

Supreme Court of India
Supreme Court of India
Bandhua Mukti Morcha vs Union Of India And Ors on 13 August, 1991
Equivalent citations: 1992 AIR 38, 1991 SCR (3) 524
Bench: Misra, Rangnath
PETITIONER:

BANDHUA MUKTI MORCHA

Vs.

RESPONDENT:

UNION OF INDIA AND ORS.

DATE OF JUDGMENT 13/08/1991

BENCH:

MISRA, RANGNATH (CJ)

BENCH:

MISRA, RANGNATH (CJ)

PUNCHHI, M.M.

AGRAWAL, S.C. (J)

CITATION:

1992 AIR 38 1991 SCR (3) 524

1991 SCC (4) 177 JT 1991 (3) 408

1991 SCALE (2)306

ACT:

Bonded Labour system--Creation, operation and effect of. Constitution of India, 1950-- Articles 23(1), 39(c), 41, 42--Bonded labour in quarries of Haryana--Government's failure to implement the judgment in (1984) 3 SCC 161--Measures to take indicated.

Constitution of India, 1950---Article 32--Letter addressed to Supreme Court complaining bonded labour--Treated writ petition.

HEADNOTE:

A letter addressed to this Court complaining about prevalence of bonded labour system in the quarries of Fari-dabad District in Haryana_ State was treated as a writ petition under Article 32 of the Constitution. Two Advocates were appointed as Commissioners to inquire into the working conditions of the stone quarry workers. Later, this Court, finding the necessity of an in-depth investigation into social and legal aspects of

the problem, also appointed two Commissioners--Dr. 'S.B. Patvardhan and Mr. Krishan Mahajan to study the working conditions prevailing in the various quarries within the Faridabad district with particular reference to violation of provisions of the Bonded Labour System (Abolition) Act of 1976 and Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act.

The Commissioner furnished their report on 28th of June, 1982.

The 3-Judge Bench heard the matter and in its Judgment (reported in (1984) 3 SCC 161), dealt with various aspects of the problem and taking into account the information collected by Advocate Commissioners and the report made by Dr. Patvardhan.

The Court did not treat the writ petition as disposed of by its judgment and the application survived for further monitoring.

This Court also appointed Shri Laxmi Dhar Misra, Joint Secretary

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in the Ministry of Labour, Government of India as a Commissioner to carry out the assignments stated in the judgment. Mr. Laxmidhar Misra, in due course, submitted his report in two parts one dealing with the identification of the bonded labour and the second covering the inquiry into the implementation of the 21 directives.

The petitioner-Morcha, filed a petition for contempt alleging that the directions were not being implemented. Mr. Mahabir Jain of the Faculty of National Labour Institute was appointed to inquire into the measures and report on the degrees to which the 21 directives issued by the Court had been implemented and to present to the Court a clear picture of the issues involved for enabling it to make its own assessment and come to a conclusion as to whether the directions had been or were being implemented and also as to whether action for contempt was appropriate or in the matter of monitoring the social problem, some other course was necessary to be adopted, and in February, 1989, the report was submitted to the Court.

As the 3-Judge Bench had gone into the philosophy involved in the matter in the Judgment, what remains for consideration at this stage was more or less a clear review of the enforcement of the directives and assessment of the outcome for achieving the statutory purpose and the constitutional goal and for the fulfilment of the hopes and expectations of this Court in that regard. The matter was heard for some time on the basis of these reports of Mr. Jain and this Court reserved Judgment on 10th of July, 1990. When the matter was about to be disposed a communication was received by the Court dated 24.1.1991 from the Director General of Labour Welfare in the Ministry of Labour that the total number of unrehabilitated bonded labourers was 523 upto 30.11.1990, whereas the number to be 3993 according to the petitioner and on 21st February, 1991, this court directed a Committee to check up the particulars and to furnish a report, which was furnished on July 1, 1991, from which it was understood that the total number of identified bonded labour is around 2000 and not 3993. The report indicated that the wages, the facility of schooling and medical treatment, availability of water, provisions and scope for recreation are aspects which still require attention. No attention has been 526

bestowed by the inspecting authority of the labour law enforcers to secure improved conditions of working. Allowing the petition this Court,

