

Neeraja Chaudhary

Vs

State of M. P.

Writ Petition (Cri) No. 1263 of 1982, Under Article 32 of the Constitution of India

(P. N. Bhagwati, A. P. Sen JJ)

08.05.1984

JUDGMENT

BHAGWATI, J. -

1. This is yet another case which illustrates forcibly what we have said on many an occasion that it is not enough merely to identify and release bonded labourers but it is equally, perhaps more, important that after identification and release, they must be rehabilitated, because without rehabilitation, they would be driven by poverty, helplessness and despair into serfdom once again. Poverty and destitution are almost perennial features of Indian rural life for large numbers of unfortunate ill-starred humans in this country and it would be nothing short of cruelty and heartlessness mercy of the existing social and economic system which denies to them even the basic necessities of life such as food, shelter and clothing. It is obvious that poverty is a curse inflicted on large masses of people by our malfunctioning socio-economic structure and it has the disastrous effect of corroding the soul and sapping the moral fiber of a human being by robbing him of all basic

2. This issue of rehabilitation of free bonded labourers arises squarely in the present writ petition. The writ petition is based upon a letter date September 20, 1982 addressed to one of the Judges of this Court by the petitioner who is Civil Rights Correspondent of Statesman a leading newspaper in the country. This letter was directed to be treated as a writ petition but for the sake of completeness, before notice was issued to the respondent, Mr. Govind Mukhoty, learned advocate who was good enough accede to the request of the Court to appear on behalf of the petition, filed a regular writ petition in substitution of this letter and it is that writ petition which is now being disposed of by us. The petitioner averred in the writ petition that about 135 bonded labourers who were working in the stone quarries in Faridabad had been released from bondage by an order made by this Court in the first week of March, 1982 since they were found to be bonded labourers within the meaning of the Bonded Labour System (

3. When this writ petition came up for preliminary hearing before the Court, notice was issued to the State Government and the State Government was directed to "inform the Court at the next hearing of the writ petition as to whether they have framed any scheme or schemes for rehabilitation of bonded labourers, whether any vigilance committees have been constituted in the District of Bilaspur and whether any and if so what steps have been taken or are being taken for rehabilitating 135 workers who were released by the order made by this Court in the first week of March, 1982 and who are now living in the three villages, namely, Kunda, Pandharia and Bhairavpura in Mungeli Taluk of Bilaspur District". Pursuant to this direction given by the Court, the State Government filed the counter affidavit of one G. R. Mahajan, Asstt. Labour Commissioner at Bilaspur setting

out what steps had been taken and were being taken by the State Government for identification, release and rehabilitation of bonded labourers. The

It would be cruel to insist that a bonded labourers in order to derive the benefits of this social welfare legislation, should have to go through a formal process of trial with the normal procedure for recording of evidence. That would be a totally futile process because it is obvious that a bonded labourers can never stand up to the rigidity and formalism of the legal process due to his poverty, illiteracy and social and economic backwardness and if such a procedure were required to be followed, the State Government might as well obliterate this Act from that statute book. It is now statistically established that most of bonded labourers are members of Scheduled Castes and Scheduled Tribes or other backward classes and ordinary course of human affairs would show, indeed judicial notice can be taken of it, that there would be no occasion for a labourer to be placed in a situation where he is required to supply forced labour for no wage or for nominal wage, unless he has received some advance or other econom

This is the test which has to be applied for the purpose of determining whether a workman is a bonded labourer or not and we would therefore direct the State Government to apply this test throughout its territory for the purpose of ascertaining whether there are any bonded labourers or not and if so how large is their number. Whenever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer unless the employer or the 11 is in a position to prove otherwise by rebutting such presumption.

4. The State Government also pointed out in the affidavit of G. R. Mahajan that instructions had been issued to all the Collectors and Commissioners to give widest possible publicity to the evil of the bonded labour system and the cooperation of the members of the Legislative Assembly was also sought in this vital task of identification release and rehabilitation of bonded labourers and all the panchayats in the State were also asked to cooperate with the State Government in this behalf. The State Government observed in the affidavit that it had also announced an award of Rs. 25 to these who give information about the existence of bonded labour. It is difficult to believe that the existence of bonded labour can be discovered and the evil of bonded labour can be wiped out by relying solely on action to be taken by the members of the Legislative Assembly or the bureaucracy or even the panchayats though their help must certainly be sought and taken. The Commissioners and Collectors have multifarious duties to a

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(2) Shri Chandran, "Lahar", Near Korba, Bhainsa Munda, District Bilaspure.

(3) Shri J. R. Sachdev, Prayog Samaj Sevi Sanstha, P. O. Tilda Neora District Raipur-493114, Madhya Pradesh.

