

**NATIONAL HUMAN RIGHTS
COMMISSION**



CASE NO. 3341/4/11/2014-BL

**SPOT INQUIRY REPORT OF NHRC TEAM
VISIT TO GAYA DISTRICT IN BIHAR
FROM 13-16 OCT. 2014**

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NATIONAL HUMAN RIGHTS COMMISSION
(LAW DIVISION)

INQUIRY REPORT

1. BRIEF SUMMARY OF THE CASE

- 1.1 The complainant, Mr. Tojo Jose, Aftercare Manager, Justice Ventures India Trust, Nizamuddin East, New Delhi, alleged that more than eighteen families were being exploited under an illegal bonded labour system under the revenue jurisdiction of Tekari Sub Division, Gaya District of Bihar (*Annexure A*). These labourers have allegedly been forced to work by their respective owners at their respective agricultural lands under "Kamiya" labour custom. The labourers are working since generations and allegedly not paid their statutory minimum wages. Instead, they receive in kind two kilograms each (husband and wife) of raw rice per day against their hard labour rendered. The labourers belong to the Scheduled Caste category (Maha Dalits), and work more than 12 hours per day. They are allegedly trapped in a customary bonded labour system in which the labourers are not free to move about in India or to be employed elsewhere. He requested the Commission to depute a team of expert officers for necessary action.
- 1.2 The Hon'ble Commission vide proceedings dated 01.09.14 noted that the issue of "Kamiya" system was previously reported by Shri L.D. Mishra, Special Rapporteur, NHRC who had visited Bihar and submitted a report on the bonded labour in the year 2008(*Annexure B*). The report was sent to the State Government. However, the action taken report submitted by the State Government was silent on the practice of "Kamiya" system in Gaya District. The Commission further observed that it is evident on the perusal of the report of the Special Rapporteur that the practice of

“Kamiya” system is prevalent in Gaya District and that this exploitative practice is a serious violation of human rights and it violates the provisions of Bonded Labour System (Abolition) Act, 1976.

2. DIRECTIONS OF THE COMMISSION

- 2.1 The Commission directed that a team headed by Joint Registrar (Law) along with officers of Law Division and Investigation Division be deputed for on the spot inquiry in the matter. The team was to examine the actual conditions prevalent at the ground level vis-à-vis the complaint and the findings of the Special Rapporteur, NHRC, and submit a report to the Commission within four weeks.

3. TEAM

- 3.1 To conduct the on the spot inquiry a team of following officers was constituted:
- a. A.K. Parashar, Joint Registrar (Law)
 - b. Indrajeet Kumar, Asst. Registrar(Law)
 - c. Umed Singh, Dy. SP
 - d. Isam Singh, Inspector

4. ISSUES BEFORE THE NHRC TEAM

- 4.1 The NHRC team, as per the directions of the Commission had primarily two issues to deliberate upon:
- a. Whether there was prevalence of “Kamiya” system in village Sarfraz Bigha and Shankar Bigha as per the complaint and as mentioned in the report of Special Rapporteur respectively;
 - b. Whether a “Kamiya” is a bonded labour.

5. MODALITIES OF ENQUIRY

- a. The team visited Gaya to conduct an on the spot inquiry in Sarfraz Bigha village of Tekari Block in Gaya District and in Shankar Bigha village of Wazirganj Block in Gaya.
- b. The team reached Gaya on 13.10.2014. The team called upon the Village and Block Level Officers for a discussion and various issues pertaining to the incident and practice of bonded labour in the area.
- c. On 14.10.2014 the day began at 0700 hrs. with a meeting with District and Block Level Officers. Thereafter the team left for Sarfraz Bigha village for on the spot inquiry.
- d. On 15.10.2014 the team went to village Shankar Bigha, block Wazirganj. In the evening, the team met the DM and SSP of the District.
- e. On 16.10.2014 the team left for Patna and met the Home Secretary and the Secretary (Labour).

