

**A REVIEW OF THE BONDED LABOUR AND CHILD LABOUR
SITUATION IN HARYANA
21 OCTOBER, 2005**

Dr. Justice A.S. Anand, Chairperson, NHRC reviewed the Bonded Labour and Child Labour situation in Haryana in a meeting held in the conference hall of Haryana Niwas at Chandigarh on 21 October, 2005. He was assisted by Shri Chaman Lal, Special Rapporteur, NHRC. List of the participants is attached as Annexure 'A'.

The last review of the Bonded Labour and Child Labour situation in Haryana was made by Dr. Justice K. Ramaswamy, former Member, NHRC in a meeting with the State officials held at Chandigarh on 31 January, 2001.

The meeting started with welcome address by Shri Prem Prashant, Financial Commissioner and Principal Secretary, Home. Expressing the commitment of the State Govt. towards the obligation of respecting and protecting the human rights of citizens, he informed the Chairperson of the presence of all structures and mechanisms in the State to give effect to the Commission's directions and guidelines on various issues mentioning specifically the monthly Grievance/Redressal meetings taken by the Cabinet Ministers at District HQs where the issue of human rights get focussed attention.

In his preliminary remarks, the Chairperson explained the purpose of the Review by referring to the Supreme Court Order dated 11.11.1997, which had mandated the Commission to monitor the implementation of the Bonded Labour System (Abolition) Act, 1976 and also empowered it to issue legally enforceable directions and recommendations. He clarified that the basic obligation for the protection of human rights is that of the State and the Commission comes only as a facilitator to ensure achievement of better standards.

Mrs. Promila Issar, Financial Commissioner and Principal Secretary, labour made a brief presentation of the Bonded Labour and Child Labour situation in the State. The Special Rapporteur responded to some of the points brought out in the presentation. The salient points of the presentation and Chairperson's observations/directions are given below:

BONDED LABOUR

Only 17 out of a total of 19 districts were having Vigilance Committees at District and Sub-Divisional levels at the time of the last review. (31 January, 2001). Vigilance Committees have now been constituted in all the districts and sub-divisions of the State. However, copies of the Gazette Notification regarding constitution of Vigilance Committees furnished in the meeting did not include District Narnaul.

Principal Secretary, Labour was requested to provide a copy of the Gazette Notification regarding the constitution of Vigilance Committees in District Narnaul also. District Vigilance Committees are meeting every month. However, their contribution to identification of Bonded Labour remains nil as before.

The State Government has been authorised u/s 21 of the Bonded Labour System (Abolition) Act, 1976 to confer powers of a Judicial Magistrate of the 1st class or of the 2nd class on an Executive Magistrate. The copy of the Gazette Notification issued in this regard presented in the meeting showed that such powers have been conferred only on Sub-Divisional Magistrates and not the District Magistrates. This is at variance with the practice in all other States. The Principal Secretary Labour accepted the omission and assured that the needful will be done.

No meeting of the State Level Monitoring Committee was held in the last three years. The Principal Secretary admitted that the Committee constituted in 2000 for a term of 2 years has not been re-constituted after its term expired in 2002.

A total of 393 bonded labourers have been identified, released and rehabilitated in Haryana during the years 1996 to 2005 with the following details:

1998	6	Sirsa
1999	122	(103 in Bhiwani and 19 in Gurgaon)
2000	232	(211 in Panchkula and 21 in Jhajjar)
2001	2	(one each in Kethal and Fatiabad)
2003	31	Sonipat

It is worth noting that all these identifications relate to the complaints received by the NIIRC and got inquired into by the DCs concerned.

There has been no identification of bonded labour in the State in the years 2004 and 2005.

All the 393 identified bonded labourers were of migrant category who went back to their home States after release. The Principal Secretary, Labour stated that all of them were paid Rs. 20,000 each under the Centrally Sponsored Scheme. This needs to be verified and confirmed, as it does not tally with the information received by the Commission from the Union Labour Ministry. No funds have been obtained by the State Govt. from the Union Labour Ministry for rehabilitation of bonded labourers since 1996-97. The grant of Rs. 20,000 per labourer under the Centrally Sponsored Scheme is to be shared equally by the State and the Central Government. As the State Govt. has not asked for any grant from the Govt. of India, it is not understood how the rehabilitation has been arranged. The Principal

- Secretary, Labour was asked to collect district-wise details of receipt and disbursement of rehabilitatory grant and the source from which the money was drawn. This information should be furnished to the Commission by 15 December, 2005.

