



KAMIYA SYSTEM OF BONDED LABOUR IN DISTRICT  
MADHUBANI, BIHAR

Spot Enquiry Report

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**National Human Rights Commission**

**Manav Adhikar Bhawan, I.N.A**

**New Delhi**

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**ENQUIRY REPORT**

**SUB: RESCUE AND RELEASE OF BONDED LABOURERS IN DISTRICT-  
MADHUBANI, BIHAR.**

- (a) Name and address of the complainants : Sh. Tojo Jose, Aftercare Manager, Justice Ventures India Trust, P.O.Box No. 3201, Nizamuddin East, New Delhi.
- (b) Date of incident : Not mentioned.
- (c) Place of incident : Ward No-12, Purjuar Deeh Tola, Kanauli, Panchayat & PO --Purjuar, PS- Arer, Block- Benipatti, District-Madhubani, Bihar.
- (d) Date of complaint received in NHRC : 14.11.2014
- (e) Date of Commission's direction for spot investigation : 17.11.2014
- (f) Dates of spot investigation : 21-01-2015 to 24-01-2015
- (g) Places visited : District-Madhubani, Bihar.
- (h) Name of the I.Os : A.K.Parashar, Joint Registrar (Law)  
O.P.Vyas, Assistant Registrar (Law)  
Umed Singh, Dy.SP  
A.K.Mishra, Inspector
- (i) Date of submission of interim report : 28.1.2015

## **2. ALLEGATIONS IN BRIEF :-**

The Commission received a complaint from one Tojo Jose from Justice Ventures India Trust, New Delhi, an NGO, dated 13/11/2014, alleging that more than thirty eight families are being exploited under an illegal bonded labour system in the revenue jurisdiction of Benipatti Sub-Division, Madhubani, Bihar. These labourers have allegedly been forced to work by their respective owners at their respective agricultural lands under "Kamiya" bonded labour custom. The labourers are allegedly working since generations. The labourers are allegedly not being paid their statutory minimum wages, instead they receive in kind two kilograms each (being husband and wife) of raw rice per day against their hard labour rendered. Most of the labourers belong to the Scheduled Caste category (Mushahar), and work more than 10 hours a day. They are allegedly trapped in a customary bonded labour system in which the labourers are not free to move out or to be employed elsewhere.

## **3. DIRECTIONS OF THE COMMISSION**

3.1 The Commission upon consideration of the matter vide proceedings dated 17.11.2014, directed as under:-

**“The Commission has considered the matter. The allegations made are serious in nature. Let the Joint Registrar (Law) in consultation with the Deputy Inspector General, (Investigation Division) of the Commission constitute a team of officers for spot enquiry in the matter and submit the report within four weeks”.**

3.2 Pursuant to the aforesaid directions of the Commission, a team consisting of officers, namely (1) A.K.Parashar, Joint Registrar (Law), (2) O.P.Vyas, Assistant Registrar (Law), (3) Umed Singh, Dy.SP, (4) A.K.Mishra, Inspector, was constituted both from the Law Division and Investigation Division for conducting the spot enquiry.

#### **4. ISSUES INVOLVED:**

- a. Whether total number of 38 families are being exploited under the revenue jurisdiction of Benipatti Sub-Division, District Madhubani, Bihar?
- b. Whether the above labourers are being forced to work by their respective employers at their respective agricultural lands under "Kamiya" bonded labour custom?
- c. Whether minimum wages are being paid to the labourers in the conformity with the notified rules framed under Minimum Wages Act?

#### **5. A BACKGROUND NOTE ON KAMIYA SYSTEM OF BONDED LABOUR**

5.1 The Kamiya System of Bonded Labour is not new in Bihar. This system of customary slavery is also in practice in other parts of the State. The complaints under this customary bondage have also been received in the Commission in the past and the Commission while dealing with the NHRC case No. 3341/4/11/2014-BL had directed for spot enquiry into the matter in Gaya District of Bihar. In that particular case 68 persons of 24 families were declared as Bonded Labourers and their 'Release Certificates' were issued. The NHRC team in its report had made certain recommendations which are under active consideration of the Commission. The relevant part of those recommendations which have direct bearing on the case in hand are as under :

1. Immediate action should be taken by the District Functionaries to open bank accounts of all the 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.
2. 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 System' 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.

3. 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, the steps should be taken to identify, release and rehabilitate.
4. The report of Shri L.D. Mishra, Special Rapporteur is a real portrayal of labour standards in Bihar. The Govt. of Bihar is 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, Government 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.

5.2 While tracing back the history of this practice, it could be seen that a research article has been published on settlement/displacement: Agrarian Bonded Labour System of South Bihar during 18<sup>th</sup> -- 19<sup>th</sup> Century authored by Pankaj Kumar and published in July, 2007 by Centre for Education and Communication. It is about expansion of agriculture and evolution of Kamiya System-agrarian bonded labour system, during 18-19<sup>th</sup> century southern Bihar. This system of agrarian bonded labour is primarily dominated by Musahar, also known as Manjhi, Bhuiyan etc. but literally known as Rat eaters. Historically they are also known for their involvement in migration to Tea Plantation in Assam and even to Caribbean and South East Asian Countries as indenture labour during late 19<sup>th</sup> and 20<sup>th</sup> century.

5.3 Musahar (SC) became first a landless bonded agrarian labour and then a bonded labour in tea plantation and now in Kiln industry. They never realized their autonomy over their own labour. Some resistance from Musahar side visible in history is limited to tea plantation labourers and indenture labourers. These are conditioned by a situation where they were forcibly alienated from their traditional cultural life without gentrification of an alternative one. This created a situation where they realized their being deprived from autonomy over their own labour and led to what had already been

mentioned the consciousness of being deprived, bonded, marginalized etc. While going through the report of review of the pace and progress of activities pertaining to implementation of BLS (Abolition) Act, 1976 and Child Labour (Prohibition and Regulation) Act, 1986 in the State of Bihar from 8<sup>th</sup> to 10<sup>th</sup> April, 2008 by Dr. Lakshmidhar Mishra, the then Special Rapporteur, NHRC, it could be seen that the ground realities have still not changed and the poor are still suffering in bondage.

5.4 In 1977, Dr. A. K. Lal of Anugraha Narayan Sinha Institute of Social Studies, Patna brought out an interesting publication captioned, 'Politics of Poverty'. This is actually a case study of bonded labour in Bihar what the author calls the voluntary sentence for life. According to this case study, there is large scale prevalence of Kamiya system (a variant of bonded labour system) in Bihar which has country's lowest rate of literacy, lowest per capita income and where wages are paid mostly in kind. The age old pernicious system provides the wherewithal for a mere biological survival of a large number of landless agricultural labourers. The publication provides a lot of historical insight into the nature and character of the problem over a 30 year period (1926-56). The burden of the song in this landmark case study is that these unfortunate sections of humanity have evoked very little attention of academicians and researchers.

5.5 The findings are breath taking. Broadly the following are the highlights of the study:-

- Bonded labour system represents an unequal exchange relationship between 2 important constituents in the village namely the land owner and the tiller;
- The land owners belong to the upper castes while the tillers belong to Bhuinya caste;
- They bind themselves into a lifelong stable alliance;
- The bond is hereditary;
- It relates to the relationship between patrilineal descent groups of masters and servants;

- The process of dependence starts at the time when a Bhuinya boy is still half grown;
- As soon as the boy is found capable of being engaged in cattle grazing, he has to work for the man to whom his father is attached as a bondsman;
- For his duties as gorkhia (cattle grazer) the boy is entitled to one maund of paddy as his yearly wage and a half kaththa of land as Ghewari;
- The boy is required to serve his master for one year as an apprentice in order to qualify himself to be accepted as a bonded labourer;
- When the boy comes of age and wants to marry and seek his own subsistence his father or some other member of his family approaches the master with a request to meet his marriage expenses;
- The master accedes to this request by providing 2 dhotis, 2 sarees and one maund of rice to the family;
- After the marriage, the couple and afterwards the offspring of such union become lifelong attached labourers to the master;
- The master also provides a small piece of land where the newlywed put up a house;
- The materials for thatching the house are provided by the master once a year;
- The relationship between a bonded labourer (Kamiya) and the master is hereditary as well as permanent;
- For a Bhuinya the status of bondsman is as ascriptive as is membership of his caste. The servitude, therefore, is not periodical in nature; the Bhuinya remains a bondsman for his whole life until he is dead.
- Accepting the status of a bonded labourer amounts to a life sentence so far as the Bhuinyas are concerned;
- In other parts of India, where bondage exists the duration of bondage in many cases is reported to be neither lifelong nor hereditary;
- In case of Bhuinyas the existing ties are extended to the next generation ;



- Here once a man becomes a bondsman, his entire nuclear family (excluding minors or married daughters) becomes a property of the master;
- Even if a master has at his disposal sufficient number of Bhuinyas (bondsmen) it does not necessarily mean that the son of the bondsman is free to seek a master of his choice;
- Through owning sufficient number of labourers as also by incurring the customary marriage expenditure of the labourer's son the upper caste landlords or bondsmen owners virtually go on expanding their reservoir of attached labour force;
- Where it is not possible for a master to recruit a new Kamiya or maintain the existing one there is the custom of sale and mortgage of the bondsman/bondsmen;
- This takes place in a contingency where the landlord feels that the Kamiya newly recruited to his labour force is a surplus one;
- Sale, purchase, mortgage or leasing out of a bonded labourer results in commodification of labour what the Philadelphia Declaration of 1944 had condemned in very strong words; 'Labour is not a commodity'.
- The bondsman, a man, a person in this process becomes a thing;
- The Royal Commission on Labour had observed in 1929 that these labourers are also exchanged when the landlord sells his land, that the buyer pays in addition to the price of the land, the sum which the bonded labourer owed to his previous master;
- As he is attached to the land his owner changes with the change in the ownership of the land;
- The case study refers to sale of 2 labourers in 1971 and 1974 in Shankarpur. In the first the price fetched by sale of a Bhuinya was Rs.500/- whereas in the other the price fetched was Rs. 175/-;
- The age of the bondsman and his reputation as a worker are important considerations to determine his price;
- If, however, a labourer is attached to a farmer with whom one or more of his married sons are also attached, the sale of the father does not result into the sale of the married sons;

- There are also instances where Kamiyas have been mortgaged by a Rajput land owner to secure loan. In other words, a labourer is also transferred from one person to another as a security for getting a loan;
- The story reported in the case study may be reproduced here in support of the theory of commodification of labour which has been condemned by the Philadelphia Declaration;  
 'Some years back, a Rajput who owned only a few acres of land was in need of money. He mortgaged his Kamiya to get loan from a Rajput of a neighbouring village. The new master of the Kamiya remortgaged the Kamiya to a third party (again Rajput). With his third master, the Kamiya found it difficult to work. In fact, he compelled his first master to pay the debt back and rescue him from the clutches of a butcher'.

5.6 Within the framework of the case study and to sum up by way of concluding remarks, the following conclusions emerge from the report:-

- The bonded labour keepers represent an overwhelming numerical majority (83.6%) while bonded labourers constitute a numerical minority.
- Land distribution and ownership is skewed. 42% of the households are landless.
- Access to higher education still remains the preserve and privilege of the landed upper castes.
- Large numbers of children belonging to the SC community are victims of educational deprivation.
- Bondage has been institutionalized under a system in which the land owning upper castes and the labourers belonging to the lower castes have formed a stable alliance.
- It is also hereditary linked to the patrilineal descent groups of masters and servants. The process begins with birth and goes up to death. It's a lifelong bondage or voluntary sentence of life.
- The bonded labourer is purchased, sold mortgaged or leased out like any other commodity or property.
- Sometimes the amount paid for hiring a leased out labourer is Rs.20/- per annum which shows how human life is equated with goods and chattel.

- Escape from bondage is virtually impossible and is met with dire consequences. Sanctions for enforcement of the alliance are unilateral even though resort to violence to correct an intransigent Kamiya may occasionally spark off counter violence.
- The payment to the Kamiya is mostly in kind and falls far short of minimum wages notified under Minimum Wages Act. Wages are paid only for the days worked. No wages can be claimed for the period of illness of a Kamiya. The wages are terribly low to keep the family well fed all the year round. Low income compels the Kamiya for fresh loans and bondage is perpetuated.
- The Kamiya system is doubly beneficial to the keeper in-as-much as (a) it provides an assured supply of cheap labour (b) the keeper does not have to maintain the labourer all the year round.
- It is mostly disadvantageous to the Kamiya except as Prof. Jan Bremen puts it, it guarantees the basic livelihood of the labourer in an economy of scarcity. He has no voice and no bargaining power. He meekly endures the inhuman as well as subhuman treatment meted out to him.
- On the whole, it is an exploitative relationship.
- The resource disadvantage of the Kamiya tended to be cumulative. They are poor and deprived of basic entitlements, their educational and income levels are very low and they have no marketable occupational skills.
- Reduction of cumulative inequalities strengthens the roots of democracy while the bonded labour system robs democracy of its meaning and significance.
- Land is the main route to achieve rural equality while inequality in ownership of land is a major contributing factor to rural inequality.
- Ceiling legislations have been passed to acquire surplus land from big peasants for the purpose of redistribution among landless labourers.
- Three million tenants/share croppers have acquired ownership of land in more than 7 million acres through land distribution and ownership.
- In many parts of the country, however, land reforms are yet to be implemented and vested interests have successfully thwarted the attempts of the State in that direction.
- Measures of 'reverse discrimination' through reservation are yet another instrument to disperse the cumulative inequality of depressed classes.

5.7 Yet another distinguished historian and social anthropologist – Prof. Gyan Prakash in his work ‘Bonded histories: genealogies of labour: Servitude in Colonial India’ has tried to reconstruct the historical formulation of the discourse which looks at the notion of freedom as a natural right as an innate human condition and representation history as a process leading towards realization of the lost human essence i.e. freedom. He seeks the articulation of this discourse in a wide range of historical practices – political, administrative, economic and social - that constituted a group of persons (Kamias) as unfree (bonded). In the process he has spanned the vast frontiers of history between early 1800 to 1930 and in doing so, he has made a sincere and professional attempt to contextualize and interpret evidence and in particular, the oral tradition. While South Bihar constitutes the focal point of attention much of the evidence in the celebrated work flows from Gaya district in Central Bihar.

5.8 In tracing the origin and growth of Kamiya system in South Bihar, the author has made a graphic presentation of the geography, topography, agro climatic conditions, irrigation practices and has convincingly demonstrated how the incidence of labour bondage lies deeply embedded in the diversity obtaining in the 2 regions known as North Bihar (north of the Ganges) and South Bihar (South of the Ganges). The north of the Ganges represents a flat alluvial plain with a diversified cropping pattern – autumn, winter and spring (transplanted aghani rice, broadcast rice, maize, millets, marua and indigo (in autumn), wheat, barley and oil seeds (in winter and spring) despite having only 5% of the total land area covered by irrigation. The south of the Ganges, in sharp contrast, represents a strong slope, undulating landscape and inability of the soil to retain moisture. The peculiarity of geography and ingenuity of man have combined to go in for digging of canals and tanks in order to store and draw more water for agriculture.

5.9 The author has presented a succinct analysis of how the north-south divide is relevant not only for agricultural production but how the pattern of

agrarian relations has also displayed corresponding pattern of divergence. In the context of origin, growth and continuance of Kamiya system, he has presented a logical, coherent and convincing analysis of how and why Kamiyas (unfree labour) were preponderant in South Bihar (embracing Palamau, Hazaribagh and Santhal Parganas which are now in Jharkhand) as compared to the north. In the north of the Ganges, there is intensive agriculture, double cropping, higher population density, availability of family labour, high to moderate demand for labour (while family labour is sufficient for small peasants, demand for labour on large landlord estates and big peasant farms would be high) in south of the Ganges there is mono cropping (second crop is primarily Khesi dal which is sown on paddy fields), high agricultural seasonality and, therefore, need for supply of labour on an assured basis. The supply of labour could be guaranteed only if special ties were in place between the landlord and the agricultural labourer throughout the year. This is how existence of attached agricultural labour made sense in the areas south of the Ganges while in areas north of the Ganges where work is available for most parts of the year, the need for such special bonds or the need for attached agricultural labour would be less.

5.10 The inescapable conclusion at the end of this analysis is that the agrarian economy was created under social relations of production secured and reinforced by power and it has to be sustained by the same process. Whether it is what Karl Marx called commodity fetishism or what Karl Polanyi formulated on the embeddedness of the economic in the social under percapitalist formations series of differences presented by the author along the North South continuum leads us to the stranglehold of agro-economic determinism, that social relations are to be seen in terms of their economic functions and that social relations are represented according to economic categories. The system of 'Kamiya' noticed by the NHRC team in District Madhubani of Bihar is indicative of the fact that the generations old bondage or slavery is still in existence in open, known to the society and to the State Administration even after 68 years of Independence and nearly 39 years after the Indian Parliament enacted the Social Welfare Legislation called the Bonded

Labour System (Abolition) Act, 1976. The victims belonging to the scheduled castes are suffering, the offenders are powerful and the administration is reluctant to act.