6. VISIT AT VILLAGE SARFRAZ BIGHA, TEKARI BLOCK, GAYA DISTRICT

- 6.1 Team left for Sarfraz Bigha village which is approximately 60 Kms. away from Gaya at 0800 hrs. from the Circuit House and through the Liaisoning Officer, the concerned DSP, SDM, Labour Inspectors, BDO and the Panchayat Level workers were requested to be present in the Alipur Police Station.
- 6.2 The team reached the Alipur Police Station at around 0930 hrs. from where the team left for **Sarfraz Bigha village.**

- 6.3 The team reached the Kespa school where it was informed that rest of the journey has to be managed by foot as there was no connecting road to village Sarfraz Bigha. The team reached village Sarfraz Bigha after walking by foot for approx. 1 Km. There was no Pakka road and the passage to the village was comprising of Drains/Nalas and was muddy and swampy. At one point there was temporary wooden log to connect the mud road. The complainant and members of his NGO also accompanied the team. The SDM Tekari alongwith local police also accompanied the team. After reaching the village, the NHRC team requested the villagers to cooperate with them and their statements were recorded by the SDM in presence of the NHRC team, the complainant and the NGO.
- 6.4 In the complaint the complainant had given the details of the 18 families who were the alleged victims of "Kamiya" bonded labour custom and also enclosed their affidavits. The SDM recorded the statements of the alleged victims and others. Altogether, statements of 68 villagers were obtained by the SDM. (*Annexure 'C' (Page No. 1 to 42).*)
- 6.5 Apart from the 32 victims mentioned in the complaint, there were 36 others whose statements were recorded by the SDM. (*Page No.164-166 Annexure 'C'.*)
- 6.6 During recording of the statements by the SDM, Tekari the alleged bonded labourers of the village stated that they have been held and forced to work by their respective owners at their respective agriculture land. They belong to Manjhi caste i.e. scheduled caste category (Maha Dalit) and are being forced to work more than 10 to 12 hours in a day and are not being paid their statutory wages. Instead, they were given two kilograms each (husband and wife) raw rice per day against their hard labour. No

weekly off is being given to them. It has also been stated by some of them that they were being exploited and beaten by their owners when they fall sick or could not work because of any other reason. They further alleged that they are not being allowed to move or to work to anywhere by their owners on their own.

- 6.7 The SDM, Tekari in his order dated 14.10.2014 (*Page 116-117 Annexure C*) observed that prima-facie the statements of the families revealed that the matter involved bonded labour and violation of the SC/ST (Prevention of Atrocities), Act. After giving due consideration to the submissions made by the alleged bonded labourers he concluded that all the 68 members of the 24 families are bonded labourers and issued release certificates(*Page 43-115 Annexure C*) in favour of all the 68 bonded labourers whose statements were recorded in presence of NGO members, complainant and NHRC team.
- 6.8 Further, on the recommendations of SDM Tekari, FIR No. 60/2014 dtd. 14.10.14 u/s 342, 344, 370, 379 IPC Section 16, 17, 18 Bonded Labour System (Abolition) Act 1976, section 22 of Minimum Wages Act 1948, Section 14 of Child Labour Prohibition Act 1986, section 3(1) (vi), SC/ST Act 1989, Section 26 of J.J.Act was registered at Police Station Alipur, Tekari, Gaya (Bihar) against the employers. The SDM Tekari handed over a copy of the FIR (*Page No.118 & 119 Annexure C*).to the NHRC team.
- 6.9 Photographs of the Sarfraz Bigha village and NHRC team carrying out the enquiry are annexed. (*Page No. 120-122 Annexure 'C'*).

7 VISIT TO SHANKAR BIGHA VILLAGE, WAZIRGANJ BLOCK OF DISTRICT GAYA

- 7.1 The NHRC team was directed by the Commission to visit the village Shankar Bigha in Wazirganj Block of Gaya District. The visit was to

verify the findings of the Special Rapporteur, Shri L.D. Mishra regarding the presence of "Kamiya" system in the said village. The NHRC team reached the village on 15.10.2014. The local police accompanied the NHRC team to Shankar Tola and Shankar Bigha of Wazirganj Block. The team first visited the office of the BDO. It was surprising to note that despite communication of the Commission to the State Government, no such report was found available in the office of BDO and there was no record pertaining to the same. The NHRC team was informed that there was no village named as Shankarpur as mentioned in the report of the Special Rapporteur. However, on verification from Shri L.D. Mishra, the then Special Rapporteur on phone it was noted that the name of the village was Shankar Bigha and not Shankarpur. Accordingly NHRC team proceeded to Shankar Bigha.

