act in pursuance of the directions given by the Supreme Court in it's order dated 11.11.1997 in writ petition (civil) No. 3922 of 1985. He mentioned in brief the directions of the Supreme Court regarding the survey, identification, release and rehabilitation of bonded labourers and the nature and extent of monitoring which is being carried out by the Hon'ble Member. Since the cases of Child Labour particularly of the migrant category are invariably found to attract the provisions of Bonded Labour Act also, the Commission has been reviewing the Child Labour situation as well.

A. BONDED LABOUR

Shri K.M. Acharya, Principal Secretary, Labour Department made a presentation on the Bonded Labour situation in MP. The presentation brought out the following:

1. The subject of Bonded Labour was with the Revenue Department till July 1999. As per amendment effected in the Business, Allocation, Rules of the Government of MP in August 1999, the subject was allocated to the Labour Department. It was actually transferred by

Revenue Department to Labour Department in February 2000. As such the review WAS confined to the period after February 2000.

2. The Working Group on "vulnerable groups in Labour Force" set up by the Planning Commission in the context of preparation of the Tenth Five Year Plan has identified 20 districts of MP as being sensitive from the standpoint of bonded labour. Three additional districts (Ratlam, Raisen and Indore) have been added to this list on the basis of actual identification and release of bonded labourers in these districts during the last 3 years. The list of 23 Bonded Labour Prone Districts of MP is attached as Annexure II.
3. Vigilance Committees are in position in 44 out of a total of 45 districts of the State. The Principal Secretary, Labour assured that the position in respect of Ujjain will be confirmed within a month. It is worth noting that the Vigilance Committees in as many as 13 districts including Indore, Bhopal, Jabalpur, Sagar, Satna and Ratlam were constituted only recently (during February to April 2000). Though the presentation mentioned that sub-Divisional Level Committees have been constituted in all the Districts, it needs to be confirmed that such Committees are actually in place in all the 183 sub-Division of the State.
4. Vigilance Committees at District and sub-Divisional level, have been constituted as per the provisions of section 13 of the Bonded Labour Act. The Principal Secretary informed that the DMs have been instructed to ensure that the Vigilance Committees must meet once in a quarter get involved in the process of identification, release and rehabilitation of bonded labourers.
5. A total of 328 bonded labourers have been identified and released in six districts of the State viz Vidisha, Raisen, Ratlam, Indore, Shahdol and Satna after the transfer of the subject of Bonded Labour to the Labour Department in February 2000. As per the information received from the Ministry of Labour, Government of India, a total of 12822 bonded labourers have been identified and released in MP till the last

review made by the Ministry on 22 February 2002. 11,897 of these have actually been rehabilitated with Central assistance to the tune of Rs. 146.35 lakh.

6. 160 of a total of 328 bonded labourers released after February 2000 were migrant labourers belonging to other States with following details:

1. UP - 17 (14 released from Vidisha in December 2000 and 3 from Raisen in 2000-01).
2. Chhatisgarh -143(96 from Raisen and one from Vidisha in 2000-01 and 46 from Indore in 1999-2000).

The presentation was silent about the rehabilitation of these labourers who are reported to have been sent back to their parent State after identification and release.

7. Including 7 released bonded labourers received in Ratlam from Dadri in Haryana, the Government of MP was required to rehabilitate 175 bonded labourers with the following year-wise break-up:

1999-2000	49 (including 7 received from Haryana)
2000-2001	87
2001-2002	39

It is heartening to note that 164 of them have actually received the financial assistance @ Rs. 10,000 each per labourer before May 2000 and Rs. 20,000 thereafter. Of the remaining 11, 9 (6 of Guna and 1 each of Sagar, Bhopal and Raisen) were paid the immediate interim grant of Rs. 1000/- each but are reported to have become untraceable thereafter. 2 out of a total of 7 received in Ratlam from Haryana have not been paid any assistance as they are reportedly untraceable. The Principal Secretary assured that the DMs of the Districts concerned are making all efforts to trace these 11 labourers and ensure their rehabilitation under the Centrally sponsored scheme.