#### **6. SEQUENCE OF EVENTS :-**

6.1 In compliance of the direction of the Commission, a team consisting of S/Shri A.K. Parashar, Joint Registrar (Law), O.P.Vyas, Assistant Registrar(Law), Umed Singh, DSP and A.K. Mishra, Inspector constituted by JR(Law) in consultation with DIG(Inv.) has conducted the spot enquiry. It was informed to the NHRC team by the petitioner that some officers of District Administration are conducting enquiry in the village and are intimidating the victims surprisingly prior to the commencement of the spot enquiry by the team of NHRC.

6.2 The team reached Madhubani in the night on 21.1.15 where Shri Satyendra Kumar Yadav, Senior Dy. Collector, Madhubani nominated as liaison officer of the team was present. He was asked to meet at 8.00 A.M. on 22.1.15 and to accompany the team for spot enquiry. Accordingly, at around 8.30 A.M. NHRC team along with Shri Yadav, Sr. Dy. Collector, Madhubani left for Benipatti, the SDM, Headquarters. The local SDM, Benipatti, and the Local SHO were requested to remain present. This information was sent to both the SDM and SHO well before departure of the team. The team reached the office of SDM, Benipatti at around 9.30 A.M., but the SDM was not found present.

6.3 On finding that valuable time is lost for want of the local SDM, the team at about 11 AM decided to leave the Sub Divisional Headquarter for village Purjuar for making initial preparations. Barring the SDM, Benipatti, rest of the officers of the Sub Division including two administrative officers accompanied the NHRC team. The team together with the officers of the District Administration reached village Purjuar and was surprised to find that the local SHO and the officers of the Labour Department were already present there. In the meanwhile the petitioner and his colleagues, who

were also accompanying the NHRC team, started calling the victims in the ground adjacent to the old Sanskrit school located in the village. The NHRC team started interacting with the officers of the Labour Department and came to know they conducted the enquiry previous day in the matter.

6.4 The Labour Superintendent, Madhubani Shri Ripu Sudan Mishra, the Labour Enforcement Officer, Shri Ashok Kumar on being asked apprised the NHRC team that the enquiry was conducted in the matter on the verbal orders of the District Magistrate, Madhubani conveyed through Sr. Dy. Collector, Madhubani, Shri Satya Prakash. On hearing this, statements of the both the officers were recorded then and there.

6.5 The moment SDM, Benipatti reached, he was briefed by the NHRC team about the matter and requested him to begin conduct an enquiry in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976. The SDM was briefed by the NHRC team that the allegation levelled with regard to keeping the labourers in bondage stands proved, in the light of findings of the enquiry conducted by their own officers at the behest of District Administration, hours before, the previous day. Nevertheless, the NHRC team with the help of petitioner NGO started recording of the statements of the victims afresh in the presence of SDM, Benipatti. In all 39 adult labourers were examined during the course of enquiry, wherein each and every statement was countersigned by the SDM, Benipatti and the NHRC team.

6.6 Since the enquiry was being conducted in the open in the presence of SDM, Benipatti and the victims willingly deposing having been kept in bondage, the SDM was requested by the NHRC team to take a decision in the matter. The SDM then randomly picked up some of the statements, asked his sub-ordinate administrative officers to call the victims and started questioning from the victims one by one by confronting them with the contents of their statements.. Since the facts were crystal clear, the SDM was requested to address the victims on fate of the enquiry and to assure the victims for their personal safety and security after holding such an enquiry

in full public view. The SDM however refused to talk further with the victims and stated that he will issue release certificate in his office only and asked the NHRC team to accompany him.

6.7 The SDM, Benipatti made no efforts whatsoever during the course of such enquiry to make an enquiry either from the employers named by the victims or from the petitioner and his associates present there. The NHRC team alongwith the officers of District Administration reached the Sub Divisional Headquarters at Benipatti. On being asked by SDM himself, a proforma of the release certificate was also provided by the NHRC team to the SDM then and there, so that the release certificate could be issued in the names of the victims. The SDM, Benipatti there after asked the NHRC team to provide him a copy of the Bare Act of the Bonded Labour System (Abolition) Act and the same was also provided to him then and there. He was also provided with all the original statements of victims which were counter signed by him. Copy of the complaint together with enclosures had already been provided to him earlier at village Purjuar.

6.8 The SDM on being asked by the NHRC team after couple of hours, informed the NHRC team that the matter is still under his consideration and he will take the decision later in the matter. The NHRC team thereafter left Benipatti at about 8.00 P.M. At about 10.00 P.M. Shri Rajesh Meena, SDM, Benipatti called JR (Law) on his mobile that he is coming in the morning to Madhubani with the Release Certificates and agreed to reach by 8.30 A.M. on 23.1.15.

6.9 On the direction of the SDM, Madhubani all the employers (11 nos.) named in the complaint reached the Circuit House in the morning and their statements were recorded by the NHRC team. The SDM, Benipatti did not reach at the mutually agreed time.



6.10 Shri Rajesh Meena, SDM, Benipati arrived at Circuit House, Madhubani at about 1100 hrs on 23.1.15 and informed the NHRC team that he has not issued the release certificates and will rather hold further enquiry in the matter.

6.11 The NHRC team thereafter requested for an appointment with the District Magistrate, Madhubani and called on the District Magistrate in his chamber in the afternoon of 23.1.15. The District Magistrate, Madhubani was apprised of full facts of the case.

6.12 Shri Satya Prakash, Senior Dy. Collector, District General Section, Madhubani, however despite continued efforts made by the NHRC team preferred to avoid the NHRC team and as such his version could not be recorded. The officers of the Labour Department who promised to submit their action taken reports also avoided the NHRC team.

6.13 The petitioner however in the evening of 23.1.15 submitted a complaint before NHRC team that some of the police officers barged into the houses of the victims at midnight at around 0100 hrs on 23.1.15, called the victims out, intimidated them and asked them to put their thumb impressions on some blank papers and on refusal by labourers, they were threatened by the police. Then again during day hours at about 1300 hrs, the Operator of Public Distribution System of the village approached the victims and asked them to put their thumb impressions on some blank papers but was refused by the labourers. Both the aforesaid developments were immediately conveyed over phone to the District Magistrate, Madhubani and the Supdt. of Police, Madhubani.

6.14 The NHRC team in the night of 23.1.2015 watched TV coverage on this enquiry in the village at "News Channel 41 – Local News Channel" where some of the employers including "Village Head" (Mukhiya) giving bite that the allegations are false and these labourers are paid @ Rs 300/- per day. It goes against his own version before the NHRC team that these labourers have never worked with them.

6.15 The NHRC team submitted its Interim Report on 28.1.2015 and the Commission upon consideration of the matter passed the necessary orders on 30.1.2015 to be complied with by the State authorities.

## **7. COMPLIANCE REPORT BY THE DISTRICT ADMINISTRATION**

7.1 In response to the notice issued by the Commission vide proceedings dated 30.1.2015, the District Magistrate, Madhubani, Bihar, vide communication dated 8.2.2015, has submitted the detailed compliance report. The report, inter-alia, indicates that on 23<sup>rd</sup> January 2015, the Sub Divisional Magistrate constituted a team of six subordinate officers for thorough enquiry into this matter. Same day, necessary instructions were given to the Sub Divisional Police Officer, Benipatti for ensuring law and order in the area besides initiating preventive action as per law. The Labour Superintendent, Madhubani has filed a case against 18 errant employers u/s 20(2) Minimum Wages Act, 1948 in respect of 48 labourers.

7.2 The District Magistrate, Madhubani thereafter instructed the Labour Superintendent, Madhubani on 24<sup>th</sup> January 2015 for registration of a case under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, if the labourers belong to such category. The District Magistrate himself issued instructions to all the concerned officers in the area on 25<sup>th</sup> January 2015 to ensure preventive and security measures in the village in order to maintain law and order and deputed Executive Magistrate and Police to camp there. Preventive action u/s 107 Cr.P.C. was also initiated against 12 errant employers.

7.3 A criminal case vide FIR No.10/2015, Police Station Arer, u/s 3(1) (VI) SC/ST Act, dated 1.2.2015 was also got registered. The enquiry team constituted by the Sub Divisional Magistrate, Benipatti has submitted its report to the Sub Divisional Magistrate on 31<sup>st</sup> January 2015 and it was unanimously decided that in the light of the findings of the enquiry conducted by the officers of Benipatti Sub Division, the communication dated 30.1.2015 of the National Human Rights Commission in the matter and the statements of the labourers recorded on 22<sup>nd</sup> January 2015, all the

labourers (101) of 38 families be declared as bonded labourers. Their release certificates be issued and besides, an amount of Rs.20, 000/- each to be paid to them. The benefits under Social Welfare Schemes of the Central Government and the State Government be also extended to all the 101 released bonded labourers. The aforesaid decision of the Vigilance Committee of Benipatti Sub Division was approved by the District Vigilance Committee, Madhubani on 6<sup>th</sup> February 2015.

7.4 It was also decided that the errant employers will also be prosecuted under the provisions of the Bonded Labour System (Abolition) Act, the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, the Child Labour Act, the Juvenile Justice Act and the Indian Penal Code by registering an FIR against the offenders. The Sub Divisional Magistrate, Benipatti has accordingly issued the 'Release Certificates' in the names of 101 bonded labourers of 38 families and copies of the same have also been forwarded to the Commission.

7.5 The Labour Superintendent, Madhubani has also been directed on 6<sup>th</sup> February 2015 to recover the past wages of the 101 released bonded labourers from their respective employers. Accordingly, the Labour Superintendent, Madhubani has filed 113 cases against 18 employers through Labour Enforcement Officer, Benipatti in the Benipatti Court. The Labour Commissioner, Bihar, Patna has also been requested on 6<sup>th</sup> February 2015 for allocation of Rs. 20,20,000/- for payment @ Rs. 20,000/- each to the 101 released bonded labourers. The amount shall be disbursed on receipt of the aforesaid funds.

7.6 It has been further stated that special camps have been organized to extend the benefits of Social Welfare Schemes to these labourers under Antodays Anna Yojna; Home Base New Born Care; Indira Awas Yojna; Janani Bal Shishusuraksha Yojna; Kerosine Oil; Outpatient Department; Public Distribution System; Primary Household; Routine Immunization; TB Treatment; Swarnajayanti Gram Swarojgar Yojna; Self Help Group, Take Home Ration; Vaccination and Vitamin A as per their entitlement. The details of the same together with Beneficiaries have also been furnished.

7.7 The Labour Superintendent, Madhubani has informed the District Magistrate that another case vide FIR No. 14/2015, u/s 16,17 and 18 of the Bonded Labour System (Abolition) Act, section 3 (1) (vi) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, section 14 of the Child Labour Act, section 23 of the Juvenile Justice Act, section 22 of the Minimum Wages Act and sec. 344, 370, 374, 34 IPC has been got registered at Police Station Arer on 6<sup>th</sup> February 2015 against 18 named employers. It has been stated that complete assistance was provided to the visiting National Human Rights Commission team by the Office of the District Administration during their stay from 21 – 24 January 2015. The District Magistrate has stated that he is committed to the welfare of the people belonging to the scheduled castes and scheduled tribes, poor and downtrodden sections of the society. The report is however silent on statements recorded by them on 21.1.2015.

7.8 According to the District Magistrate, the complaints of the petitioner, Tojo Jose dated 21.1.2015 and 23.1.2015 were received by him and the Sub Divisional Magistrate, Benipatti was asked to enquire and to submit the report. As per the enquiry report, the victims have denied the allegations made in both the complaints. It has been stated that the labourers have not been intimidated and no efforts were made by anyone to obtain their thumb impressions under force on blank papers. The allegations made against the police and the PDS dealer Tarakant Jha have altogether been denied and termed as contrary to facts and are misleading. It has also been stated that the situation is peaceful in the village. Preventive as well as criminal action has been initiated against the errant employers and the local police is keeping close eye on the situation to maintain peace and tranquility in the village.

7.9 On perusal of the contents of the FIR, it could be seen that the Labour Superintendent, Madhubani, vide his complaint dated 6.2.2015 addressed to the Station House Officer, Police Station Arer, has stated that the statements of the labourers belonging to the scheduled castes were recorded by the NHRC team and others on 22.1.2015 in his presence and in the presence of other officers. It has been further

stated that certain persons (18) have kept some persons in bondage under Kamiya system. The same has been enquired into by the Labour Enforcement Officer, Benipatti and it has been found that 18 employers belonging to the Brahmin Caste are taking forced labour from 65 named bonded labourers. These employers are keeping the victims in bondage for years together as per customs and under debt bondage to work and are extracting forced labour in their agricultural fields against their wishes contrary to law. They are also deprived to move out of the village and are being treated like slaves. These 18 employers have extracted work contrary to law from the victims and have not paid them the minimum wages. The victims also included children and adolescents, who have been exploited mentally and physically. Copies of the documents as referred above have been forwarded. A similar report has also been received from Sub Divisional Magistrate, Benipatti.

## **8. GIST OF STATEMENTS:-**

### **8.1 VERSION OF THE COMPLAINANTS :-**

8.1.1 Sh. Tojo Jose, Aftercare Manager, Justice Ventures India Trust, P.O.Box No. 3201, Nizamuddin East, New Delhi. P/1-31/Appendix-C)

The petitioner remained present during the course of enquiry and made available the victims for their statements. The petitioner on 21.1.2015 informed the NHRC team that some officers of District Administration are conducting enquiry in the village and are intimidating the victims. The petitioner also informed that the employer landlords are very powerful persons having relations/family members in bureaucracy and judiciary. The petitioner again on 23.1.2015 submitted a complaint before the NHRC team that some of the police officer forced their entry into the houses of th victims at midnight on 22/23/1/2015, intimidated them and asked them to put their thumb impressions on some blank papers and on refusal, they were threatened by the police. Then again during day hours at about 1300 hours on 23.1.2015, the operator of Public Distribution System of the village approached the victims and asked them to put their thumb impressions on some blank papers. The petitioner has also submitted a list of victims being adult and minors employed by the landlords.

**8.2 Version of Labourers and their Family Members of ward No-12, Purjuar Deeh Tola, Kanauli, Panchayat & PO -Purjuar, PS- Arer, Block- Benipatti, District-Madhubani, Bihar. (P/32-80/Appendix-C)**

**8.2.1 Statement of Rajkumar Sada, SC (aged 35 years) s/o GhusakSada:- (P/32/Appendix-C).**

Rajkumar Sada alongwith his wife Shanti Devi stated that they live in the Vill-Purjuar alongwith their two children. They stated that they are working at the agricultural land and at the house of Heera Jha for the last 10 years. Their ancestors were also engaged with the ancestors of Heera Jha from generations. He tried to work elsewhere but was not allowed and forced to work with him. He and his family want to get rid of Heera Jha. They are also being abused by Heera Jha. They receive only in kind two kilograms each (husband and wife) of raw rice per day against their hard labour rendered. They have to take debt from the landlord for their medical expenses and still he is having Rs. 10,000/- debt from Heera Jha. They stated that they want to be free and independent from the landlords.

**8.2.2 Statement of Gopi Sada, SC s/o Magnu Sada:- (P/33/Appendix-C).**

The labourer alongwith his wife stated that their dwelling is situated on the land of Jaishankar Jha as claimed by Jaishankar Jha. But the labourers are unaware about the ownership of the land. The labourer is engaged at the agricultural land of Jaishankar Jha for the last 15-16 years and his wife is engaged in the domestic works of Jaishankar Jha. His wife also picks up there animal dung and on the labour rendered, she is paid Rs 200/- for 4 months, whereas he gets 2 kg of raw rice per day. The labourer wants to go elsewhere for work but the owner did not allow him to go out. The father of labourer is also engaged with Jaishankar Jha from last many years.

**8.2.3 Statement of Fekan Sada, SC (aged 60 years) s/o Tulai Sada:- (P/34/Appendix-C).**

The labourer along with his wife stated that he had 6 members in his family. They are working for Chulahi Jha, Waquil Jha and Mohan Jha from generations. He along with his wife and daughter works from 08:00 AM to 05:00 PM. They get 2 kg of raw rice per person, per day. They are having dwelling on the land provided by the owner and also the owner had given 10 Khatta land for agriculture purpose. They are not allowed to leave the place as in that case they have to give up the land provided by the owner.

8.2.4 Statement of Awdesli Sada. SC (aged 20 years) s/o Panchu Sada:- (P/35-36/Appendix-C).

The labourer along with his wife stated that since childhood, they are working at the agricultural land and house of Heera Jha. They want to go outside for work, but Heera Jha insists that as he has given land to his ancestors, he will not be allowed to work elsewhere. If the labourer goes elsewhere for work, he has to leave the place given by the owner. He gets 2 kg of raw rice per day. He further stated that his ancestors since generations have been working for the same owner and his ancestors. He now wants to be free from this employer. They are also being physically assaulted and abused.