- 7.2 The NHRC team was accompanied by the SDO, BDO, Panchayat sewak etc of the Wazirganj Block of Gaya District. The NHRC team and the SDO, Labour Officials recorded the statements of the villagers of Shankar Tola of Shankar Bigha Village (*Page No. 123 to 159 Annexure 'C'*). The villagers in their statements have submitted that the wages were being paid to them in kind i.e. 3-5 kg rice per day for 8-12 hours of work. The male counterparts were being paid higher than the female counterparts.
- 7.3 The NHRC team noted that the place in the village where the Maha Dalits were residing was named as Shankar Tola and the place where the higher castes were residing was Shankar Bigha.
- 7.4 The NHRC team also visited the Shankar Bigha village where the Rajputs reside. They accepted that they pay wages to the labourers from Shankar Bigha Tola in kind ie 3-5 kg rice per day. They further submitted that they cannot afford to pay in cash and that the only way they can pay to the labourers is in kind.

- 7.5 Photographs of NHRC team visit to Shankar Bigha village are placed annexed as (Page No.160) Annexure 'C' .

8. OBSERVATIONS ON SARFRAZ BIGHA & SHANKAR BIGHA

- 8.1 The practice of 'Kamiya' system is an exploitative practice.
- 8.2 The wage paid in kind to a 'Kamiya' labourer in both the villages is less than the minimum wages. Therefore, in terms of the judgement of Supreme Court in PUDR and others vs UOI & Others, the work of a "kamiya" is a forced labour.
- 8.3. In the explanation to Section 2(b) of Bonded Labour System (Abolition) Act, 1976, 'Kamiya' has been mentioned as a form of forced labour.
- 8.4 The Judgement of Supreme Court in PUDR Vs Union of India and read together with judgement of Supreme Court in Bandhua Mukti Morcha vs UOI & Others brings the labourers of Sarfraz Bigha and Shankar Bigha in the ambit of "bonded labour" and hence entitles them for relief and rehabilitation.
- 8.5 The district functionaries of the Gaya, during their interaction with the NHRC team, were apprehensive about the law and order situation in Sarfraz Bigha village of Tekari Block in Gaya District after this inquiry, release of bonded labourers and registration of FIR against the affluent landowners.
- 8.6 The village Sarfraz Bigha is perhaps the most backward village in terms of infrastructure and development. There was no pacca road in the village and villagers apparently looked malnourished and were without clothes.

- 8.7 The Sarfraz Bigha village lacked every infrastructural support for example drinking water, electricity, toilets, pacca houses, schools, Aanganwadi, health centre etc.
- 8.8 The only source of livelihood of entire Sarfraz Bigha village was doing the daily wage work with the landlords of adjacent village and they were given just 2-3 Kgs. of paddy per day as wages.
- 8.9 There was no PDS distribution in the Sarfraz Bigha. Most of the villagers complained of denial of Kerosene and ration.
- 8.10 Most of the children of the Sarfraz Bigha were not going to school and instead doing household work and labour. One child named Sanjay, aged 9 years, submitted before the NHRC team that he wanted to study but was not allowed to do so and he has been performing labour work for the land owners.
- 8.11 There was no community centre in Sarfraz Bigha. One such building constructed earlier has now become dilapidated and not fit for use.
- 8.12 The NHRC team was informed by the villagers that no officer of the district or the local administration has visited Sarfraz Bigha in the last one year.
- 8.13 There was no Asha worker present in the Sarfraz Bigha.
- 8.14 The Poorwari river over-flows during rainy season and Sarfraz Bigha gets inundated with waters. The residents of the village have to swim across to reach to the local markets etc. and there is no other mode of conveyance. Further even the students have to swim across the river to go to school. In short the village is cut off from rest of the adjacent towns / villages making the villagers an ideal target for exploitation.

8.15 Vikas Mitra of Sarfraz Bigha stated before the team that mid day meal was not served in the school for the last 10 days as there was no rice and no funds for the same. The school uniforms have also not been distributed since the last six months. No scholarships have been paid.