12,522
11,897
925

8. The Principal Secretary explained in detail the detection, release and rehabilitation of 85 bonded labourers released in District Vidisha in December 2000. 70 of these belong to MP with 42 of Vidisha itself. 52 of them (Vidisha - 42, Sagar-8 and Bhopal-2) have been fully rehabilitated in accordance with the directions of the Apex court. Besides getting a financial package of Rs. 20,000, they have been provided land for housing loan for self-employment and financial aid under SC/ST Act. 10 families settled in the Kanjna Pathar area have been provided financial assistance for starting small businesses through NABARD under the Tribal Finance and Development Corporation. As regards 15 released labourers belonging to other States - 14 in UP and 1 in Chhatisgarh, the DM Vidisha has forwarded their cases to the native districts. All the 70 released labourers are entitled to receive a grant of Rs. 25,000 and 25% of this amount i.e. 6250/- is to be paid on the registration of the FIR. Of a total of 42 released labourers belonging to District Vidisha, (33) have already received this grant. Sanction has been issued in respect of the 9 remaining cases and payment is being made.

Shri Rakesh Sahani, Principal Secretary, Tribal and S.C. Welfare Department, confirmed that this grant will be paid to the remaining (28) bonded labourers who belong to other districts of MP (Sagar -18, Guna-6, Bhopal-3, Raisen-1)

9. A total of 13 cases under the Bonded Labour Act have been registered in regard to 328 bonded labourers released since 1999-2000. Except one case of Bhopal (2001-2002) filed in the court of SDM Bhopal, all the cases have been filed in the courts of JMFC Raisen, JMFC Indore and JMFC Vidisha. Information regarding prosecution of the cases relating to the 7 labourers received from Haryana is still awaited from DM Bhiwani. Although vide State Government's notification dated 20 December 1975,

all SDMs of the Districts have been powers of the Judicial Magistrate 1st Class for trial of offences committed under the Bonded Labour Act, the cases are still being filed in the court of CJM and JMFC. The provision of summary trial available in respective section 21(2) of the Act, does not seem to have been used at all.

10. The Centrally sponsored scheme for rehabilitation of bonded labourer as modified in May 2000, offers the following financial assistance to all the 13 Bonded Labour Prone States (including MP):

1. Rs. 10 lakhs for survey of bonded labour in 5 sensitive Districts. This amount would be provided to a particular district once in a three years.
2. Rs. 10 lakhs for Awareness Generation Activities.
3. Rs. 10 lakhs for Evaluatory Studies at District and State Level to study the impact of existing land-debt related issues affecting bonded labourers and the impact of poverty alleviation programmes and financial assistance provided by the Government sources so far.

The Principal Secretary (Labour) informed that Dr. Baba Saheb Ambedkar Institution for Social Sciences, Mhow has been requested to prepare proposals for obtaining Central assistance for survey and evaluatory studies. The proposal for Awareness Generation Programme has been formulated with the help of MP 'Madhyam', a State Government Undertaking working in the field of media. MP Government has been slow in availing of this financial assistance which was made available in 2000-2001.

The Special Rapporteur, in his response to the presentation highlighted the need for expediting action on the following points:

- i) Locating with the help of the NGOs concerned, the 11 bonded labourers (2 of Raisen released from Haryana, 6 of Guna released from Vidisha, 1 each of Sagar, Bhopal and Raisen released from

- Vidisha and arranging their rehabilitation under the Centrally sponsored scheme.
- ii) Forward to the DG(Welfare) Ministry of Labour and the NHRC, the particulars of the correspondence made with the Districts of UP (Lalitpur, Jhansi and Allahabad) and Chhatisgarh (Durg, Bilaspur, Korba, Janjgir and Kawardha) for the rehabilitation of 160 migrant bonded labourers.
 - iii) Arrange payment of Rs. 6250/- each to the remaining 27 of a total of 70 bonded labourers of MP released in Vidisha in December 2000.
 - iv) Monitor progress of prosecution of cases filed in the Courts of JMFC Raisen, JMFC Indore, JMFC Vidisha, CJM Raisen and SDM Huzoor Bhopal.
 - v) Prosecution and recovery of Rs. 20,000 each in respect of 2 child labourers detected in the case of release of bonded labour in Vidisha in December 2000.
 - vi) Forward proposals to the Union Labour Ministry for drawing financial assistance for survey, awareness generation and the evaluatory studies.

Shri A.S. Ahlawat, Additional Secretary, Rural Development Department assured full cooperation of his Department in providing the benefit of schemes like Indira Awas Yojna, Employment Assurance scheme and Jawahar Gram Swa-rozgar scheme to the released bonded labourers. The Special Rapporteur suggested that the released bonded labourers may be accorded due preference under Swarna Jayanti Gram Swa-rozgar Yojna.