8.2.5 Statement of Bhogi Sada. SC (aged 20 years) s/o Chettu Sada:- (P/37/Appendix-C).

The labourer stated that he is engaged with Jaishankar Jha, since he was 10 years old. He initially grazed their cattle and now doing the farm work. He is engaged with his wife and gets 2 kg of raw rice per day/per person. His wife is engaged at the agricultural land as well as in the household works of the owner. His wife Maya Devi cleans animal dung and washes utensils. They are not allowed to go elsewhere for work. The labourer wants to be free from the clutches of the owner and work elsewhere. He is being abused and also threatened for eviction, if he leaves the work.

8.2.6 Statement of Amarjeet Sada, SC (aged 30 years) s/o Magnu Sada:- (P/38/Appendix-C).

The labourer alongwith his wife stated that he is engaged with Shankar Jha, since he was 17-18 years, whereas his wife is engaged after the marriage from last three years. They get 2 kg of raw rice per day per person. When the labourer wants to go elsewhere for work he is asked to leave his dwelling. He is abused and threatened in case he leaves the employer. His wife is even forced to work during her illness.

8.2.7 Statement of Punita Devi Sada, SC w/o Jhari Sada:- (P/39/Appendix-C).

Punita Devi stated that she lives in the village along with her 5 sons and husband. Her family is engaged with Jaishankar Jha at his agricultural land and house from last 17-18 years. They get 2 kg of raw rice per day per person and are not allowed to work elsewhere. They are working under threat of eviction and out of fear.

8.2.8 Statement of Domu Sada, SC (aged 30 years) s/o Fekan Sada:- (P/40/Appendix-C).

The labourer stated that he lives in the village along with his wife and son. They are engaged with Chulahi Jha at his agricultural land and his house. They work since 07:00 AM till 04:00 PM and are paid 2 kg of raw rice per day/per person. They have been given a small room with grass floor in which there is no electricity. They cannot go elsewhere for work as they have to leave the dwelling place provided by the owner. They are finding difficult to survive and go in open for defecation.

8.2.9 Statement of Satan Sada, SC (aged 25 years) s/o late Sahdev Sada:- (P/41/Appendix-C).

The labourer stated that he alongwith his wife is engaged with Shankar Jha. His ancestors from generations together were engaged with the ancestors of Shankar



Jha. They get 2 kg of raw rice per day for their labour rendered and are not allowed to work elsewhere. He is often subjected to abuses by the employer.

8.2.10 Statement of Preim Sada, SC (aged 45 years) s/o Tulsi Sada:- (P/42/Appendix-C).

The labourer along with his wife and three children stated that his family is engaged with Jaishankar Jha. His ancestors from generations were also engaged with the same family. They work for 12-13 hours and get 2 kg of raw rice per day. Their ancestors were given land for dwelling and agricultural purpose and in exchange they are forced to work. He has not seen the outside world. His children are not allowed to attend school and they are at times abused.

8.2.11 Statement of Kari Sada, SC (aged 50 years) s/o Chettu Sada:- (P/43/Appendix-C).

The labourer stated that he along with his wife and children are engaged with Waquil Jha and Chulahi Jha. He is engaged from last 40 years. His ancestors were given land for agricultural purpose, due to which they were forced to work for 12-13 hours per day. In exchange of their labour rendered, they get 2 kg of rice per day. The children are not allowed to study. They even cannot move out of the village. They are not spared even during sickness and are abused. He feels frightened after giving this statement. They are leading very hard life.

8.2.12 Statement of Magnu Sada, SC (aged 60 years) s/o Chettu Sada:- (P/44/Appendix-C).

The labourer stated that he along with his wife is engaged at the agricultural land and house of Jaishankar Jha. His ancestors were also engaged with the same landlord. They are not free to move out and to be employed elsewhere. They are paid in kind two kilograms each (husband and wife) of raw rice per day against their hard labour rendered. He had been given 12 kattha agricultural land by the landlord. His daughter aged (13 years) and son (11 years) are also engaged and they want to be free from the clutches of the

landlord. He is physically assaulted and also threatened for eviction, in case of leaving the employer.

8.2.13 Statement of Budhan Sada SC (aged 20 years) s/o Fekan Sada:- (P/45-46/Appendix-C).

The labourer stated that his family is engaged with Chulahi Jha from many generations. The labourer and his wife get 2 kg of raw rice per day per person. The labourer and his family are not allowed to go elsewhere without the permission of the owner. They are forced to work for 11 hours per day. They are not spared even during sickness. They are often threatened with eviction, if thinks of working else.

8.2.14 Statement of Pulkit Rai SC (aged 32 years) s/o Kameshwar Rai:- (P/47/Appendix-C).

The labourer stated that he and his wife Bina Devi works for Devanand Jha for the last 15 years. They work at the owner's house and agricultural land and are paid Rs.20/- per person/ per day. They work from 07:00 AM to 06:00 PM and are not allowed to work elsewhere. This family is engaged with this owner from generations. In case, his wife falls sick, then his mother Sangita is forced to work. They are also threatened for eviction on leaving the job.

8.2.15 Statement of Ganga Ram Sada SC (aged 25 years) s/o Ram Sunder Sada:- (P/48/Appendix-C).

The labourer stated that he lives in the Village Purjuar, along with his family members. He along with his wife works at the agricultural land and at the house of Heera Jha for the last 15 years. They receive in kind two kilograms each of raw rice per day against their hard labour rendered since morning till late evening. He had taken advance of Rs 1200/- from the landlord. Their ancestors were also engaged with the ancestors of Heera Jha from generations. They have taken debt of Rs. 1200/- for treatment of his father.

8.2.16 Statement of Rizhaan Sada SC (aged 45 years) :- (P/49-51/Appendix-C).

The labourer along with his wife and family members work for Modnarayan Jha for the last 40 years. The labourer stated that he works at the agricultural land and the house of the owner from morning till late evening and get 2 kg of raw rice per day. He is not permitted to go elsewhere for work. They are also subjected to physical beatings and abuses.

8.2.17 Statement of Ram Lal Sada SC (aged 25 years) s/o Ram Sunder Sada:- (P/52-53/Appendix-C).

The labourer stated that his family work for Rajdev Jha and Badri Jha at his agricultural land from generations. He along with his wife works from 08:00 AM to 07:00 PM and get 2 kg of raw rice per day per person. The owner has given 10 **kattha** land to his father for agricultural purpose. They are not allowed to go elsewhere. If they move out, then are subjected to abused and threatened for eviction.

8.2.18 Statement of Ajay Sada SC (aged 30 years) s/o Biltu Sada:- (P/54-55/Appendix-C).

The labourer stated that his family work for Rajdev Jha and Badri Jha at his agricultural land from generations. He alongwith his wife works from 08:00 AM to 07:00 PM and get 2 kg of raw rice per person. The owner has given 10 **kattha** land to his father for agricultural purpose. They are not allowed to go elsewhere. They are not spared even during sickness and are threatened for eviction.

8.2.19 Statement of Girmal Devi SC (aged 36 years) :- (P/56/Appendix-C).

Girmal Devi stated that her husband Sonfi Sada work for Buweji Jha since childhood. Their ancestors also worked for the same family. They get 2 kg of raw rice per day for their work. The labourer stated that they are not allowed to work elsewhere and wanted to be free from the owner.

8.2.20 Statement of Shyam Devi SC (aged 28 years) w/o Umesh Sada:- (P/57/Appendix-C).

She along with her husband Umesh Sada for Bhagwan Narayan Jha and get 2 Kg. Rice per day. Their ancestors also worked for their generations in the past. They are not allowed to work elsewhere and not even move out. Also subjected to physical assault.

8.2.21 Statement of Umesh Sada SC (aged 30 years) s/o Ram Prasad Sada:- (P/58/Appendix-C).

The labourer stated that he along with his wife Shyam Devi is engaged with Bhagwan Narayan Jha for the last 15 years. They work at the owner's house and agricultural land and get 2 kg of raw rice per person/ per day. They work from 07:00 AM to 06:00 PM and are not allowed to work elsewhere. His father was given 15 **kattha** land for the agricultural purpose and due to this they are not free. This family is engaged with this owner from generations.

8.2.22 Statement of Bipat Sada SC (aged 45 years) s/o Ram Sunder Sada:- (P/59/Appendix-C).

The labourer stated that he lives in the village along with his wife Shanti Devi and 07 children. His family is engaged with Heera Jha at his house and agricultural land and work for 12-14 hours per day. The dwelling has been given by the ancestors of Heera Jha and due to this they are not allowed to go elsewhere. He has taken debt of Rs 10000/- from the owner as his wife fractured her hand while working and also works to compensate the debt. The labourer wanted to be free from the owner. In case, if he moves out, then he is physically assaulted and brought back by the employer.

8.2.23 Statement of Siya Saran Sada SC (aged 35 years) s/o Ram Sunder Sada:- (P/60-61/Appendix-C).

The labourer stated that he along with his wife is engaged with Heera Jha. His ancestors were also engaged with this family. They work at the owner's house

and agricultural land and get 2 kg of raw rice per person/ per day. They work from 08:00 AM to 07:00 PM and are not allowed to work elsewhere. His ancestors were given 10 **kattha** land and due to this the labourer is forced to work for this owner. They have no freedom of movement, not spared during sickness and are abused.

8.2.24 Statement of Ram Sunder Sada SC (aged 60 years) s/o late Juri Sada:- (P/62/Appendix-C).

The labourer stated that he works for Heera Jha since childhood and now his wife and children are also engaged with this owner. He is bound to work as the dwelling place has been given by the ancestors of Heera Jha. They get 2 kg of raw rice per day and stated that they want to be free. His three married sons' along with their wives are also working with them. They are not free to move out.

8.2.25 Statement of Ram Prakash Sada SC (aged 35 years) s/o late Guzak Sada:- (P/63/Appendix-C).

The labourer stated that alongwith his wife are engaged with Amod Jha for the last 15 years and get 2 kg of raw rice per day for the labour rendered. His family members are not allowed to work elsewhere. The labourer wanted to be free. They are working since generations, not free to move out and are threatened with eviction.

8.2.26 Statement of Bhula Sada SC (aged 60 years) s/o Jaldhaari Sada:- (P/64/Appendix-C).

The labourer stated that he along with his wife and 4 children lives in the village-Purjuar. He along with his wife and son are engaged with Heera Jha. They work from 07:00 AM to 06:00 PM and get 2 kg of raw rice per day per person. He has been given small piece of land for making house on that and taken advance of Rs. 2000/-. The family is working from generations and wanted to be free.

8.2.27 Statement of Panchu Sada SC (aged 65 years) s/o late Jaldhaari Sada:- (P/65/Appendix-C).

The labourer stated that he along with his wife and a son lives in the village-Purjuar. He along with his wife are engaged with Heera Jha. They work at the agricultural land and the house of Heera Jha. They work from 07:00 AM to 08:00 PM and get 2 kg of raw rice per day per person. The family takes debt from the owner in case of medical expenses. They have to take permission to move out. Also subjected to physical assault and abuses. They are working since generations together.

8.2.28 Statement of Chand Sada SC (aged 80 years) s/o late Jaldhaari Sada:- (P/66-67/Appendix-C).

The labourer stated that he along with 6 others lives in the village Purjuar and his family work for Heera Jha at his agricultural land and house. They get 2 kg of raw rice per day per person. They work from 08:00 AM to 09:00 PM and on denial, they are intimidated. The labourers wanted to be free. They have no freedom of movement and threatened of eviction.

8.2.29 Statement of Mahajan Sada SC (aged 30 years) s/o late Dular Sada:- (P/68/Appendix-C).

The labourer stated that he is working at the agricultural land and house of Rajan Jha for the last 15-16 years. His ancestors were given 6 **kattha** land for agricultural purpose and land for dwelling. They get 2 kg of raw rice per day per person for the labour rendered. Their children are not allowed to study. Also subjected to beatings and abuses.

8.2.30 Statement of Lakhani Sada SC (aged 30 years) s/o Dular Sada:- (P/69/Appendix-C).

The labourer stated that he along with his wife Asha Devi is working for Rajendra Jha. They work at his agricultural land and at his house and get 2 kg of rice per day person. When the labourer plans to go somewhere else for the work

he is threatened to leave his house. He has debt of Rs. 5000/- from the owner. The ancestors of the labourer were also engaged with the ancestors of Rajendra Jha from generations. The labourer and his family wanted to be free.

8.2.31 Statement of Asharfi Sada SC (aged 40 years) s/o late Gulam Sada:- (P/70/Appendix-C).

The labourer along with 7 children and wife lives in the village Purjuar and are working at the agricultural land and house of Mohikant Jha. His 4 children are also engaged there. They get 2 kg raw rice per day per person. The landlord has given him Rs. 2000/- as advance and 7 **kattha** land, due to which they are forced to work with him and are not free. They are often abused and threatened

8.2.32 Statement of Ram Prasad Sada SC (aged 50 years) s/o Guzak Sada:- (P/71/Appendix-C).

The labourer along with 3 children and wife lives in the village Purjuar and working at the agricultural land and house of Bhagwan Naryan Jha for the last 35 years. They get 2 kg raw rice per day per person and works from 07:00 AM to 06:00 PM. The landlord has given him Rs. 2000/- as advance and 15 **kattha** land. The labourers wanted to be free. They are not allowed to work elsewhere and are threatened.

8.2.33 Statement of Biltu Sada SC (aged 80 years) s/o late Khannu Sada:- (P/72/Appendix-C).

The labourer who is aged 80 years stated that he is working at the agricultural land and the house of Rajdev Jha from last 45 years. He gets 2 kg of rice per day for his labour rendered from 07:00 AM to 06:00 PM. He is now aged and finding difficult to work.

8.2.34 Statement of Kishori Sada SC (aged 40 years) s/o late Pular Sada:- (P/73/Appendix-C).

The labourer stated that he along with his wife work for Rajendra Jha from last 15-16 years. They work at the agricultural field and the house of the owner. His family is engaged with them from generations. They get 2 kg of rice per day per person for their labour rendered and cannot go elsewhere for work.

8.2.35 Statement of Chotu Sada SC (aged 28 years) s/o late Guzak Sada:- (P/74/Appendix-C).

The labourer stated that he along with his wife wok for Amod Jha from the last 10 years. The labourer works at his agricultural land and his house and gets 2 kg of raw rice per day per person. The dwelling place is given by Amod Jha and is not allowed to go elsewhere for work. He too is being subjected to abuses and beatings.

8.2.36 Statement of Jyoti Sada SC (aged 40 years) s/o Chand Sada:- (P/75/Appendix-C).

Jyoti Sada along with 4 children lives in the Village Purjuar and his family work for Heera Jha. The labourer's family works at the owner's agricultural land and at the house. They work from 07:00 AM to 08:00 PM and get 2 kg of rice per day per person. They are not allowed to go elsewhere for work. Their children are also forced to work.

8.2.37 Statement of Parmesh Sada SC (aged 25 years) s/o Panchu Sada:- (P/76/Appendix-C).

The labourer stated that he alongwith his wife Soni Devi work for Heera Jha for the last 10 years at his house and at the agricultural land. They work from 07:00 AM to 08:00 PM and get 2 kg of raw rice per day per person. They are not allowed to go elsewhere for work. They are also subjected to beatings and abuses.

8.2.38 Statement of Birendra Sada SC (aged 32 years) s/o Sirchan Sada:- (P/77/Appendix-C).



The labourer stated that he alongwith his wife Bhikni Devi and 3 children live in the village Purjuar. The labourer and his wife are engaged with Heera Jha for the last 30 years at his house and at the agricultural field. They work from 07:00 AM to 08:00 PM and get 2 kg of raw rice per day per person. The father of the labourer was given land for house and 7 **kattha** land for agricultural purpose. The labourer has also taken advance of Rs 4000/- for treatment of T.B. from the land lord. The labourer and his family are not allowed to work elsewhere. The family of the labourer has been engaged with the family of the landlord from generations and wanted to be free.

8.2.39 Statement of Ashok Sada SC (aged 22 years) s/o Fekan Sada:- (P/78-79/Appendix-C).

The labourer is residing with his wife and two daughters in the Village Purjuar since his birth. He along with his wife work for Chulahi Jha for his work at agricultural land at his house. They work from 08:00 AM to 07:00 PM and get 2 kg of raw rice per day per person. The father of the labourer was given land for house and 11 **kattha** land for agricultural purpose. Due to this the labourer and his family are not allowed to work elsewhere without the permission of the owner. The family of the labourer has been engaged with the family of the landlored from generations.

8.2.40 Statement of Basudev Rai, SC: - (P/80/Appendix-C).

The labourer is residing with his wife Shubhkala and three children in the Village Purjuar. He along with his wife work for Kunwar Jha and Devanand Jha for the last 30 years. Their ancestors also worked in their family. They work at the agricultural land and get 2 kg of raw rice per day per person. The owners have given Rs. 2000/- in advance and 18 **kattha** land for agricultural purpose. They are not allowed to work elsewhere and wanted to be free. Both their daughters Pinki and Ragini also work here.