8.16 The CDPO of the concerned block submitted that there was no aanganwadi which was also verified by the team. One of the villagers submitted that Aanganwadi was earlier operating in the Sarfraz Bigha but later on shifted to the adjacent village in Aalamganj.

8.17 Some eligible handicapped persons were not given the disability pension in Shankar Bigha. One such person was Ram Chander (*Page No. 186 Annexure 'C'*).

8.18 One of the villagers in Shankar Bigha named Sahitala Devi submitted that she had performed work under MNREGA but she has not been given the wages. The job card and the pass book was verified by the NHRC team and her contention was found to be true and the same was also confirmed by the Programme Officer of the District.

8.19 The wages for the labourers were higher for the males and lower for the females.

9. VISIT TO JVC BRICK KILN IN TEKARI, GAYA

9.1 The NHRC team, while proceeding towards Kespa village noticed certain brick Kilns operating across the roads. The team made a surprise visit to one of the brick kilns named JVC Brick Kiln owned by Suresh Babu. On enquiry from the labourers, the team was informed that they were being paid Rs.150-200 for moulding of a thousand bricks. The team also had interactions with the Munshi

of the said brick kiln who categorically stated that they are not maintaining any records. One of the Labour Officers of Gaya was requested to carry out further enquiry in the matter and to submit a report as the NHRC team had to proceed further to Sarfraz Bigha for inquiry.

9.2 Later it was brought to the notice of the NHRC team that a complaint about the same brick kiln was made earlier by the Joint Venture International to the District Magistrate, Gaya about the identification and release of bonded labour working with the JVC Brick kiln(*Page No. 167 to 180 at Annexure 'C'*).

9.3 The Labour Officer informed the NHRC team in the evening that no records were maintained by the JVC brick kiln and that FIR has been registered against the owners for violation of laws.

10. OBSERVATION ON THE JVC BRICK KILN

10.1 The brick kiln was violating the laws and despite having been informed about the same necessary steps have not been taken for curbing such violations.

11 VISIT TO PANCHANPUR POLICE OUTPOST, TEKARI, GAYA

11.1 While coming back to Gaya from Sarfraz Bigha village the NHRC team had a brief halt at the Panchanpur Outpost. The situation of the outpost was deplorable. The Outpost was being run from a community centre/ Primary Health Centre.

11.2 Another startling finding was that there the police outpost complex also had a Primary Health Centre(PHC) The PHC comprised of three rooms. However, one of the rooms was occupied by SAP Jawans. The SI of the outpost informed the NHRC team

that there was no provision to house the jawans and therefore they had to be accommodated in the Health Centre.

11.3 On enquiry, the NHRC team was informed that there are many Thanas being run in the State from temporary premises / private buildings / PHCs / Hospitals.

11.4 The photographs of the Panchanpur Police outpost are annexed (*Page No. 184 to 185 Annexure 'C'*).

12 OBSERVATIONS ON PANCHANPUR OUTPOST

12.1 There was no Lock-up nor were the D.K. Basu guidelines displayed anywhere in the outpost.

12.2 The PHC comprised of three rooms. However, one of the rooms was occupied by SAP Jawans.

13. MEETING WITH SSP AND DM

13.1 The NHRC team met the SSP and DM of Gaya District at around 2000 hrs in the evening. The meeting lasted till 2230 hrs. The DM and SSP were apprised of the problem of bonded labour in Gaya District and lack of sensitization amongst the police. There was no proper implementation of SC/ST (POA) Act, 1989 and sensitization was required. They were also apprised that the team, while coming back from Shankar Bigha, stopped for a while at police outpost at Panchanpur village in Gaya. No DK Basu guidelines lock-up etc. were found in the said police station. Even the SAP jawans were lodged in the Primary Health Centre adjacent to the police outpost. The police outpost was also running in a community centre / PHC. The DM and SSP assured that all possible remedial steps will be taken by the District Administration to rectify the problems. The

SSP ensured that within a month DK Basu guidelines will be placed at a conspicuous place in all the police stations and action taken report will be communicated to the Commission.