We expect the State Government to carry out this direction within one month from today. We would also direct the State Government to take immediate action for identification and release of bonded labourers, whenever any representative of these social action groups, whether on the vigilance committee or not, points out to the Collector/District Magistrate or the Deputy Collector that there is existence of bonded labour at a particular place and whenever any officer of the district administration goes to such place for identification and release of bonded labour on the basis of the information given by such representative of the social action group, he shall take such representative

with him and a copy of the report made by him shall be handed over immediately to such representative of the social action group. We may make it clear that this direction given by us should not be interpreted to mean that the representatives of only those social action groups which are mentioned by us should be taken on the vigilance

5. It appears that a review of the action taken by the State Government for the purpose of identification, release and rehabilitation of bonded labourers was undertaken in April, 1981 and a detailed survey was carried out in the district of Satna, Panna, Bastar, Raigarh and Jabalpur. The learned counsel appearing on behalf of the State Government has filed a summary of conclusions and recommendations of this review and this summary frankly and boldly exposes the inadequacies of the state administration in regard to the implementation of the programme of identification, release and rehabilitation of bonded labourers and makes constructive suggestions and recommendations for remedying the existing state of affairs. We hope and trust that these suggestions and recommendations will be immediately carried out by the State Government and the entire machinery for identification, release and rehabilitation of bonded labourers will be streamlined in the light of these suggestions and recommendations. We do not think t

6. It is obvious from the writ petition as also from the affidavits filed in these proceedings that the large majority of 135 bonded labourers released as a result of the order made by this Court in the first week of March, 1982 have not yet been rehabilitated though more than 18 months have passed. We wonder how these outcasts of humanity, forgotten by their fellow beings and neglected, by their government, must be eking out their daily existence : how they must be feeding the hungry bellies of their children and how they must be covering the shame of their wives. These unfortunate human being for whom life is a long unceasing rigel with no resources except perhaps a forlorn hope, who cant even cry for help because they know that it will be a carry in the wilderness which no one will hear and who drag on their earthly existence in the hope that one day death will relieve them from their misery and suffering, today's ask the Legislature, the Executive and the Judiciary, "What have you done for us; have we no

7. The writ petition will be placed on board on August 6, 1984 for consideration of the affidavits which may be filed by the State Government pursuant to the directions given by us in this judgment. The State Government will pay to the petitioner costs of the writ petition quantified at Rs. 5000. We must in the end express our deep gratitude to Mr. Govind Mukhoty who has so ably, with a sense of social commitment and dedication, presented the case on behalf of the petitioner and assisted the Court in arriving at its decision.

AMARENDRA NATH SEN, J. (Supplementing)-

I have had the benefit of reading the judgment of my learned brother Bhagwati, J. The facts have been set out in the judgment of my learned brother. Though I am in general agreement with the directions given and order proposed by my learned brother, I wish to make my own observations.

9. These orders have been passed and directions have been given so that responsibility and legal obligations of the respondent in the matter of properly rehabilitating bonded labourers freed from bondage may be duly discharged. Bonded labour system had been one of the vile systems which had been degenerating human being for years. Appreciating the unjust, immoral and pernicious nature of this system, our country which values human dignity and guarantees person freedom had passed appropriate legislation to do away with this system. The Board Labour System (Abolition) Act, 1976, abolishing bonded labour system and making various other provisions including provisions

for the rehabilitation of bonded labourers was enacted. It is indeed sad and unfortunate that though this piece of welfare legislation was passed years ago, no proper steps were being taken for implementation of the same. Various social organisations and individuals working for the upliftment of the poor, weak and the downtrodden had brought to the

10. It has to be appreciated that were passing of welfare legislation for the upliftment of the downtrodden, the meek and the weak is by itself not sufficient though undoubtedly the legislation is the first step in the right direction. What is really important is that every law enacted, particularly welfare legislation for the benefit of the weaker section of the people, must be implemented in the proper spirit for achieving the noble object for which such legislation is passed. Implementing the law has, necessarily to be effected through human agencies. Unfortunately, frailties of human nature and degeneration of human character often add to existing problems instead of solving them.

11. The provisions of the Bonded Labour System (Abolition) Act, 1976 must be implemented effectively and properly in terms of the provisions of the Act, if the desired objective which the Act seeks to achieve, is to be attained. The Legislature in its wisdom very aptly appreciated that mere release of the bonded labourer from bondage without making appropriate arrangements for his rehabilitation will serve no useful purpose and may even create a very real problem as to livelihood of the labourer so set freed and accordingly the legislation made suitable provision for the rehabilitation of the bonded labourer. If any bonded labourer is only red from his bondage and is set at liberty, he will in all probability have to slide back into bondage again to keep his body and soul together. Freedom from bondage without effective rehabilitation after such freedom will indeed be of no consequence and in the absence of proper arrangement for such rehabilitation being made, the entire purpose of the Act will be frustrate

12. The real grievance of the petitioner in this writ petition based on personal knowledge is with regard to non-implementation of the legislative provisions made for the rehabilitation of the bonded labourers after they had been freed. A sad and woeful tale is narrated free pursuant to the orders of this Court for not taking effective measures enjoined by law for their rehabilitation. It becomes the duty of the Court to see that the legislative provisions regarding their rehabilitation are properly implemented and these poor and miserable persons are allowed to enjoy the benefit which the law and the Constitution of the land afford to them.

13. With these observations, I express my agreement with the directions given and orders proposed by my learned brother in the judgment.

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