**8.3 Version of Employers of ward No-12, Purjuar Deeh Tola, Kanauli, Panchayat & PO -Purjuar, PS- Arer, Block- Benipatti, District-Madhubani, Bihar. (P/81-99/Appendix-C)**

**8.3.1 Statement of Heera Jha s/o late Surya Kant Jha:- (P/81-83/Appendix-C).**

The landlord denied the allegations leveled against him by the labourers of the Village Purjuar. He stated that they did not engage these labourers of the Village Purjuar, and if the labourers are required, they call from the nearby villages and pay Rs. 150/- per day. The labourers have been given the job cards and are paid under the scheme MANERGA. The labourers also went outside for the employment and he never forced any labourer to work for him. Some of them were also allotted the houses under the Indira Awas Scheme. Heera Singh stated that he was lodged in jail under section 302, due to which his agricultural works were suspended and did not require any labourer.

**8.3.2 Statement of Modh Narayan Jha s/o late Nathani Narayan Jha:- (P/84-85/Appendix-C).**

The landlord denied the allegations that the land on which the labourers live belongs to him. Ram Prasad Sada who lives in the Village Purjuar has constructed his house on the Govt. land. He stated that if any labourer is employed, he is paid Rs. 150/- to Rs. 200/- as wages.

**8.3.3 Statement of Bhagwan Narayan Jha s/o Modh Narayan Jha:- (P/86-87/Appendix-C).**

He has stated that he is village Panchayat Head (Mukhiya). The landlord denied the allegations leveled against him by the labourers of the Village Purjuar. He stated that if any labourer is employed, he is paid Rs. 150/- to Rs. 200/- as his wages. The labourers have been given the job cards and are paid under the scheme MANREGA. The labourers also go outside for the employment and he never forced any labourer to work for him. Some of them were also allotted the houses under the Indira Awas Yojana. He denied that the

labourers who have made allegations against him have never worked for him and the labourers are not permanently engaged.

8.3.4 Statement of Rajendra Jha (aged 80 years) :- (P/88-89/Appendix-C).

He denied the allegations leveled by the labourers. He stated that he has 3 beegha agricultural land and did not have any animals. He had not employed any labour permanently. The labourers are called from the nearby villages at the time of requirement and are paid Rs. 150/- to Rs. 200/- per day. He has not given any land to the labourer and denied the allegations leveled by the labourers.

8.3.5 Statement of Jaishankar Jha s/o Jitendra Jha:- (P/90-91/Appendix-C).

He denied the allegations leveled against him by the labourers of the Village Purjuar and the land on whose these labourers have the houses does not belong to him. The labourers are paid Rs. 150/- per day as their wages. The labourers have been given the job cards and are paid under the scheme MANREGA. He has denied the allegations of the labourers and stated that the said labourers have never worked for him.

8.3.6 Statements of Krishna Dev Jha, Baidyanath Jha and Wakil Jha:- (P/92-93/Appendix-C).

They all have denied the allegations made against them by the labourers of the Village Purjuar. The labourers have been given the job cards and are paid under the scheme MANREGA. Some of them were also allotted the houses under the Indira Awas Yojana. The labourers are paid Rs. 150/- per day as their wages and none of the labourer is permanently engaged.

8.3.7 Statement of Rajdev Jha :- (P/94-95/Appendix-C).

Rajdev Jha denied the allegations of the labourers against him. According to him the labourers are paid Rs. 150/- per day. The labourers have been given the job cards and are paid under the scheme MANREGA. The labourers move

outside for employment and he never forced any labourer to work for him. Some of them were also allotted the houses under the Indira Awas Yojana.

8.3.8 Statement of Mahikant Jha @ Boaeji Jha s/o late Uma Kant Jha:- (P/96-97/Appendix-C).

Mahikant Jha denied the allegations made against him by the labourers of the Village Purjuar. The houses on which the labourers live belong to the Govt. The labourers are paid Rs. 150/- to Rs. 200/- per day. The labourers have been given the job cards and are paid under the scheme MANREGA. The labourers also go outside for employment and he never forced any labourer to work for him. Some of them were also allotted the houses under the Indira Awas Yojana.

8.3.9 Statement of Devanand Jha :- (P/98-99/Appendix-C).

Devanand Jha a teacher by profession has stated that he has 3 brothers and all of them are employed in Mumbai. Pulkit Rai and Vasudev Rai who has alleged against him, regularly goes outside for work. He stated that he has no agricultural land and he had not employed any one for labour. He did not know on whose land these labourers have made their dwellings and are residing.

**8.4 VERSION OF OFFICERS OF DISTRICT ADMINISTRATION :-**

8.4.1 Statement of Shri Rajesh Meena, IAS, SDM, Benipatti, District-Madhubani, Bihar. (P/100-106/Appendix-C)

He stated that he accompanied the NHRC team which visited the Village-Purjuar of Benipatti block. He stated that he is not satisfied with the statements of the people of that village and feel that detailed enquiry needs to be done to ascertain whether the persons concerned are actually bonded labourers or not. He assured that an enquiry team will be constituted and based on their findings, necessary actions will be taken. He is ready to follow the NHRC

directions, if given in writing. On being asked he expressed his ignorance on the Vigilance Committee.

8.4.2 Statement of Shri Ripu Sudan Mishra, Labour Superintendent, District Madhubani.(P/107-113/Appendix-C)

He stated that on the orders received from the District General Section, he deputed a team of officers consisting of labour department. The team accordingly conducted spot enquiry into this matter in the afternoon on 21/1/15 by the Labour Officers Ashok Kumar and Vipin Kumar. The labour officers recorded the joint statements of labourers of the village Purjuar. The Labour Superintendent admitted that the labourers are not being paid the statutory minimum wages due to which he directed the labour officer of the Benipatti Block in the matter for action. All the 47 labourers whose statements were recorded belong to SC. He has stated that the cases will be registered against the land owners and the interests of labourers will be taken care of. The Labour Superintendent further stated that on 22.1.2015 the statements of all the labourers were recorded in presence of SDM Benipatti, the officers of the district administration and the NHRC team. The statements of the labourers were recorded without any pressure and by their own will. During cross examination he has admitted that he has not attended any of the meetings of the Vigilance Committee as after 2006 no such meeting has taken place. He has also admitted that as per decisions of the Apex Court, the labourers in this matter are bonded labourers. On 22.1.2015, he also witnessed in the village during enquiry that forced labour is being extracted from the labourers and that they are not being paid their minimum wages.

8.4.3 Statement of Shri Ashok Kumar, Labour Enforcement Officer, Block Phulparas, District Madhubani.(P/114-124/Appendix-C)

He stated that on the orders of Labour Superintendent, Madhubani he visited the Village Purjuar and recorded the statement of 47 labourers of the Village Purjuar. The labourers belong to the scheduled caste and were not paid the minimum wages; instead they receive in kind 2 kilograms raw rice and 300 gms grains per day against their hard labour rendered. The labourers were engaged by their respective owners from many years and the labourers were not allowed to leave their owners and work elsewhere. He has also given combined statement of 47 labourers of the Village Purjuar been recorded by the Labour Enforcement Officers on 21/01/2015. The labourers stated that they live in the Village- Purjuar and belongs to schedule caste (Mushar). They are working/engaged at the agricultural lands and the houses of the land owners. The labourers get 2 kg of raw rice and 300 gms of grain per day for their hard labour rendered.

## **9. ISSUES INVOLVED :-**

### **9.1 Issue No.1**

**Whether total numbers of 38 families were being exploited under the revenue jurisdiction of Benipatti Sub-Division, District Madhubani, Bihar?**

### **Observation of NHRC team:-**

All the 89 labourers whose statements were recorded have stated that they are not being paid their statutory minimum wages; instead they receive in kind two kilograms of raw rice. The labourers are working since generations; all the labourers belong to the Scheduled Caste category (Mushahar), and work for 8 to 10 hours a day. The labourers are not free to move out or to be employed elsewhere. The Labour Superintendent, District Madhubani, stated that the statements of 47 labourers were recorded earlier during the visit of Labour Enforcement Officers at the Village Purjuar and found that the labourers of the village are not paid the statutory minimum wages. They are not spared even during their sickness. Their children are not stated to have been allowed to attend schools. They are subjected to constant abuses and physical assaults. They are leading very hard life and some of them have even not seen the outside world. They do not have freedom of movement. When they try to leave the

village for work they are threatened to leave the place of residence. Due to this they are unable to employ themselves elsewhere.

### 9.2 Issue No.2

**Whether the above labourers were being forced to work by their respective owners at their respective agricultural lands under "Kamiya" bonded labour custom?**

#### Observation of NHRC team:-

The total 89 labourers whose statements were recorded stated that they are forced to work for their respective owners and they are not free to move out and work elsewhere. Against the hard labour rendered by the labourers they receive in kind two kilograms of raw rice. The labourers stated that they are working since generations. The labourers belong to the Scheduled Caste category (Mushahar), and work for 8 to 10 hours a day. The land owners however denied the allegations leveled against them and stated that they did not employ the labourers from the Village Purjuar and call the labourers from the nearby villages and pay Rs 150-200/- per day. The version of the employers was not found trustworthy. The NHRC team finds that the labourers were kept in bondage. The SDM, Benipatti has issued Release Certificates in favour of all the labourers (101) by declaring them Bonded Labourers. Cases including two criminal cases under various laws and Atrocity Act have been got registered. Thus it stands proved that they were bonded labourers under Kamiya System of Bondage.

### 9.3 Issue No.3

**Whether minimum wages are being paid to the labourers in the conformity with the notified rules framed under Minimum Wages Act?**

#### Observation of NHRC team:-

The version of the victims on non-payment of wages stands corroborated and supported by the enquiry conducted on the orders of D.M. and Labour Superintendent, Madhubani on 21/01/2015 finding that the labourers are not paid the statutory minimum wages. Statements of 47 labourers were recorded by the labour officers. The

Ⓒ District Administration has already filed the cases in the court under the minimum wages Act against the Errant Employers. So this particular issue also stands proved.

#### **10. FINDINGS :**

10.1 The case has emanated from a past rescue operation on Child Bonded Labourers in Delhi when one Varun Kumar Mushahar S/o Moti Sada (14 yrs, SC), R/o Village Purjuar, P.S. Arer, District Madhdubani, Bihar was found to be working as a bonded labourer in Delhi and was stated to have been rescued in Delhi on 6.2.2014 by Delhi Administration. The petitioner who is associated with an NGO was following up his case for rehabilitation of this child released bonded labourer. The petitioner when visited native place of the victim and met his family members, he came to know that not only parents of released child labourer but other several fellow villagers of Mushahar community belonging to the scheduled caste are in bondage of certain high caste powerful landlords under the generations old 'Kamiya system' of bonded labour. The petitioner witnessed that the male members of such persons were forced to work in the agricultural fields of these landlords, their women folk were to perform the household chores besides assisting their husbands and the children are to take care of the livestock / cattle of these masters. These poor victims were not free to change their employers. The labourers in return are to get 2 kg rice and 300 gms. of grains to eat per day as their daily wages. These rates of wages are prevalent since generations together. No cash is paid to them. The victims are supposed to live on a piece of land provided by these employers. Such land could be owned by the employers or encroachment on a government land.

10.2 It could also be gathered that under hard pressed circumstances if any debt is taken from the employer, then during the off season, one of the male member of the family including a child would be forced to leave the place to earn some money outside in Delhi/Haryana/Punjab for repayment of such debt. During such period of absence, his family members were to work with the masters as usual. The petitioner when came to know of such shocking plight of these poor persons, he approached the NHRC with full details for its intervention in the matter. He did not report the matter



to the District Magistrate, Madhubani, Bihar as the administration did not initiate any sincere efforts to rehabilitate the child labourer as mentioned above. The aforesaid facts are indicative of the total inaction and insensitiveness on issues like this on the part of the District Administration.

10.3 The team prior to commencement of the enquiry had to face odds at the hands of District Administration. A communication from the Commission regarding visit of NHRC team for enquiry addressed to the Chief Secretary and DGP, Govt. of Bihar was sent by the Commission on 19.1.2015. Neither the names of the victims, petitioner nor the place of visit were disclosed to the State authorities. The District Administration however on the basis of the case file numbers indicated on the communication of the Commission, knocked at the website of the NHRC, searched for the names of the victims and place of incident. The information was downloaded and Shri Satya Prakash, Senior Dy. Collector, District General Section, Madhubani, issued an order on behalf of DM, Madhubani and directed Shri Ripu Sudan Mishra, Labour Superintendent, Madhubani for causing an enquiry into the matter. Pursuant to these directions, the said Labour Supdt. deputed a team of officers consisting of labour department. The team accordingly conducted spot enquiry into this matter in the afternoon on 21.1.15. In the meanwhile, when the NHRC team was travelling from Patna to Madhubani, it was informed by the petitioner on the way that some officers of District Administration are conducting enquiry in the village and are intimidating the victims. It was also informed that the landlords are very powerful persons having relations/family members in bureaucracy and judiciary. The enquiry so conducted though proved allegations of the complainant on bonded labour but was totally uncalled for and unjustified.

10.4 The Labour Superintendent, Madhubani Shri Ripu Sudan Mishra, the Labour Enforcement Officer, Shri Ashok Kumar on being asked apprised the NHRC team that the enquiry was conducted in the matter on the verbal orders of the District Magistrate, Madhubani conveyed through Sr. Dy. Collector, Madhubani, Shri Satya Prakash. It was stated that in all 47 labour were examined on 21.1.15, their statements were

recorded and it was found that forced labourers was extracted from them by their employers and they were not allowed to work elsewhere. Wages in accordance with the provisions of Minimum Wages Act were not being paid. They were paid in the form of 2 kg. Rice and 300 gms. of grains to eat per day towards their daily wages. Both these officers have also submitted a copy of enquiry report dated 21.1.15 together with the print-out on the information downloaded from the NHRC web site relating to the matter. The enquiry therefore conducted on the orders of the District Magistrate has proved it to be a case of bonded labour.

10.5 The NHRC team briefed the SDM about the matter and requested him to conduct an enquiry in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976. The SDM was briefed by the NHRC team that the allegation levelled with regard to keeping the labourers in bondage stands proved, in the light of findings of the enquiry conducted by their own officers at the behest of District Administration, hours before, the previous day. Nevertheless, the NHRC team with the help of petitioner NGO started recording the statements of the victims afresh in the presence of SDM, Benipatti. In all 89 adult labourers were examined during the course of enquiry, wherein each and every statement was counter signed by the SDM, Benipatti and the NHRC team. All the victims in their statements reiterated that they were forced to work by their employers against their wishes. They are paid 2 kg. of rice and 300 gms. food grains against their daily wages. They cannot work elsewhere. They are not spared even during their sickness. Their children are not allowed to attend schools. They are subjected to constant abuses and physical assaults. They are leading very hard life and some of them have even not seen outside world as they could not move out of the village. They have no freedom of movement. They do not have any place to live other than the place provided by the masters. The labourers are not aware as to whether their ancestors were holding any landed property in their names and they do not know as to who is the real owner of the property where they are living. They are however threatened constantly that in case they decide to leave the job, they will be thrown out of their residential huts. The team was also informed that they were living under inhuman conditions within limited space. The women folk is to work in the

Ⓒ Agricultural field as well as to do domestic chores including washing dishes/utensils, clearing animal dung. They all defecate in open. It was also informed that in the event of taking debt from the employers, on Rs.100/-, interest @ Rs.5/- per month was to be calculated on its repayment. The labourer also mentioned about some of the instances of harassment/ mal-treatment by the employers.

10.6 The enquiry was conducted in the open in the presence of SDM, Benipatti and the victims willingly deposed having been kept in bondage. The SDM then randomly picked up some of the statements, asked his sub-ordinate administrative officers to call the victims and started questioning from the victims one by one by confronting them with the contents of their statements. It was noticed that the tone and tenor of the SDM, was not appropriate towards the victim including with the women. The NHRC team watched the entire proceedings with utter dismay. Despite this, the victims on being re-examined by the SDM, himself alone, they stood firm on their allegations which were watched and witnessed by the victims, officers present and public at large. Since the facts were crystal clear, the SDM was requested to address the victims on fate of the enquiry and to assure the victims for their personal safety and security after holding such an enquiry in full public view. The SDM however refused to talk further with the victims and stated that he will issue release certificate later. The SDM, Benipatti made no efforts whatsoever during the course of such enquiry to make an enquiry either from the employers named by the victims or from the petitioner and his associates present there. On being asked by SDM himself, a Performa of the release certificate was also provided by the NHRC team to the SDM then and there, so that the release certificate could be issued in the names of the victims. The SDM, Benipatti there after asked the NHRC team to provide him a copy of the Bare Act of the Bonded Labour System (Abolition) Act and the same was also provided to him then and there. He was also provided with all the original statements of victims which were countersigned by him. Copy of the complaint together with enclosures had already been provided to him earlier at village Purjuar.

10.7 At about 10.00 P.M. Shri Rajesh Meena, SDM, Benipatti called JR (Law) on his mobile that he is coming in the morning to Madhubani with the Release Certificates and agreed to reach by 8.30 A.M. on 23.1.15. The SDM however did not act contrary to his own version and had acted contrary to the law of land despite the facts having been proved in the light of judgments of the Apex Court and the provisions contained in the Bonded Labour System (Abolition) Act to hold the summary trial, he refused to act. The SDM could not produce any document relating to the functioning of the Vigilance Committee on Bonded Labour.