13.2 The Commission drew the attention of the DM to the earlier visit of Joint Registrar(Law) to Manpur in Gaya District. He was informed that there was a delay in submission of reports. He was further informed that the report regarding rehabilitation of 147 bonded labourers released from Jhajjar, Haryana has not been submitted to the Commission despite reminders.

14. MEETING WITH HOME SECRETARY AND LABOUR SECRETARY

14.1 On 16.10.2014, the NHRC team proceeded to Patna from Gaya Circuit House at around 0900 Hrs. Patna is approx. 110 Kms. from Gaya. In terms of the directions of the Commission, the NHRC team was supposed to meet the Chief Secy. Govt. of Bihar. However, because of his pre-occupation he had assigned this meeting to Secretary (Home) and Secretary (Labour), Govt. of Bihar. The NHRC team had a very brief meeting with Home Secretary, Shri Amin Subani. He stated that he had to appear before the Chairperson, Bihar State Human Rights Commission and therefore sought permission to leave. Team shared their observation and findings with the Home Secretary Bihar.

14.2 The NHRC team thereafter met the Secretary (Labour). He was also apprised of the observation and findings of the visit of the team and he assured that he will take all necessary remedial action and steps after the report is received from the Commission. The Secretary(Labour) was also informed about the non-rehabilitation of the 147 bonded labourers released from Jhajjar, Haryana. He was further informed that copy of all the documents pertaining to

this case was submitted to him as well as the Hon'ble Labour Minister, Govt. of Bihar. No action, however, has been taken and the report is still awaited.

15. RECOMMENDATIONS

15.1 The complainant submitted a list of 18 families comprising of 59 suspected victims alongwith their affidavits. Out of the 59 suspected victims statements of 32 victims have been recorded by the SDM and all the 32 were issued release certificates (*Page No. 161-162 Annexure 'C'*). Therefore, DM Gaya be asked to immediately record statements of 27 victims (*Page No. 163 Annexure 'C'*) whose statements have not yet been recorded and take necessary steps for their identification and release and send an action taken report to the Commission.

15.2 In terms of the provisions under Bonded Labour (Abolition) Act, 1976 and the Judgement of Supreme Court in PUDR Vs Union of India and read together with judgement of Supreme Court in Bandhua Mukti Morcha vs UOI & Others, the labourers of Sarfraz Bigha and Shankar Bigha come in the ambit of "bonded labour" and hence entitles them for relief and rehabilitation. Therefore, immediate steps should be taken by the State Government for release and rehabilitation of bonded labourers of both Sarfraz Bigha and Shankar Bigha. They should also be extended the benefit of various social welfare schemes of the Central and State Government. The District Magistrate, Gaya should also be asked to submit an action taken report on the statements of the villagers of Shankar Bigha which was taken in the presence of the NHRC team by the SDM, Gaya(Sadar).

- 15.3 The District Magistrate, Gaya should take appropriate steps in terms of the Section 17 of the SC/ST (Prevention of Atrocities) Act, 1989 to ensure that law and order situation in the village is under control and the SC/ST community are not under any kind of threat. An action report be sent to the Commission.
- 15.4 The SSP Gaya be directed to inform the Commission as to status of investigation in Case No.60/14 dated 14.10.14, of PS Alipur, Gaya.
- 15.5 Immediate action should be taken by the District Functionaries to open bank accounts of all the identified/released bonded labourers to enable transfer of the rehabilitation package amount into the accounts of the beneficiaries and a report be sent to the Commission.
- 15.6 The NHRC team visited two villages, Sarfaraz Bigha and Shankar Bigha, to enquire into whether the "Kamiya" system was prevalent there or not. Surprisingly in both the villages, the same was in practice. Therefore, presence of this system in other villages of Gaya and other districts of State of Bihar cannot be ruled out. The State Government, therefore, should immediately take steps to declare the practice of 'Kamiya' system as a bonded labour and this practice should be done away with immediate effect. It may further be pointed out, for the reference of the Govt. of Bihar, that a similar system named 'Bartan Sysytem' was prevalent in State of Odisha. The Commission intervened in the matter and thereafter it has been declared as bonded labour in the State of Odisha.
- 15.7 The State of Bihar should undertake a comprehensive study of the status of the Dalit / Mahadalits in the backward areas. The State Government should undertake a survey whether they are engaged in any system of bonded labour and, if yes, steps should be taken to identify, release and to rehabilitate them.