No prosecutions were launched under the Bonded Labour Act during last 3 years i.e. since 2002. The Principal Secretary, Labour was requested to furnish year-wise information about prosecutions and detections made since 1998 (total 393).

The State has received Rs. 16 lakh from the Union Labour Ministry for conducting survey on bonded labour in 8 sensitive districts of the State, namely Panchkula, Faridabad, Gurgaon, Mahendergarh, Bhiwani, Hissar, Sirsa and Fatiabad. The survey was conducted with the help of two reputed NGOs of Delhi and the Ambedkar Centre, Punjab University, Chandigarh. The survey did not reveal a single case of bonded labour in Haryana. As reported by the Labour Department, there are 2275 brick-kilns and 777 stone crushers presently in operation in Haryana. Incidence of bonded labour defined in the light of the Supreme Court rulings given in Bandua Mukti Morcha and ASIAD cases is pretty high in Haryana. The Commission's records show that out of a total of 986 complaints on bonded labour received by the Commission during the year 2000-01 to 2005-06 (upto

17.10.2005), Haryana accounted for 99 complaints which comes to 10%.. It is worth noting that Haryana and Punjab occupy the top 2nd and 3rd position after UP in terms of complaints regarding employment of bonded labour. It is, therefore, difficult to accept the findings of the surveys conducted in 8 districts considered prone to bonded labour.

36 out of a total of 99 complaints received by the Commission are still pending for want of replies from the State. A list of 13 of these pending for over 3 months was handed over to the Principal Secretary, Labour with the request that reports in respect of 2 complaints (case No. 121/7/2000-01 Jhajjar and No.2425/7/2000-01 Bhiwani) called from the Chief Secretary, Haryana vide Commission's letter dated 4.3.05 followed by a conditional summon dated 6.10.05 should be sent immediately. In the remaining cases, reports are awaited from the D.C., Bhiwani (4), Hissar (1), Rohtak (1), Faridabad (1), Gurgaon (1), Sirsa (1), Jhajjar (1). One complaint (No.4/7/2002-03) is pending with the I.G., Human Rights, Haryana. Shri Brijinder Rai, IGP, Human Rights was asked to send his report immediately.

Under the Centrally Sponsored Scheme, the identified and released bonded labourers of migrant category are to be given the option of rehabilitation at the place of detection or in their respective native places. This option does not seem to have been given in any case and all the

identified and released bonded labourers were sent back to their home State. The review has revealed that the grant was paid in cash which is against the guidelines issued by the Union Labour Ministry which emphasis the desirability of providing assets/skills to the released bonded labourers in order to enable them to earn an independent living and escape the prospect of relapse into bondage.

The State Govt. has not availed of the offer of Rs. 10 lakh per annum for awareness generation of bonded labour offered by the Govt. of India.

The Supreme Court had vide its order dated 5.5.2005 in writ petition (civil) No.3922 of 1985 PUCL vs. State of Tamil Nadu and others, had directed all the bonded labour-prone States including Haryana to file affidavits within six months confirming (a) constitution of Vigilance Committees at all the districts of Sub-Divisional levels in accordance with Sec. 13 of the Bonded Labour Act and (b) formulation of a detailed plan for rehabilitating released bonded labourers either by itself or with the involvement of NGOs. The State Govt. does not seem to have filed these affidavits till the date of review (21.10.2005).

The Financial Commissioner, Development and Panchayat had nothing to furnish about convergence-of poverty alleviation schemes in the rehabilitation of released bonded labourers as all of them were migrant,

labourers and were sent back to their native states without being offered the option of rehabilitation in Haryana.

CHILD LABOUR

The survey of 1996-97 ordered by the Supreme Court in its judgment in the case of M.C.Mehta and others had resulted in detection of only six children employed in hazardous and 2813 in non-hazardous occupations/processes in the entire State. All the six children were withdrawn from hazardous occupations.