10.8 On the direction of the SDM, Madhubani the employers (11 nos.) named in the complaint reached the Circuit House in the morning and their statements were recorded by the NHRC team. The SDM, Benipatti did not reach at the mutually agreed time. The employers in their statements stated that the labourers named in the complaint have never worked with them and that they did not employ them for any work. It has also been stated by them that on casual basis and in the case of need they employ labourers from other villages and pay them @ Rs.150-200/- per day and even for that they do not have any proof of payment. They also informed NHRC team that they have small land holdings which do not require labourers for daily work. Some of the employers even refused to identify the labourers named in the complaint. They however could not explain as to why the complaint was made against them as no one has alleged personal enmity with any of the labourers. The employers as such could not answer with cogent reasons on the allegation made against them. One of the employer namely Shri Bhagwan Narayan Jha however admitted that he is the "Village Head" (Mukhiya) and is having powers to extend the benefits under Social Welfare Schemes to the villagers. One of the employer namely Hari Singh stated that he was arrested by the police in a murder case and remained lodged for 7 years in the Madhubani Jail. The version of employers in the light of statements of the victims and facts and circumstances of the case was not found trustworthy and found liable to be rejected. The NHRC team in the night watched TV coverage on this enquiry in the village at "News Channel 41 - Local News Channel" where some of the employers including "Village Head" (Mukhiya) giving bite that the allegations are false and these

labourers are paid @ Rs 300/- per day. It goes against his own version before the NHRC team, that these labourers have never worked with them.

10.9 The District Magistrate, Madhubani was also apprised of full facts of the case. The NHRC team also asked the District Magistrate about the necessity of holding the enquiry (just few hours before the NHRC team was to commence the enquiry) through the officer of Labour Department even when there was no complaint before him nor there were any directions from the Commission for holding such an enquiry. The District Magistrate to the utter surprise of NHRC team stated that he did not ask his subordinates to conduct any enquiry on 21.1.15 and expressed his ignorance. He denied of having passed any verbal orders to carry out the enquiry in question. His version is belied by the fact that the Sr. SDM, Madhubani citing the instructions of District Magistrate vide Nos. 176/Dist Confidential dated 20.1.2015 had issued orders on 21.1.2015 calling upon him to submit the case file by 3.00 PM on that day itself. He however admitted that he has received a copy of enquiry report which he is yet to see and act upon. He asked the NHRC team to give its opinion in writing so that he can proceed in the matter on bonded labour. The NHRC team apprised him that even the contents of the enquiry conducted by his officers alone on 21.1.15 are crystal clear and a case of bonded labour on the face of it stands proved. More so, all the labourers in the presence of SDM, Benipatti in their statements duly signed by the SDM, Benipatti further proves categorically that it is a case of bonded labour. On this, he replied that the SDM, Benipatti has some reservations on some of the persons named in the complaint. The NHRC team then requested him that he may take his own time on deciding on such few persons against whom if there is any reservation but at least for the majority of labourers against whom there are no reservations, the release certificates should be issued. The District Magistrate was also informed of ratio of the cases of the apex court on bonded labour and law of land. He was also requested to take action under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as the victims involved in the matter belonged to the scheduled caste and the offenders are high caste Brahmins. The District Magistrate was also informed of the importance of the social welfare legislation, the Bonded Labour

System (Abolition) Act, wherein the Parliament has given him the widest possible powers having empowered them to hold summary trial in the cases of bonded labour for the welfare of the down trodden people of the society. The District Magistrate while concluding the meeting has assured the NHRC team that he is there for the welfare of the poor persons and assured that release certificates in the matter will be issued by 29.1.15. He however did not act and thus inaction on the part of the District Magistrate is also proved.

10.10 Shri Satya Prakash, Senior Dy. Collector, District General Section, Madhubani, however despite continued efforts made by the NHRC team preferred to avoid the NHRC team and as such his version could not be recorded. He has however vide his letter dated 2.1.2015 has forwarded a copy of the order dated 21.1.2015 asking the Labour Department for Report. The officers of the Labour Department who promised to submit their action taken reports also avoided the NHRC team. This shows indifferent attitude of the officers of the District Administration on the issue and towards the visiting NHRC team.

10.11 The petitioner however in the evening of 23.1.15 submitted a complaint before NHRC team that some of the police officers barged into the houses of the victims at midnight at around 0100 hrs on 23.1.15, called the victims out, intimidated them and asked them to put their thumb impressions on some blank papers and on refusal by labourers, they were threatened by the police. Then again during day hours at about 1300 hrs, the Operator of Public Distribution System of the village approached the victims and asked them to put their thumb impressions on some blank papers but was refused by the labourers. Both the aforesaid developments were immediately conveyed over phone to the District Magistrate, Madhubani and the Supdt. of Police, Madhubani. The SP, Madhubani expressed his concern and assured the NHRC team that he will get the matter enquired and will take stern action against the delinquent police personnel. These developments, if true, supports the allegations of the petitioner that the offenders are powerful persons and can influence the system.

## 11. CONCLUSION :-


11.1 The NHRC team finds that the enquiry conducted by the officer of the Labour Department, Madhubani at the behest of the District Magistrate, Madhubani was aimed at to sabotage the enquiry to be conducted by the NHRC, the following day. The said enquiry could not have been possible without the directions of the District Magistrate himself. The findings of the said enquiry rather boomeranged upon them as the victims despite being intimidated allegedly by the officers of the District Administration stood firm on the ground. Not only this, they remained unmoved and reiterated their allegations of keeping in bondage despite the indifferent attitude of the SDM, Benipatti. The NHRC team has strong reasons to believe that the SDM, Benipatti who had obtained the Performa of release certificate and despite informing the NHRC team in the night of 22.1.15 to reach Madhubani with release certificates and then taking complete 'u' turn on 23.1.15 clearly shows that he is not acting as per law under pressure from the District Magistrate, Madhubani.

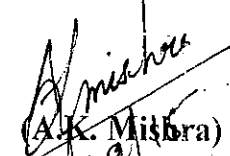
11.2 Pursuant to directions of the Commission vide proceedings dated 30.1.2014, the District Magistrate, Madhubani, Bihar has submitted the compliance report indicating the issuance of Release Certificates (101) in favour of the released bonded labourers, registration of two criminal cases under Bonded Labour System (Abolition) Act, SC/ST (POA) Act, JJ Act, Child Labour Act, Minimum Wages Act and under I.P.C. Preventive Action, filing of cases in court under labour laws including for recovery of past wages, initiation of process for rehabilitation of the released bonded labourers besides extending them the benefits under various Social Welfare Schemes. The report is however silent on the enquiry conducted at the behest of the District Magistrate on 21.1.2014 prior to the commencement of the NHRC enquiry.

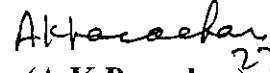
**12. RECOMMENDATIONS:**

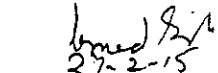
The District Magistrate, Madhubani, Bihar and the SDM, Benipatti have since submitted their reports and are to appear before the hon'ble Commission in person on 27.2.2014, hence no recommendation is being made in the matter. However, if deemed appropriate, the Commission may consider calling for the follow-up action/further status report in the matter in order to see that the victims are rehabilitated in a meaningful manner and the offenders are dealt within in accordance with law so that the menace of 'Kamiya' System could be countered with effectively. It is expected that the recommendations and directions made earlier in the Gaya case on the same issue will be acted upon by the Government of Bihar in letter and spirit.

Submitted for favour of kind perusal and orders please.

  
(O.P. Vyas)  
AR(L)

  
(A.K. Mishra)  
Inspector

  
(A.K. Parashar) 27/2/15  
JR(L)

  
(Umed Singh)  
Dy.SP/III



## INTERIM ENQUIRY REPORT

1. One Varun Kumar Mushahar S/o Moti Sada (14 yrs, SC), R/o Village Purjuar, P.S. Arer, District Madhdubani, Bihar was found to be working as a bonded labourer in Delhi and was stated to have been rescued in Delhi on 6.2.2014 by Delhi Administration. The petitioner who is associated with an NGO was following up his case for rehabilitation of this child released bonded labourer. The petitioner when visited native place of the victim and met his family members, he came to know that not only parents of released child labourer but other several fellow villagers of Mushahar community belonging to the scheduled caste are in bondage of certain high caste powerful landlords under the generations old 'Kamiya system' of bonded labour. The petitioner witnessed that the male members of the such persons were forced to work in the agricultural fields of these landlords, their women folk were to perform the household chores besides assisting their husbands and the children are to take care of the livestock / cattle of these masters. These poor victims were not free to change their employers. The labourers in return are to get 2 kg rice and 300 grms. of grains to eat per day as their daily wages. These rates of wages are prevalent since generations together. No cash is paid to them. The victims are supposed to live on a piece of land provided by these employers. Such land could be owned by the employers or encroachment on a government land.

2. In case of any exigency, if any debt is taken from the employer, then during the off season, one of the male member of the family including a child would be forced to leave the place to earn some money outside in Delhi/Haryana/Punjab for repayment of such debt. During such period of absence his family members were to work with the masters as usual. The petitioner when came to know of the such shocking plight of these poor persons, he approached the NHRC with full details for its intervention in the matter. He did not report the matter to the District Magistrate, Madhubani, Bihar as

the administration did not initiate any sincere efforts to rehabilitate the child labourer as mentioned above.

3. In compliance of the direction of the Commission, a team consisting of Shri A.K. Parashar, Joint Registrar (Law), Shri O.P.Vyas, Assistant Registrar(Law), Shri Umed Singh, DSP, Inv. Div. and Shri A.K. Mishra, Inspector, Inv. Division constituted by JR(Law) in consultation with DIG(Inv.) was detailed for spot enquiry. A communication from the Commission addressed to the Chief Secretary and DGP, Govt. of Bihar was accordingly sent by the Commission on 19.1.2015. Neither the names of the victims, petitioner nor the place of visit were disclosed to the State authorities. The District Administration however on the basis of the case file numbers indicated on the communication of the Commission, knocked at the website of the NHRC, searched for the names of the victims and place of incident. The information was downloaded and Shri Satya Prakash, Senior Dy. Collector, District General Section, Madhubani, issued an order on behalf of DM, Madhubani and directed Shri Ripu Sudan Mishra, Labour Superintendent, Madhubani for causing an enquiry into the matter. Pursuant to these directions, the said Labour Supdt. deputed a team of officers consisting of labour department. The team accordingly conducted spot enquiry into this matter in the afternoon on 21.1.15. In the meanwhile, when the NHRC team was travelling from Patna to Madhubani, it was informed by the petitioner on the way that some officers of District Administration are conducting enquiry in the village and are intimidating the victims. It was also informed that the landlords are very powerful persons having relations/family members in bureaucracy and judiciary.

4. The team reached Madhubani in the night on 21.1.15 where Shri Satyendra Kumar Yadav, Senior Dy. Collector, Madhubani nominated as liaison officer of the team was present. He was asked to meet at 8.00 A.M. on 22.1.15 and to accompany the team for spot enquiry. Accordingly, at around 8.30 A.M. NHRC team alongwith Shri Yadav, SDM left for Benipatti, the SDM, Headquarters. The local SDM, Benipatti, and the

Local SHO were requested to remain present. This information was sent to both the SDM and SHO well before departure of the team. The team reached the office of SDM, Benipatti at around 9.30 A.M., but the SDM was not found present. The local SHO informed that the matter falls within the jurisdiction of PS, Arer and to the surprise of NHRC team it was informed that the concerned SHO was already camping at Village Purjuar. The team kept on waiting for SDM, Benipatti and it was informed at around 9.30 A.M. that the SDM was out in the field owing to some law and order problem and would reach his office soon.

5. On finding that valuable time is lost for want of the local SDM, the team at about 11 AM decided to leave the Sub Divisional Headquarter for village Purjuar for making initial preparations. Barring the SDM, Benipatti, rest of the officers of the Sub Division including two administrative officers accompanied the NHRC team. The team together with the officers of the District Administration reached village Purjuar and found that the local SHO and the officers of the Labour Department were already present there. In the meanwhile the petitioner and his colleagues who were also accompanying the NHRC team, started calling the victims in the ground adjacent to the old Sanskrit school located in the village. The NHRC team, started interacting with the officers of the Labour Department who conducted the enquiry previous day in the matter.

6. The Labour Superintendent, Madhubani Shri Ripu Sudan Mishra, the Labour Enforcement Officer, Shri Ashok Kumar on being asked apprised the NHRC team that the enquiry was conducted in the matter on the verbal orders of the District Magistrate, Madhubani conveyed through Sr. Dy. Collector, Madhubani, Shri Satya Prakash. On hearing this, statements of the both the officers were recorded then and there. It was stated that in all 47 labourers were examined on 21.1.15, their statements were recorded and it was found that forced labourers was extracted from them by their employers and they were not allowed to work elsewhere. Wages in accordance with

the provisions of Minimum Wages Act were not being paid. They were paid in the form of 2 kg. rice and 300 gms. of grains to eat per day towards their daily wages. Both these officers have also submitted a copy of enquiry report dated 21.1.15 together with the print-out on the information downloaded from the NHRC web site relating to the matter. While statements of the Labour Officers were recorded, Shri Rajesh Meena, IAS SDM, Benipatti also reached there.

7. The NHRC team briefed the SDM about the matter and requested him to conduct an enquiry in accordance with the provisions of the Bonded Labour System (Abolition) Act, 1976. The SDM was briefed by the NHRC team that the allegation levelled with regard to keeping the labourers in bondage stands proved, in the light of findings of the enquiry conducted by their own officers at the behest of District Administration, hours before, the previous day. Nevertheless, the NHRC team with the help of petitioner NGO started recording the statements of the victims afresh in the presence of SDM, Benipatti. In all 89 adult labourers were examined during the course of enquiry, wherein each and every statement was counter signed by the SDM, Benipatti and the NHRC team. All the victims in their statements reiterated that they were forced to work by their employers against their wishes. They are paid 2 kg. of rice and 300 gms. food grains against their daily wages. They cannot work elsewhere. They do not have any place to live other than the place provided by the masters. The labourers are not aware as to whether their ancestors were holding any landed property in their names and they do not know as to who is the real owner of the property where they are living. They are however threatened constantly that in case they decide to leave the job, they will be thrown out of their residential huts. The team was also informed that they were living under inhuman conditions within limited space. It was also informed that on the event of taking debt from the employers, on Rs.100/-, interest @ Rs.5/- per month was to be calculated on its repayment. The labourer also mentioned about some of the instances of harassment/ mai-treatment by the employers.

8. Since the enquiry was being conducted in the open in the presence of SDM, Benipatti and the victims willingly deposing having been kept in bondage, the SDM was requested by the NHRC team to take a decision in the matter. The SDM then randomly picked up some of the statements, asked his sub-ordinate administrative officers to call the victims and started questioning from the victims one by one by confronting them with the contents of their statements. It was noticed that the tone and tenor of the SDM who incidentally belong to the scheduled tribe, was not appropriate towards the victim including with the women. The NHRC team watched the entire proceedings with utter dismay. Despite this, the victims on being re-examined by the SDM, himself alone, they stood firm on their allegations which were watched and witnessed by the victims, officers present and public at large. Since the facts were crystal clear, the SDM was requested to address the victims on fate of the enquiry and to assure the victims for their personal safety and security after holding such an enquiry in full public view. The SDM however refused to talk further with the victims and stated that he will issue release certificate in his office only and asked the NHRC team to accompany him.

9. The SDM, Benipatti made no efforts whatsoever during the course of such enquiry to make an enquiry either from the employers named by the victims or from the petitioner and his associates present there. The NHRC team alongwith the officers of District Administration reached the Sub Divisional Headquarters at Benipatti. On being asked by SDM himself, a proforma of the release certificate was also provided by the NHRC team to the SDM then and there, so that the release certificate could be issued in the names of the victims. The SDM, Benipatti there after asked the NHRC team to provide him a copy of the Bare Act of the Bonded Labour System (Abolition) Act and the same was also provided to him then and there. He was also provided with all the original statements of victims which were counter signed by him. Copy of the

complaint together with enclosures had already been provided to him earlier at village Purjuar.

10. The SDM, Benipatti thereafter asked the NHRC team to wait for him in his chamber and he preferred to hold an incamera meeting with his subordinate officers in another room. The meeting continued for hours together. The NHRC team kept on waiting in his chamber. The SDM on being asked by the NHRC team after couple of hours, informed the NHRC team that the matter is still under his consideration and he will take the decision later in the matter. On this the NHRC team decided to leave his office and requested the SDM to make the employers available to the NHRC team for their statements in the morning of 23.1.15. The SDM was also requested to kindly ensure safety and security of the victims in the village as there was imminent threat to their lives and also given to the fact that some of the youth related to the employers were using inappropriate language contrary to the law in the names of the victims, while the enquiry was in progress in the village. The SDM assured the NHRC team that he will pass necessary orders to the local police and will ensure their well being. The NHRC team thereafter left Benipatti at about 8.00 P.M. At about 10.00 P.M. Shri Rajesh Meena, SDM, Benipatti called JR (Law) on his mobile that he is coming in the morning to Madhubani with the Release Certificates and agreed to reach by 8.30 A.M. on 23.1.15.