- 15.8 The report of Shri L.D. Mishra, Special Rapporteur is a real portrayal of labour standards in Bihar. The Govt. of Bihar was required to carry out a detailed and comprehensive execution of the recommendations made in the report. However, no substantive action has been taken by the State Government. The Chief Secretary, Govt. of Bihar may be summoned to appear before the Commission alongwith the action taken report on the report of the then Special Rapporteur, Shri L.D. Mishra which has already been sent to the Government of Bihar.
- 15.9 DM, Gaya Bihar may be directed to report to the Commission as regards action taken on the complaint against JVC Brick kiln Village Panchanpur Ramesar Bagicha, PS Tekari against whom a complaint has been made by the Joint Venture International.
- 15.10 The Sarfraz Bigha village is perhaps the most backward village and poverty stricken. District Administration should take immediate steps to extend the benefits of the social welfare schemes in the village immediately and submit a report to the Commission.
- 15.11 There are no roads, electricity, school, Aanganwadi Kendra etc. in the Sarfraz Bigha village. State Government should take immediate steps to provide all infrastructural support to the village and submit a report to the Commission.
- 15.12 The District Administration should ensure to provide continuous education to the children of the Sarfraz Bigha.
- 15.13 The District Magistrate, Gaya should ensure that PDS supply be restored in the Sarfraz Bigha.

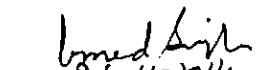
- 15.14 The SSP Gaya should ensure that mandatory orders of display of DK Basu guidelines at a conspicuous place in every Police station are complied with immediately and a report be submitted to the Commission.
- 15.15 The Panchanpur Outpost does not have a permanent building. DGP Bihar may be asked to take steps to provide a permanent building to the Panchanpur outpost.
- 15.16 DM Gaya and SSP Gaya may ensure that the Jawans housed in the Health Centre in Panchanpur may be immediately relocated to enable full functioning of the Health Centre. An action taken report be sent to the Commission.
- 15.17 DGP Bihar may be requested to report to the Commission as to how many police stations in Bihar are being run from temporary buildings / community centres etc. He will also inform as to how many police stations in the State of Bihar do not have lock ups and other mandatory facilities required in police station.
- 15.18 It came to light during the visit of NHRC team to Gaya that there is a village named "Bandhua" in Gaya District. "Bandhua" means "Bonded" in English. The State Government, therefore, should look into the matter and do the needful to ensure that the name of the village does not denigrate the dignity of the villagers residing in the village.
- 15.19 The DM Gaya, Home Secretary, Bihar and Labour Secretary, Bihar were informed about the recent release of 147 labourers from Jhajjar district of Haryana after intervention of NHRC. Most of them belong to Gaya District of Bihar. However, the team noted that no action towards their rehabilitation has been taken by the Govt. of Bihar. The Chief Secretary, Govt. of Bihar, therefore, be asked to take immediate steps for rehabilitation of the released bonded labourers from Jhajjar District

of Haryana and submit an action taken report which is awaited despite the fact that the matter was brought to the notice of Hon'ble Labour Minister, Govt. of Bihar and Secretary (Labour) in June, 2014.

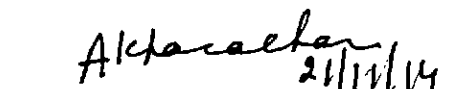
15.20 DM Gaya be asked to take immediate action to ensure continuation of operation of Mid Day Meal scheme in schools and also supply of school uniforms to children in Sarfraz Bigha and Shankar Bigha. Scholarships should also be provided to the deserving students. An action taken report be sent to the Commission.

15.21 The team which visited Gaya District may again visit the District after 2-3 months to enable mapping of the improvements at the grassroot level and action taken on the recommendations of the Commission.


(Isam Singh)
Inspector


(Umed Singh)
Dy. SP


(Indrajeet Kumar)
Registrar(Law)


(A.K.Parashar)
Joint Registrar(Law)