B. CHILD LABOUR

The following points emerged from the presentation of Shri K.M. Acharya, Principal Secretary(Labour) on the Child Labour situation in MP:

- (i) According to 1991 Census, estimated number of working children in MP was 9.57 lakh. In as many as 10 Districts (all tribal Districts), the percentage of working children in the total child population of 5-14 age group was found to be more than 10% (it was as high as 25.5 in Jhabua). Incidence of child labour in MP is prominent in agricultural sector, Beedi-making, Brick-kiln, stone quarries etc.
- (ii) The survey of child labour undertaken in MP as per the directions of the Supreme Court in writ petition No. 465/86 M.C. Mehta vs. Government of Tamil Nadu and others on 10.12.96 led to identification of 8739 children in hazardous occupations/processes and 3056 in non-hazardous occupations/processes. The survey resulted in identification of the following six Districts as Child Labour Prone Area:

- 1) Damoh 2) Raisen 3) Sagar 4) Tikamgarh 5) Jablapur and 6) Rewa.

Surprisingly, none of these districts is covered under the National Child Labour Project (NCLP) which is in operation in MP in only 3 districts Mandsores, Gwalior and Ujjain. It is also worth noting that none of the top 10 districts (in terms of percentage of working children to total child population) is covered under NCLP.

- (iii) All the 8739 child labourers working in hazardous occupations/processes were released. However, only 6663 out of them were admitted to schools. Others either refused admission to schools or were already studying.
- (iv) 3649 criminal cases were launched against the employers under the Child Labour (Prohibition and Regulation) Act 1986. So far only 289 cases have been decided by courts – 286 resulting in acquittal.

3033 RRCs have been issued against 3854 employers involving 8465 child labourers for recovering compensation @ Rs. 20,000/- per child labour.

1537 employers have obtained stay from the High Court in 98 petition involving 4874 child labourers. Out of a total recoverable amount of 1693 lakh, only a paltry sum of Rs. 1.45 lakh has actually been recovered in 6 districts namely Indore, Dhar, Sagar, Sidhi, Seoni and Mandsoore. An amount of Rs. 1 crore each is to be recovered in Raisen and Damoh Districts. While an amount of Rs. 50 lakh each is to be recovered in Sagar, Tikamgarh, Jabalpur and Rewa Districts. In some districts such as, Katni, Chindwara, Shahdol, Umaria, Sidhi and Morena, RRCs are yet to be issued. Recovery of fine from the offending employers, a vital component of the Supreme Court judgement dated 10.12.96 does not seem to have received adequate attention from the State Government.

- (v) The presentation did not give the total number of families of children withdrawn from hazardous work. 1074 members of these families were provided employment under various Government schemes. The rehabilitation of the affected families is also found to be far from satisfactory in MP.
- (vi) It is heartening to note that the Labour Deptt. has been carrying out regular inspections to detect cases of child labour after the survey of 1997 also. 73 children have been identified with the following year-wise details:

<u>Year</u>	<u>Number of Inspection</u>	<u>Number of children</u>
1998-99	5326	41
1999-00	926	10
2000-01	843	18
2001-02 (up to Feb.2002)	2048	4
<u>Total</u>	<u>9143</u>	<u>73</u>

A total of 207 prosecutions have been launched – 62 under Prohibition and 145 under Regulation. So far 165 cases have been decided – 120 in

conviction and 45 in acquittal. 42 cases are pending. While results of the prosecution are fairly good, follow-up action as per the directions of the Supreme Court seems to have been missed. In his intervention, the Special Rapporteur requested the Principal Secretary (Labour) to instruct the Districts concerned to take follow-up action for educational rehabilitation of these children, economic assistance to their families and recovery of Rs. 20,000/- per child labour from their offending employers. While the Commission can understand difficulties involved in pursuing the old cases of 1997, it expects that the manageable number of children (73) identified and withdrawn from hazardous jobs after 1998-99 is rehabilitated in accordance with the directions of the Supreme Court.

National Child Labour Project

Mandsore in MP was one of the 9 districts of the country brought under NCLP when the scheme was launched in 1988. The decision was obviously based on the high incidence of child labour in Slate-pencil Industry. Later on Gwalior and Ujjain districts were also brought under the project. Whereas schools in Gwalior and Ujjain are having 40 schools with capacity of 50 students each, Mandsore is having only 4 schools with a total strength of 488 students. Whereas the stipend-rate is Rs. 100 per child per month in Gwalior and Ujjain, it is found to be Rs. 50/- for students below 8 years and Rs. 100 for students above 8 years of age. The Principal Secretary Labour has promised to look into and explain this discrepancy.

GOI-USDOL PROJECTS

The "joint statement on enhanced US cooperation on elimination of child labour" signed by the Ministry of Labour, Government of India and US, Deptt. of Labour (GOI – US DOL) has identified 12 hazardous sectors as priority areas for

eradication of child labour. Beedi-making, accounting for sizeable child labour in MP is one of them.