11. On the direction of the SDM, Madhubani all the employers (11 nos.) named in the complaint reached the Circuit House in the morning and their statements were recorded by the NHRC team. The SDM, Benipatti did not reach at the mutually agreed time. The employers in their statements stated that the labourers named in the complaint have never worked with them and that they did not employ them for any work. It has also been stated by them that on casual basis and in the case of need they employ labourers from other villages and pay them @ Rs.150-200/- per day and even

for that they do not have any proof of payment. They also informed NHRC team that they have small land holdings which do not require labourers for daily work. Some of the employers even refused to identify the labourers named in the complaint. They however could not explain as to why the complaint was made against them as no one has alleged personal enmity with any of the labourers. The employers as such could not answer with cogent reasons on the allegation made against them. One of the employer namely Shri Bhagwan Narayan Jha however admitted that he is the "Village Head" (Mukhiya) and is having powers to extend the benefits under Social Welfare Schemes to the villagers. One of the employer namely Hari Singh stated that he was arrested by the police in a murder case and remained lodged for 7 years in the Madhubani Jail.

12. Shri Rajesh Meena, SDM, Benipati arrived at Circuit House, Madhubani at about 1100 hrs on 23.1.15 and informed the NHRC team that he has not issued the release certificates and will rather hold further enquiry in the matter. Despite the facts having been proved in the light of judgments of the Apex Court and the provisions contained in the Bonded Labour System (Abolition) Act to hold the summary trial, he refused to act. The SDM could not produce any document relating to the functioning of the Vigilance Committee on Bonded Labour. The NHRC team therefore recorded his statement and asked certain questions but his response was evasive.

13. The NHRC team thereafter requested for an appointment with the District Magistrate, Madhubani and called on the District Magistrate in his chamber in the afternoon of 23.1.15. The District Magistrate, Madhubani was apprised of full facts of the case. The NHRC team also asked the District Magistrate about the necessity of holding the enquiry (just few hours before the NHRC team was to commence the enquiry) through the officer of Labour Department even when there was no complaint before him nor there were any directions from the Commission for holding such an

enquiry. The District Magistrate to the utter surprise of NHRC team stated that he did not ask his subordinates to conduct any enquiry on 21.1.15. He denied of having passed any verbal orders to carry out the enquiry in question. He however admitted that he has received a copy of enquiry report which he is yet to see and act upon. He asked the NHRC team to give its opinion in writing so that he can proceed in the matter on bonded labour. The NHRC team apprised him that even the contents of the enquiry conducted by his officers alone on 21.1.15 is crystal clear and a case of bonded labour on the face of it stands proved. More so, all the labourers in the presence of SDM, Benipatti in their statements duly signed by the SDM, Benipati further proves categorically that it is a case of bonded labour. On this, he replied that the SDM, Benipatti has some reservations on some of the persons named in the complaint. The NHRC team then requested him that he may take his own time on deciding on such few persons against whom if there is any reservation but at least for the majority of labourers against whom there are no reservations, the release certificates should be issued. The District Magistrate was also informed of ratio of the cases of the apex court on bonded labour and law of land. He was also requested to take action under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as the victims involved in the matter belonged to the scheduled caste and the offenders are high caste Brahmins. The District Magistrate was also informed of the importance of the social welfare legislation, the Bonded Labour System (Abolition) Act, wherein the Parliament has given him the widest possible powers having empowered them to hold summary trial in the cases of bonded labour for the welfare of the down trodden people of the society. The District Magistrate while concluding the meeting has assured the NHRC team that he is there for the welfare of the poor persons and assured that release certificates in the matter will be issued by 29.1.15.

14. Shri Satya Prakash, Senior Dy. Collector, District General Section, Madhubani, however despite continued efforts made by the NHRC team preferred to avoid the



NHRC team and as such his version could not be recorded. The officers of the Labour Department who promised to submit their action taken reports also avoided the NHRC team.

15. The petitioner however in the evening of 23.1.15 submitted a complaint before NHRC team that some of the police officers barged into the houses of the victims at midnight at around 0100 hrs on 23.1.15, called the victims out, intimidated them and asked them to put their thumb impressions on some blank papers and on refusal by labourers, they were threatened by the police. Then again during day hours at about 1300 hrs, the Operator of Public Distribution System of the village approached the victims and asked them to put their thumb impressions on some blank papers but was refused by the labourers. Both the aforesaid developments were immediately conveyed over phone to the District Magistrate, Madhubani and the Supdt. of Police, Madhubani. The SP, Madhubani expressed his concern and assured the NHRC team that he will get the matter enquired and will take stern action against the delinquent police personnel.

16. The NHRC team in the night watched TV coverage on this enquiry in the village at "News Channel 41 – Local News Channel" where some of the employers including "Village Head" (Mukhiya) giving bite that the allegations are false and these labourers are paid @ Rs 300/- per day. It goes against his own version before the NHRC team, that these labourers have never worked with them.

17. The NHRC team finds that the enquiry conducted by the officer of the Labour Department, Madhubani at the behest of the District Magistrate, Madhubani was aimed at to sabotage the enquiry to be conducted by the NHRC, the following day. The said enquiry could not have been possible without the directions of the District Magistrate himself. The findings of the said enquiry rather boomeranged upon them as the victims

despite being intimidated allegedly by the officers of the District Administration stood firm on the ground. Not only this, they remained unmoved and reiterated their allegations of keeping in bondage despite the indifferent attitude of the SDM, Benipati. The NHRC team has strong reasons to believe that the SDM, Benipatti who had obtained the proforma of release certificate and despite informing the NHRC team in the night of 22.1.15 to reach Madhubani with release certificates and then taking complete 'u' turn on 23.1.15 clearly shows that he is not acting as per law under pressure from the District Magistrate, Madhubani. The fact remains that the said enquiry has exposed the victims to imminent danger to their lives and has made them vulnerable. They have lost their livelihood. They could be thrown out of their dwellings at any time. They are on the verge of starvation and there is no relief insight for them by the District Administration. The condition of the victims is miserable. The attitude of the District Administration and in particular of the District Magistrate, Madhubani and SDM, Benipati shows that they are not sensitive for the cause of the downtrodden people belonging to the Scheduled Caste and have failed to act in accordance with the provisions of the Law.

**DIRECTIONS OF THE COMMISSION DATED 30.1.2015 :**

The Commission upon consideration of the matter on 30.1.2015 has inter-alia observed and directed as under :-

“The Commission has received a complaint from one Tojo Jose of an NGO alleging that more than thirty eight families are being exploited under an illegal bonded labour system in the revenue jurisdiction of Benipatti Sub-Division, Madhubani District of Bihar. These labourers are forced to work by their respective employers at their respective agricultural lands under “Kamiya” bonded labour custom. The labourers are working since generations. The labourers are 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. Most of the labourers belong to the Scheduled Caste category (Mushahar), and work more than 10 hours a day. They are trapped in a customary bonded labour system in which the labourers are not free to move out or to be employed elsewhere.

The Commission has considered the matter on 17.11.2014 and observed that the allegations made are serious in nature. Therefore the Commission directed the Joint Registrar (Law) in consultation with the Deputy Inspector General, (Investigation Division) of the Commission to constitute a team of Officers for spot enquiry in the matter and submit the report within four weeks.

In compliance of the aforesaid directions, a team consisting of Shri A.K. Parashar, Joint Registrar (Law), Shri O.P. Vyas, Assistant Registrar, (Law), Shri Umed Singh, Deputy Superintendent of Police and Shri A.K. Mishra, Inspector of the Commission visited District Madhubani and conducted spot enquiry from 22.1.15 to 24.1.2015. The NHRC team on return has submitted the interim report.

The Commission has perused the report. Contents of the report are disturbing and shocking which discloses the following:-

- i) On the verbal directions of the District Magistrate, Madhubani, an enquiry into the same matter was entrusted by the Sub Division Magistrate, Madhubani to the

Officers of Labour Department, hours before the arrival of NHRC team. The District Magistrate, was not having any complaint in the matter before him nor he was directed by the Commission to get this matter enquired into. His officers have knocked at NHRC website, downloaded details and conducted the enquiry on 21.1.2015 with a view to sabotage the enquiry to be conducted by the NHRC team. It has been alleged by the petitioner that the Enquiry Officers and later the local BDO have intimidated the victims. The victims however stood firm on the ground and the said enquiry disclosing prima facie the case of bonded labour was submitted to the District Magistrate.

ii) Shri Rajesh Meena, IAS, the Sub Divisional Magistrate, Benipatti who was requested by the NHRC team on 22.1.2015 at Village Purjuar to conduct the enquiry under the provisions of the Bonded Labour System (Abolition) Act has conducted himself contrary to law. Its irony to note that the said Sub Divisional Magistrate who is an IAS Officer, did not fulfill the obligation under the Act in the course of the enquiry even though the victims belong to the Scheduled Caste. All the statements in which the allegations made in the complaint were reiterated and were recorded in his presence and countersigned by him but he did not act as per law and his inaction has rather exposed the victims to imminent threats to their lives. He did not take any steps for their very survival in the village as they have lost their livelihood. He has failed to conclude the proceedings in the light of facts and circumstances of the case, despite having all the material evidence in hand and concerned persons available before him. It is also shocking that despite his assurance to the NHRC team for ensuring safety and security of the victims, some of police personal of Police Station, Arer knocked at the doors of the victims in mid-night after NHRC enquiry, called them one by one and asked them to put their thumb impressions on some blank papers. On refusal, the victims were threatened. The indifferent attitude of the Sub Divisional Magistrate as a whole is therefore viewed seriously.

iii) The District Magistrate, Madhubani failed to take action even though the Officers of Labour Department conducted the enquiry and submitted their report to the District Magistrate. The NHRC team was able to get copy of the report prior to actual commencements of its enquiry on 22.1.2015 at village Purjuar. The District Magistrate, Madhubani was apprised of the facts and circumstances of the case by the NHRC team but he has also failed to act in accordance with the provisions of law. It appears that the Sub Divisional Magistrate, Benipatti has not acted as per law under pressure from the District Magistrate, Madhubani. This fact is evident from the fact that the Sub Divisional Magistrate, Benipatti had informed the Joint Registrar (Law), NHRC on the night of 22.1.2015 over telephone that he was reaching Madhubani on the morning of 23.1.2015 with release certificates but he took complete U-turn on 23.1.2015 on the ground that he was still conducting enquiry into the matter. This complete U-turn could not have been possible without pressure from the District Magistrate himself. The District Magistrate has not initiated any action whatsoever for the welfare of these poor people. The Executive Magistrates are expected to discharge their duties for the welfare of the people under the provisions of the Bonded Labourers System (Abolition) Act, keeping in view the thrust and trust imposed and reposed upon them by the Parliament. The conduct of District Magistrate, Madhubani and Sub Divisional Magistrate, Benipatti is in utter disregard to the provisions of law. It shows that they are totally insensitive to the cause of helpless, hapless and poor forced labourers belonging to the Scheduled Caste.

After the report, the team of NHRC dated 28.01.2015 is received in the Commission, a further complaint dated 30.1.2015 is also received by the Commission from the petitioner. A perusal of the said complaint is discloses shocking events after NHRC team had visited the site.

The Commission having taken note of the facts and circumstances of the case in totality and the report of NHRC team directs as under:-

- (i) The District Magistrate, Madhubani to issue 'Release Certificates' forthwith in respect of all the labourers as mentioned in the complaint and forwarded the same to the Commission by return.
- (ii) The District Magistrate will also ensure that the victims are paid their past wages and are extended all the benefits under Social Welfare Schemes and an amount of Rs.20,000/- as mandated under law is paid to them without loss of further time.
- (iii) The District Magistrate will ensure safety and security of the victims and will ensure legal action in the matter against the offenders.
- (iv) Let a copy of the Interim report submitted by the NHRC team together with the copies of subsequent petitions including dated 21.1.2015 and 23.1.2015 be forwarded to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar to explain their conduct and submit their response within two weeks.
- (v) Let a copy of the complaint dated 30.1.2015 received from the petitioner be also transmitted to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar calling for their response in two weeks.
- (vi) The District Magistrate, Madhubani and Sub Divisional Magistrate, Madhubani are also directed to appear before the Commission in person on 27.2.2015 at 11.00 AM without fail alongwith their response to the report and the compliance report. The Commission is constrained to observe, having regard to the shocking facts of the case that in case the said officers fails to comply and to appear before the Commission in person alongwith the aforesaid report, Bailable Warrants for their arrest shall be issued in their names.

Let a copy of these proceedings be also transmitted togetherwith the report of NHRC team to the Chief Secretary, Government of Bihar for appropriate action and report within a period of four weeks."

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## Action Details

File Number 4187/4/21/2014-BL	Action Date	30/01/2015
Action taken AIC	Due Date	06/03/2015
Commission JUSTICE SHRI D. MURUGESAN	Comp.Date	Not Completed

The Commission has received a complaint from one Tojo Jose of an NGO alleging that more than thirty eight families are being exploited under an illegal bonded labour system in the revenue jurisdiction of Benipatti Sub-Division, Madhubani District of Bihar. These labourers are forced to work by their respective employers at their respective agricultural lands under "Kamiya" bonded labour custom. The labourers are working since generations. The labourers are 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. Most of the labourers belong to the Scheduled Caste category (Mushahar), and work more than 10 hours a day. They are trapped in a customary bonded labour system in which the labourers are not free to move out or to be employed elsewhere. The Commission has considered the matter on 17.11.2014 and observed that the allegations made are serious in nature. Therefore the Commission directed the Joint Registrar (Law) in consultation with the Deputy Inspector General, (Investigation Division) of the Commission to constitute a team of Officers for spot enquiry in the matter and submit the report within four weeks. In compliance of the aforesaid directions, a team consisting of Shri A.K. Parashar, Joint Registrar (Law), Shri O.P. Vyas, Assistant Registrar, (Law), Shri Umed Singh, Deputy Superintendent of Police and Shri A.K. Mishra, Inspector of the Commission visited District Madhubani and conducted spot enquiry from 22.1.15 to 24.1.2015. The NHRC team on return has submitted the interim report. The Commission has perused the report. Contents of the report are disturbing and shocking which discloses the following: - i) On the verbal directions of the District Magistrate, Madhubani, an enquiry into the same matter was entrusted by the Sub Division Magistrate, Madhubani to the Officers of Labour Department, hours before the arrival of NHRC team. The District Magistrate, was not having any complaint in the matter before him nor he was directed by the Commission to get this matter enquired into. His officers have knocked at NHRC website, downloaded details and conducted the enquiry on 21.1.2015 with a view to sabotage the enquiry to be conducted by the NHRC team. It has been alleged by the petitioner that the Enquiry Officers and later the local BDO have intimidated the victims. The victims however stood firm on the ground and the said enquiry disclosing prima facie the case of bonded labour was submitted to the District Magistrate. ii) Shri Rajesh Meena, IAS, the Sub Divisional Magistrate, Benipatti who was requested by the NHRC team on 22.1.2015 at Village Purjuar to conduct the enquiry under the provisions of the Bonded Labour System (Abolition) Act has conducted himself contrary to law. Its irony to note that the said Sub Divisional Magistrate who is an IAS Officer, did not fulfill the obligation under the Act in the course of the enquiry even though the victims belong to the Scheduled Caste. All the statements in which the allegations made in the complaint were reiterated and were recorded in his presence and countersigned by him but he did not act as per law and his inaction has rather exposed the victims to imminent threats to their lives. He did not take any steps for their very survival in the village as they have lost their livelihood. He has failed to conclude the proceedings in the light of facts and circumstances of the case, despite having all the material evidence in hand and concerned persons available before him. It is also shocking that despite his assurance to the NHRC team for ensuring safety and security of the victims, some of police personal of Police Station, Arer knocked at the doors of the

Order

victims in mid-night after NHRC enquiry, called them one by one and asked them to put their thumb impressions on some blank papers. On refusal, the victims were threatened. The indifferent attitude of the Sub Divisional Magistrate as a whole is therefore viewed seriously. iii) The District Magistrate, Madhubani failed to take action even though the Officers of Labour Department conducted the enquiry and submitted their report to the District Magistrate. The NHRC team was able to get copy of the report prior to actual commencements of its enquiry on 22.1.2015 at village Purjuar. The District Magistrate, Madhubani was apprised of the facts and circumstances of the case by the NHRC team but he has also failed to act in accordance with the provisions of law. It appears that the Sub Divisional Magistrate, Benipatti has not acted as per law under pressure from the District Magistrate, Madhubani. This fact is evident from the fact that the Sub Divisional Magistrate, Benipatti had informed the Joint Registrar (Law), NHRC on the night of 22.1.2015 over telephone that he was reaching Madhubani on the morning of 23.1.2015 with release certificates but he took complete U-turn on 23.1.2015 on the ground that he was still conducting enquiry into the matter. This complete U-turn could not have been possible without pressure from the District Magistrate himself. The District Magistrate has not initiated any action whatsoever for the welfare of these poor people. The Executive Magistrates are expected to discharge their duties for the welfare of the people under the provisions of the Bonded Labourers System (Abolition) Act, keeping in view the thrust and trust imposed and reposed upon them by the Parliament. The conduct of District Magistrate, Madhubani and Sub Divisional Magistrate, Benipatti is in utter disregard to the provisions of law. It shows that they are totally insensitive to the cause of helpless, hapless and poor forced labourers belonging to the Scheduled Caste. After the report of the team of NHRC dated 28.01.2015 is received in the Commission, a further complaint dated 30.1.2015 is also received by the Commission from the petitioner. A perusal of the said complaint discloses shocking events after NHRC team had visited the site. The Commission having taken note of the facts and circumstances of the case in totality and the report of NHRC team directs as under:- (1) The District Magistrate, Madhubani to issue 'Release Certificates' forthwith in respect of all the labourers as mentioned in the complaint and forwarded the same to the Commission by return. (2) The District Magistrate will also ensure that the victims are paid their past wages and are extended all the benefits under Social Welfare Schemes and an amount of Rs.20,000/- as mandated under law is paid to them without loss of further time. (3) The District Magistrate will ensure safety and security of the victims and will ensure legal action in the matter against the offenders. (4) Let a copy of the Interim report submitted by the NHRC team together with the copies of subsequent petitions including dated 21.1.2015 and 23.1.2015 be forwarded to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar to explain their conduct and submit their response within two weeks. (5) Let a copy of the complaint dated 30.1.2015 received from the petitioner be also transmitted to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar calling for their response in two weeks. (6) The District Magistrate, Madhubani and Sub Divisional Magistrate, Madhubani are also directed to appear before the Commission in person on 27.2.2015 at 11.00 AM without fail alongwith their response to the report and the compliance report. The Commission is constrained to observe, having regard to the shocking facts of the case that in case the said officers fails to comply and to appear before the Commission in person alongwith the aforesaid report, Bailable

Warrants for their arrest shall be issued in their names. Let a copy of these proceedings be also transmitted togetherwith the report of NHRC team to the Chief Secretary, Government of Bihar for appropriate action and report within a period of four weeks.