156 child labourers were enrolled in the regular schools and 22 child labourers in the non-formal education centres. It could not be clearly confirmed that all the six children withdrawn from hazardous work were actually admitted to schools formal or non-formal in compliance with the directions of the Supreme Court.

Families of the children withdrawn from hazardous were required to be rehabilitated by providing jobs under the Wage Employment Schemes of Rural Development or Social Welfare Departments. The presentation mainly mentioned "families of the child labourers have left for their native States".

A sum of Rs. 1,20,000 was recovered from the offending employers in respect of six child labourers. This amount was required to be deposited in ;

the Child Labour Rehabilitation-cum-Welfare Fund to be created in all districts. Confirmation about the creation of this Fund and utilisation of the amount recovered from the offending employers was not furnished.

Information about prosecution of employers in respect of six child labourers detected during the survey was not furnished. Details of prosecution under the Child Labour Act in years 2002 to 2005 presented in the meeting relate to Regulation aspect and not Prohibition aspect of the Act, which is the main concern of the monitoring in the light of the Supreme Court judgment.

In a survey conducted in the year 2000, 109 hazardous and 3284 non-hazardous units were covered and 345 children were found working in non-hazardous establishments. It is worth noting that there has been no detection of child labour in hazardous establishments in Haryana after the survey of 1996-97.

NATIONAL CHILD LABOUR PROJECT

Three districts of Haryana, namely, Gurgaon, Faridabad and Panipat were sanctioned the National Child Labour Project (NCLP) in November, 2003 under the 10th Five Year Plan. These Projects are yet to be operationalised. D.C., Panipat who was present in the meeting informed that a grant of Rs. 8.59 lakh was received sometime back. This is meant for

establishment of the Project Society and child labour survey. Only after the results of survey are intimated to the Union Labour Ministry, exact sanction indicating the number of schools and capacity of each would be issued. While City Magistrate, Faridabad who represented D.C., Faridabad furnished the same information, ADC, Gurgaon, the representative of D.C., Gurgaon was found totally unaware of the subject matter for which he was deputed to attend the meeting. The Principal Secretary, Labour was requested to review the progress in these Districts and ensure early operationalisation of these Projects.

CHAIRPERSON'S CONCLUDING REMARKS

In his concluding address, the Chairperson commented on almost all the aspects of the review of the Bonded Labour and Child Labour situation. Explaining the universality and inalienability of human rights — civil and political as well as Economic Social and Cultural, the Chairperson described Bonded Labour as the worst possible assault on human dignity. The Chairperson reminded the senior State officials about the faith Parliament has reposed in the executive especially the D.Cs. in giving them powers under this Act, which include Judicial powers. He expressed his disappointment at the poor rate of detection of bonded labourers and the

slow and tardy implementation of the Centrally Sponsored Scheme for the rehabilitation of released bonded labourers. That all the detections have been made at the instance of the NHRC and not through inquiries made into complaints received directly by the State indicates a peculiar mindset, which is not prepared to accept the existence of the evil of Bonded Labour in Haryana. The Chairperson wanted to know whether any one in the State Government could confirm that minimum wages are being paid to the workers at all the brick-kilns and stone crushers number over 2000, and the traditional SERI system of Punjab is not operating in Haryana and the State is totally free of other exploitation practices which attract the provisions of Legislation like the Bonded Labour Act. Explaining the background and significance of the Centrally Sponsored Scheme, the Chairperson urged the Principal Secretary Labour to impress upon the District Magistrates the seriousness of the issue of rehabilitation of released bonded labourers.

Expressing his shock over the total neglect of prosecution which he considers as the fourth vital component of Bonded Labour after identification, release and rehabilitation, the Chairperson stated that the truth of allegations regarding employment of bonded labour cannot be ascertained unless the D.Ms personally inquire into these complaints and develop an attitude of *ZERO TOLERANCE* in these matters. The Chairperson hoped that

the omissions and deficiencies pointed out in the presentation made by the Labour department will be removed and desired information sent to the Commission within one month. He closed his address by asking the senior officials of Govt. of Haryana to view the Commission as a partner and not an adversary and cooperate with it to enable it to work as a catalyst to promote good governance.

Clal
25.11.05
(Chaman Lal)
Special Rapporteur