Madhya Pradesh, Maharashtra, Tamil Nadu and UP have been selected for location of the projects under this scheme. In MP the scheme is to be implemented in Jabalpur, Sagar, Damoh, Satna and Raisen which have the maximum concentration of Beedi-workers. The project envisages complete elimination of child labour in the identified districts on a priority basis through a multi-sectoral package of services which include the identification, withdrawal and educational rehabilitation (with emphasis on vocational training) of child labourers and economic advancement of their families. A state level Project Steering Committee under the Chairmanship of the Principal Secretary Labour has been formed for overall guidance, steering and monitoring of the projects.

Besides introducing NCLP in 3 districts and GOI-US DOL project in 5 districts, action is being taken to prepare District Level Action Plan for eradication of child labour from the hazardous occupations/processes by the year 2005 in the remaining 37 districts through DPEP and Education Guarantee Scheme.

A unique and heartening feature of the Child Labour situation in MP is the involvement of Panchayati Raj Bodies in eradication of child labour. With a view to decentralising responsibility for enforcement of Child Labour Act, the State Government have vested various Panchayati Raj Bodies, Zila Parishad, Janpad Parishad and Gram Sabhas with power of Inspectors under the Child Labour Act. The District Planning Committees constituted in the State under Article 243 -ZD of the Constitution have also been vested with powers to monitor and review action taken under inter-alia the Child Labour Act.

Shri U.K. Samal, Principal Secretary, School Education Department explained the achievements of MP in universalisation of elementary education. With the introduction of the Education Guarantee Scheme to cover in all the

districts of the State, the number of out of school children has come down drastically and the incidence of child labour is showing a marked decline.

Shri K.M. Acharya, Principal Secretary (Labour) pointed out the adverse implications of the absence of a provision for appointment of Inspectors under the Bonded Labour Act and suggested that such a provision could facilitate and speed up investigation and prosecution. He also felt that the bonded labour and child labour matters should be integrated by having joint Vigilance Committees at the district level.

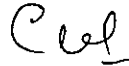
ADDRESS BY THE MEMBER

Dr. Justice K. Ramaswamy Member responded to various issues raised in the presentation made by the Principal Secretary (Labour) and comments/observations of other Secretaries. He emphasized the obligation cast on the State Governments and the District Magistrates by Parliament in regard to enforcement of the Bonded Labour and Child Labour Legislation. While expressing satisfaction with the constitution of Vigilance Committees, he stressed the necessity of making them effective in identifying bonded labourers in their respective areas and ensuring their release and rehabilitation. [He suggested that the Divisional Commissioners should be made responsible for overseeing the functioning of these committees. He explained the necessity of issuing an order u/s 6 of the Act to extinguish the liability of the released labourers to repay bonded debt. Since this order is not being issued by the DMs in many cases, the employers of bonded labourers manage to raise claims of the unpaid debt and resulting in continued harassment of the released labourers. This is also found to be one of the reasons of their relapse into bondage, sometimes even at much harsher conditions of work than before.

The Member suggested that the release certificates issued under section 6 of the Act should also carry a photograph of the released labourers as an

undisputed proof of his identity. He advised that the cases under the Bonded Labour Act should be tried by the Executive Magistrates with liberal recourse to the provision of summary trial. He felt that by securing conviction in a few selected cases, a powerful message can be sent to all concerned regarding the will and competence of the administration to tackle the problem of bonded labour. He stressed the need for close scrutiny and monitoring of the progress of prosecution under the Bonded Labour and Child Labour Act and offered the Commission's intervention in getting them speeded up. He said that he would write to the Chief Justice of the MP, High Court if the details of cases pending since long are sent to him. He expressed hope that efforts will be made to clear the pending cases of rehabilitation of released labourers and effect recoveries of RRCs issued in respect of children withdrawn from the hazardous professions. Explaining the order of the Supreme Court regarding the rehabilitation of released bonded labourers, the Member urged the State Administration to ensure that the released labourers are allotted some land and helped in earning livelihood by forming their cooperatives and providing benefits under the various Poverty Alleviation Schemes.

The Member expressed satisfaction over the institutionalised involvement of Panchayati Raj Institutions in the implementation of the Child Labour Act and desired that similar measures should be taken to involve these Institutions in detection of bonded labour and enforcement of the provisions of the Bonded Labour Act as has been done in the State of Karnataka.


7/1/52
(Chaman Lal)
Special Rapporteur