**Auth.Name** THE CHIEF SECRETARY  
**Address** GOVERNMENT OF BIHAR, PATNA  
MADHUBANI , BIHAR

Secondary Action

No	Action	Date	D.Date	Com.Date
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NATIONAL HUMAN RIGHTS COMMISSION  
MANAV ADHIKAR BHAWAN, NEW DELHI

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Name of the Complainant : Tojo Jose  
Case No(s). : 4187/4/21/2014-BL  
Date : 31 MAR 2015  
Coram : Justice Shri D.Murugesan,  
Member

PROCEEDINGS

The matter rested thus when a complaint was received from one Tojo Jose of an NGO alleging that more than thirty eight families are being exploited under an illegal bonded labour system in the revenue jurisdiction of Benipatti Sub-Division, Madhubani District of Bihar. These labourers are forced to work by their respective employers at their respective agricultural lands under "Kamiya" bonded labour custom. The labourers are working since generations. The labourers are 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. Most of the labourers belong to the Scheduled Caste category (Mushahar), and work more than 10 hours a day. They are trapped in a customary bonded labour system in which the labourers are not free to move out or to be employed elsewhere.

Pursuant to directions of the Commission, a team consisting of Shri A.K. Parashar, Joint Registrar (Law), Shri O.P. Vyas, Assistant Registrar, (Law), Shri Umed Singh, Deputy Superintendent of Police and Shri A.K. Mishra, Inspector of the Commission visited District Madhubani and conducted spot enquiry from 22.1.15 to 24.1.2015. The NHRC team on return has submitted the report finding the allegations to be true.

The Commission considered the matter on 30.1.2015 when it observed and directed as under:-

- (1) "The District Magistrate, Madhubani to issue 'Release Certificates' forthwith in respect of all the labourers as mentioned in the complaint and forward the same to the Commission by return.
- (2) The District Magistrate will also ensure that the victims are paid their past wages and are extended all the benefits under Social Welfare Schemes and an amount of Rs.20,000/- each as mandated under law is paid to them without loss of further time.
- (3) The District Magistrate will ensure safety and security of the victims and will ensure legal action in the matter against the offenders.
- (4) Let a copy of the interim report submitted by the NHRC team together with the copies of subsequent petitions including dated 21.1.2015 and 23.1.2015 be forwarded to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar to explain their conduct and submit their response within two weeks.
- (5) Let a copy of the complaint dated 30.1.2015 received from the petitioner be also transmitted to the District Magistrate, Madhubani, Sub Divisional Magistrate, Benipatti, District Madhubani, Superintendent of Police, Madhubani and Labour Superintendent, Madhubani, Bihar calling for their response in two weeks.
- (6) The District Magistrate, Madhubani and Sub Divisional Magistrate, Madhubani are also directed to appear before the Commission in person on 27.2.2015 at 11.00 AM without fail alongwith their response to the report and the compliance report. The Commission is constrained to observe, having regard to the shocking facts of the case that in case the said officers fails to comply and to appear before the Commission in person alongwith

*the aforesaid report, Bailable Warrants for their arrest shall be issued in their names. Let a copy of these proceedings be also transmitted togetherwith the report of NHRC team to the Chief Secretary, Government of Bihar for appropriate action and report within a period of four weeks."*

In response to the notice issued by the Commission vide proceedings dated 30.1.2015, the District Magistrate, Madhubani, Bihar, vide communication dated 8.2.2015, has submitted the detailed compliance report. The report, inter-alia, indicates that on 23<sup>rd</sup> January 2015, the Sub Divisional Magistrate constituted a team of six subordinate officers for thorough enquiry into this matter. Same day, necessary instructions were given to the Sub Divisional Police Officer, Benipatti for ensuring law and order in the area besides initiating preventive action as per law. The Labour Superintendent, Madhubani has filed a case against 18 errant employers u/s 20(2) Minimum Wages Act, 1948 in respect of 48 labourers.

The District Magistrate, Madhubani thereafter instructed the Labour Superintendent, Madhubani on 24<sup>th</sup> January 2015 for registration of a case under the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, if the labourers belong to such category. The District Magistrate himself issued instructions to all the concerned officers in the area on 25<sup>th</sup> January 2015 to ensure preventive and security measures in the village in order to maintain law and order and deputed Executive Magistrate and Police to camp there. Preventive action u/s 107 Cr.P.C. was also initiated against 12 errant employers.

A criminal case vide FIR No.10/2015, Police Station Arer, u/s 3(1) (VI) SC/ST Act, dated 1.2.2015 was also got registered. The enquiry team

constituted by the Sub Divisional Magistrate, Benipatti had submitted its report to the Sub Divisional Magistrate on 31<sup>st</sup> January 2015 and it was unanimously decided that in the light of the findings of the enquiry conducted by the officers of Benipatti Sub Division, the communication dated 30.1.2015 of the National Human Rights Commission in the matter and the statements of the labourers recorded on 22<sup>nd</sup> January 2015, all the labourers (101) of 38 families be declared as bonded labourers. Their release certificates be issued and besides, an amount of Rs.20, 000/- each to be paid to them. The benefits under Social Welfare Schemes of the Central Government and the State Government be also extended to all the 101 released bonded labourers. The aforesaid decision of the Vigilance Committee of Benipatti Sub Division was approved by the District Vigilance Committee, Madhubani on 6<sup>th</sup> February 2015.

It was also decided that the errant employers will also be prosecuted under the provisions of the Bonded Labour System (Abolition) Act, the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, the Child Labour Act, the Juvenile Justice Act and the Indian Penal Code by registering an FIR against the offenders. The Sub Divisional Magistrate, Benipatti has accordingly issued the 'Release Certificates' in the names of 101 bonded labourers of 38 families and copies of the same have also been forwarded to the Commission.

The Labour Superintendent, Madhubani has also been directed on 6<sup>th</sup> February 2015 to recover the past wages of the 101 released bonded labourers from their respective employers. Accordingly, the Labour Superintendent, Madhubani has filed 113 cases against 18 employers through Labour Enforcement Officer, Benipatti in the Benipatti Court. The



Labour Commissioner, Bihar, Patna has also been requested on 6<sup>th</sup> February 2015 for allocation of Rs. 20,20,000/- for payment @ Rs. 20,000/- each to the 101 released bonded labourers. The amount shall be disbursed on receipt of the aforesaid funds.

It has been further stated that special camps have been organized to extend the benefits of Social Welfare Schemes to these labourers under Antodays Anna Yojna; Home Base New Born Care; Indira Awas Yojna; Janani Bal Shishusuraksha Yojna; Kerosine Oil; Outpatient Department; Public Distribution System; Primary Household; Routine Immunization; TB Treatment; Swarnajayanti Gram Swarojgar Yojna; Self Help Group, Take Home Ration; Vaccination and Vitamin A as per their entitlement. The details of the same together with Beneficiaries have also been furnished.

The Labour Superintendent, Madhubani has informed the District Magistrate that another case vide FIR No. 14/2015, u/s 16,17 and 18 of the Bonded Labour System (Abolition) Act, section 3 (1) (vi) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, section 14 of the Child Labour Act, section 23 of the Juvenile Justice Act, section 22 of the Minimum Wages Act and sec. 344, 370, 374, 34 IPC has been got registered at Police Station Arer on 6<sup>th</sup> February 2015 against 18 named employers. It has been stated that complete assistance was provided to the visiting National Human Rights Commission team by the Office of the District Administration during their stay from 21 – 24 January 2015. The District Magistrate has stated that he is committed to the welfare of the people belonging to the scheduled castes and scheduled tribes, poor and downtrodden sections of the society. The report was however silent on statements recorded by them on 21.1.2015.

According to the District Magistrate, the complaints of the petitioner, Tojo Jose dated 21.1.2015 and 23.1.2015 were received by him and the Sub Divisional Magistrate, Benipatti was asked to enquire and to submit the report. As per the enquiry report, the victims have denied the allegations made in both the complaints. It has been stated that the labourers have not been intimidated and no efforts were made by anyone to obtain their thumb impressions under force on blank papers. The allegations made against the police and the PDS dealer Tarakant Jha have altogether been denied and termed as contrary to facts and are misleading. It has also been stated that the situation is peaceful in the village. Preventive action as well as criminal action has been initiated against the errant employers and the local police is keeping close eye on the situation to maintain peace and tranquility in the village.

On perusal of the contents of the FIR, it could be seen that the Labour Superintendent, Madhubani, vide his complaint dated 6.2.2015 addressed to the Station House Officer, Police Station Arer, has stated that the statements of the labourers belonging to the scheduled castes were recorded by the NHRC team and others on 22.1.2015 in his presence and in the presence of other officers. It has been further stated that certain persons (18) have kept some persons in bondage under Kamiya system. The same has been enquired into by the Labour Enforcement Officer, Benipatti and it has been found that 18 employers belonging to the Brahmin Caste are taking forced labour from 65 named bonded labourers. These employers are keeping the victims in bondage for years together as per customs and under debt bondage to work and are extracting forced labour in their agricultural fields against their wishes contrary to law. They are

also deprived to move out of the village and are being treated like slaves. These 18 employers have extracted work contrary to law from the victims and have not paid them the minimum wages. The victims also included children and adolescents, who have been exploited mentally and physically. Copies of the documents as referred above have been forwarded. A similar report has also been received from Sub Divisional Magistrate, Benipatti.

Further Shri Giriwar Dayal Singh, District Magistrate, Madhubani and Shri Rajesh Meena, Sub Divisional Magistrate, Benipatti who have appeared before the Commission in person on 27.2.2015 have also submitted further report in the matter indicating interalia the steps taken by them for rehabilitation of the released bonded labourers. It has been stated that an amount of Rs. 10,000/- (Rupees ten thousand only) each as part of the State share has been paid on 12.2.2015 to 64 released bonded labourers and funds are awaited in response to remaining 37 released bonded labours. It has also been stated that the Central share of Rs.10,000/- each are still awaited from the Ministry of Labour, Government of India. As per the report a Special Camp was organized in the village to extend benefits of Social Welfare Scheme to all the 101 released bonded labourers of 38 families. These benefits included 11 children and six lactating mothers under Take Home Ration Scheme, 26 girls under Chief Minister Girls Security Scheme, 6 families covered under Girls Marriage Scheme, benefits of Indira Awas Yojana to remaining 12 families, Indira Gandhi National Old Age Pension benefits to 2 persons, disability pension to one person and enrollment of all children belonging to the 38 families in the Schools and benefits of Food Security Scheme to all 38 families. It

It has been further stated that a proposal has been made to open mini Anganwadi Centers in the locality and also allotment of land to all the 38 families. It has been further stated that in both the criminal cases registered under Atrocities Act at Police Station Arer, raids are being conducted to effect arrest of the absconding accused and the cases are pending investigation. It has also been stated that the cases (113) filed by the Labour Enforcement Officer on recovery of wages are under consideration of the court and next date of hearing was fixed for 28.2.2015. It has also been stated that appropriate security measures have been taken in the village and preventive measures have also been initiated by the local police to ensure safety and security of the victims.

In the meanwhile, the Commission has further received a letter dated 17.3.2015 from District Magistrate, Madhubani describing further steps taken by him in the matter. It has been stated that prescribed amount of financial relief of Rs. 22,500/- each in accordance with the provisions of the SC/ST Act and Rules made there under has been paid to 99 released bonded labourers belonging to the Scheduled Caste. It has been stated that remaining 2 labourers are from other castes. It has also been stated that land has been allotted to all the 38 families for construction of their houses and possession of the said land has also been given to them. Necessary entries in the revenue records of their ownership have also been made. As per report necessary funds have been sought from Labour Commissioner, Government of Bihar towards State share in respect of 37 remaining released bonded labourers and Central share in respect of all the 101 released bonded labourers towards their rehabilitation. Further the Superintendent of Police, Madhubani and District Prosecution Officer,

Madhubani have been directed to conclude investigation in both the criminal cases expeditiously and then to get it adjudicated upon through speedy trial. The District Magistrate has also submitted that the enquiry conducted by the Labour Officers a day before the commencement of the enquiry by the NHRC team was not aimed at to sabotage the NHRC enquiry. It has been stated that the said enquiry was conducted on the basis of a complaint received from an NGO on 19.1.2015.

The Commission has considered the matter. The Commission has heard Shri Giriwar Dayal Singh, District Magistrate, Madhubani and Shri Rajesh Meena, Sub Divisional Magistrate, Benepatti in person on 27.2.2015 and conveyed its displeasure and anguish the way both the officers had conducted when the NHRC team conducted the enquiry in the matter. The District Magistrate, Madhubani now takes the stand that the enquiry conducted by the officers of Labour Department on 21.1.2015 was based on a complaint dated 17.1.2015 received from an NGO. The Commission without going in details would like to remind the District Magistrate that the records including of his own office speaks otherwise. Both the officers have however tendered their unconditional apology and the same is accepted.

As per reports, the District Magistrate, Mahubani and his subordinate officers have taken laudable steps by providing land, financial relief and by extending benefits to the victims under various Social Welfare Schemes as described in the reports in order to rehabilitate the released bonded labourers in a meaningful and sustainable manner. It is praiseworthy to note that District Magistrate is monitoring the investigation being carried out by the police in both the criminal cases besides the cases launched by

the Labour Department in Benipatti Court. He has also assured to have taken all necessary steps for ensuring safety and security of the victims, mostly belonging to the scheduled caste. The Commission expects that both the District Magistrate, Madhubani and Sub Divisional Magistrate, Benipatti who are young IAS officers and many more years to serve will continue to work with same enthusiasm and zeal in future for the welfare of such poor people. Based upon the initiatives and prompt steps taken by them, the Commission places its appreciation for them on record.

Now having considered both the enquiry reports of the NHRC team, having heard both the officers in person and the reports submitted by District Magistrate, Madhubani and Sub Divisional Magistrate, Benipatti, Madhubani, Bihar the Commission directs as under :

- 1) A notice be sent to the Secretary, Ministry of Labour and Employment, Government of India, Principal Secretary, Department of Labour, Government Bihar and Labour Commissioner, Government of Bihar, Patna to submit a report on release of funds from the Central share in respect of 101 released bonded labourers and from the State share in respect of remaining 37 released bonded labourers towards rehabilitation of the released bonded labourers within six weeks.
- 2) A notice be also sent to the District Magistrate, Madhubani, Bihar to submit a report on further steps taken for rehabilitation of the victims and status of all the cases pending investigation with police and pending adjudication before the courts within six weeks.

- 3) Let both the officers of Law Division who were involved in the spot enquiry in the matter visit the victims after about three months to assess the rehabilitation measures and steps taken by the State Govt. towards their rehabilitation.

The Commission also places on record its appreciation for Shri A. K. Parashar, Joint Registrar, (Law) and Shri O.P. Vyas, Assistant Registrar, (Law) for conducting the spot enquiry with perfection having brought relief to 38 families who were in bondage from generations together. Let the Secretary General, NHRC appreciate their role and place the Same in the service records. The report of the NHRC team be also put up on the Commission's website.

Put up on 6.7.2015

AR(OPV)SS/30.3.2015  
Tojo Jose(desktop)



MEMBER

31 MAR 2015



**NHRC Officers briefing the SDM, Benipatti about the case**





**Interaction of NHRC team with the SDM, Benipatti**



**Interaction of NHRC team with the SDM, Benipatti**



**SDM, Benipatti and his subordinate officers examining the enquiry report of Labour Department dated 21.1.15**



**SDM, Benipatti and his subordinate officers examining the enquiry report of Labour Department dated 21.1.15**



**Statement of Labour Supdt. District Madhubani being recorded by the NHRC team**



**NHRC Officer examining the victims**



**NHRC Officer examining the victims**



**Interaction with the villagers by NHRC team**





**Examination of the victims by SDM, Benipatti in the presence of NHRC team**



**Statement of Labour Enforcement Officer being recorded by the NHRC team**



**Statement of victims being recorded by the NHRC team**



**Statement of victims being recorded by the NHRC team**



**Statement of the victims being recorded by the NHRC team**



Statement of victims being recorded by the NHRC team



**Interaction with the SDM, Benipatti by JR(Law)**



**Photographs of bonded labourers**





**The victims and their family members**



**Photograph of bonded labourers and others**



Photograph of bonded labourers and others



**Photograph of bonded labourers and others**



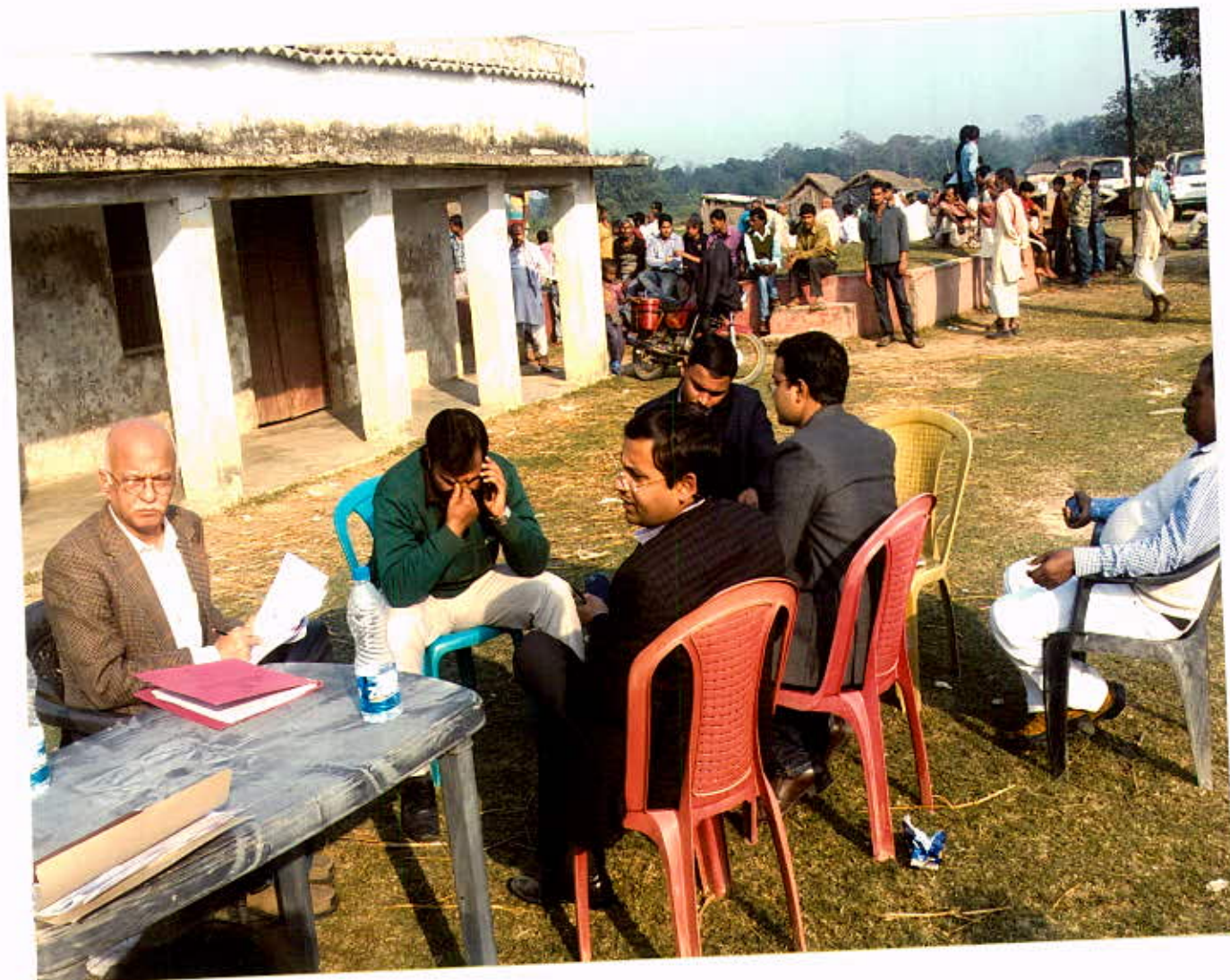
**Photograph of bonded labourers and others**



**Photograph of bonded labourers and others**



**Photograph of bonded labourers and others**

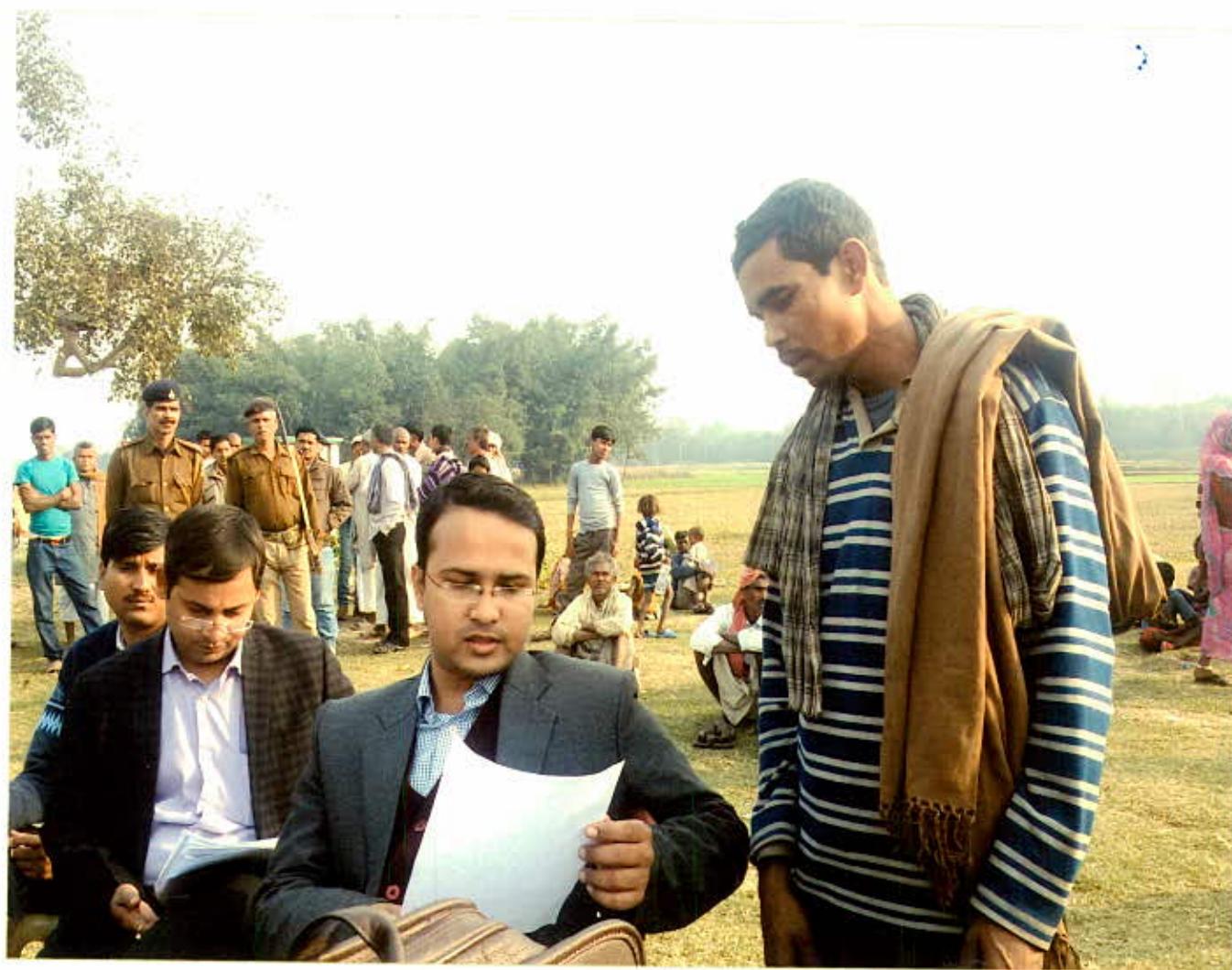


**Sub-Divisional Magistrate, Benipatti together with his officers during spot enquiry with the NHRC team on 22.1.15.**

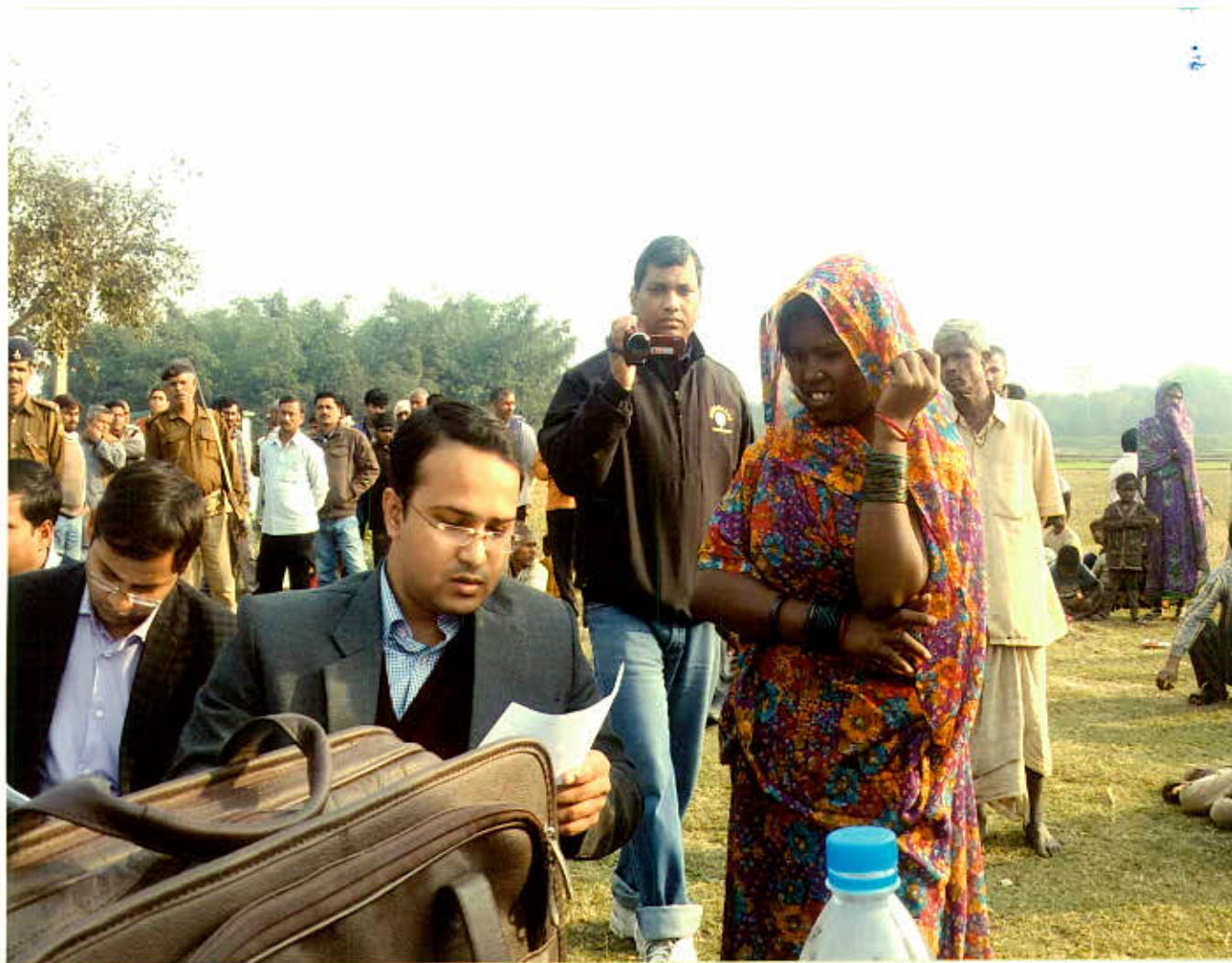




**Officer of District Administration interacting with the victims**



**The DM, Benipatti examining the victims**



**The DM, Benipatti examining the victims**



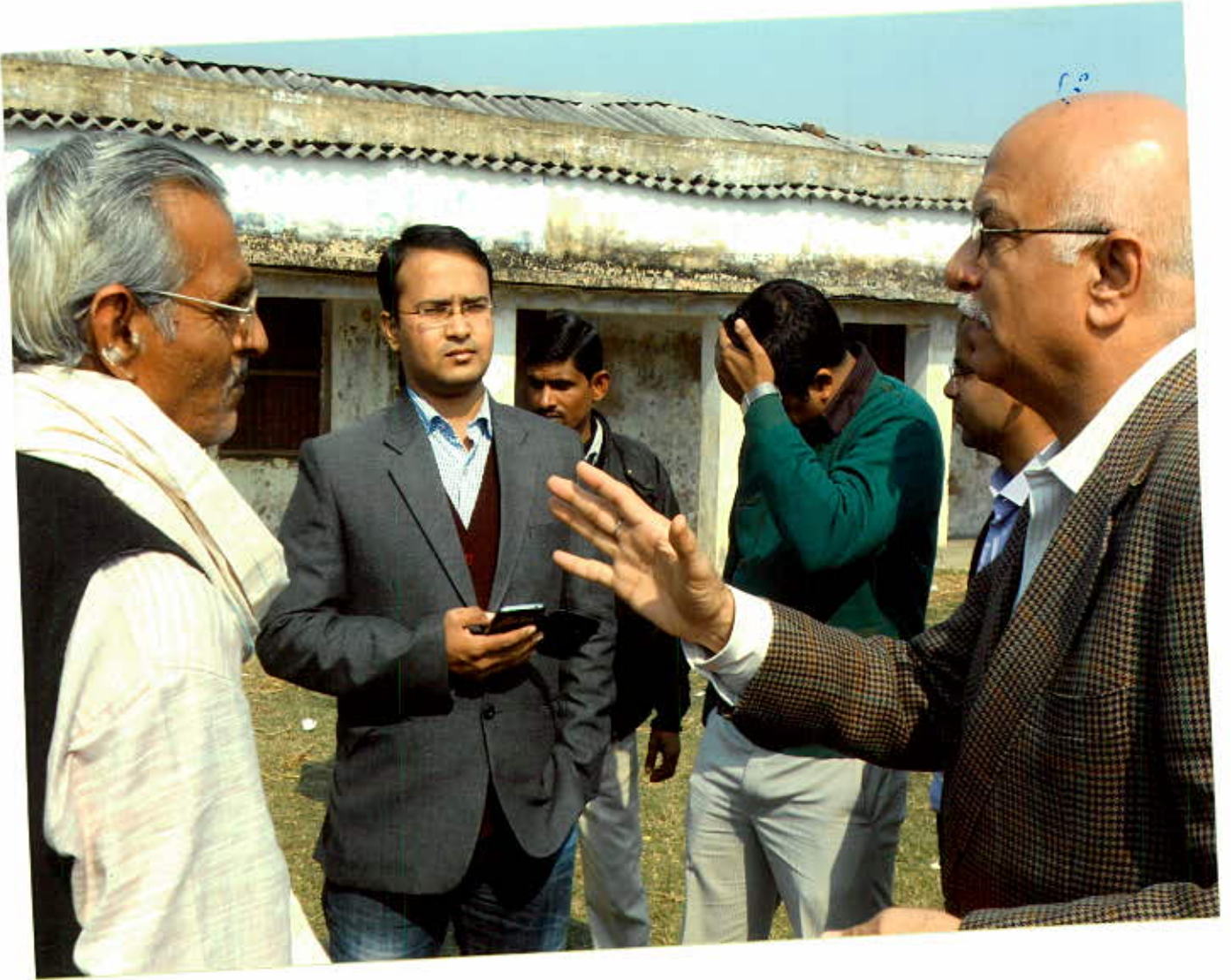
**SDM, Benipatti examining the victims**



**Examination of the victims by SDM, Benipatti**



**Examination of the victims by SDM, Benipatti**



**Interaction with the villagers by NHRC team**