HELD: 1.-For a loan taken at an exorbitant rate of interest the debtor virtually sells himself to the creditor and gets bonded usually for a period of life and renders service for the purpose of satisfying the debt. The creditor anxious to exploit the situation ensures that the debt is never satisfied and often on the traditional basis of pious obligation the liability is inherited by the children of the original debtor. The system thus provides a built-in mechanism for continuation of the under-privileged section of the society by the privileged few

living therein. [537H-538B]

2. The bonded labourers are paid nominal wages and often their family members are not permitted to take remunerative jobs elsewhere without permission of the master. Normally, such permission is not granted and the impoverished condition is allowed to continue to the advantage of the creditor, [538B-C]

3. Quarries are located in a particular area away from habitation. On account of necessity for workmen in the area people from different parts of the country are made to live therein along with their families under very insanitary and inconvenient conditions. Health care of workmen and members of their families and education of the children as also the adults in such exclusive locality should be of the employer. To require a school to be built in such an area where there may not be adequate number of children for the purpose of schooling at the expense of the State exchequer may not be appropriate. That apart these institutions should be a part of the trade. In the manner the employer has to make provision for water and medical care, it should also have the responsibility of providing schooling for the children of the workmen. Today emphasis is also being given on adult education. If appropriate facility is provided the workmen beyond their working hours can also have scope for learning the three Rs and this could be through a process of adult education with State support under the relevant scheme. [544G-545B]

4. The State of Haryana must come forward to play its role in a better way. These are quarries located near about the industrial belt of Haryana and not far away from Delhi. Dust emanating from the working area in Haryana is bound to affect adversely the Delhi atmosphere-

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here. If adequate importance is given to the angle of pollution the industry itself has to be regulated or may have to be stopped. [545B-C]

5. The State of Haryana has not taken Court's intervention in the proper spirit and has failed to exercise appropriate control though some eight years back this Court had in clear terms laid down the guidelines and had called upon the public authority to take charge of the situation and provide adequate safeguards. [545D-E]

6. The workmen engaged on full time basis, who are not prepared to return to their States, are to be provided with a permanent base for residence at or near the work site. This would necessitate, reasonable housing, supply of water, a reasonable provision store at Land, schooling facility, of a hospital, recreational facilities and attention to the law and order problem. Perhaps near the area a police station or an outpost could be located. If the workers were insufficient in number, a doctor could be taken as a visitor to the area at frequent intervals and instead of a regular school one single teacher could be provided to look after the health of the people. [545G-546B]

7. Court's judgment to regulate such matters has inherent limitation. These are not schemes which could be conveniently monitored by a Court--far less can the apex court keep track of the matter. Its Registry has congestion. To get attention for a matter of this type from the Court is bound to take some time. Human problems in their normal way do not wait for a time-schedule for attention. In such circumstances, it should be the obligation of the State which on account of running stone quarries within its area must in various ways be getting benefits to look after these aspects. As a welfare State it is now the obligation of the State of Haryana to cater to these requirements of the area. [546B-D]

8.. In these circumstances the State of Haryana was called upon to attend to the needs of the workmen in a well considered and systematic way. Since those workmen who will be working there have to be protected from the vagaries of employment and the anxiety of the employer to draw work without adequate payments, the authorities of the State of Haryana must take care to protect the workmen from the hands of the employer by ensuring compliance with the laws if there be any vacuum in the laws, the State of Haryana should rise to

play the role of a welfare State and. play it Well. In fact there could be a special cess raised against the quarry activities to*be specifically utilised by way of return to the industry and there could he a Special fund.out of which all the amenities could be provided. What is want- ing is'not power but the mind and alertness regarding one's duty. [546E-G]

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9. The State of Haryana shall now ensure that the people who have been identified numbering about. 2000 are continued in work with the improved conditions of service and facili- ties and such of them who want to go back to their native areas be treated as released from bondage and appropriate action must be taken in accordance with Government of In- dia's scheme forthwith. [547D-E]

Gupta v. Union of India, [1982] 2 SCR 365, referred to.

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Civil) No. 2135 of 1982.

(Under Article 32 of the Constitution of India): S.K. Bhattacharya for the Petitioner.

Mahabir Singh, K.B. Rohtagi, S.K. Dhingra, L.K. Gupta, S.K. Verma, B.D. Sharma, Mrs. S. Dikshit and Ms. A. Subha- shini (N.P.) for the Respondents.

The following Order of the Court was delivered A letter addressed to this Court complaining about prevalence of bonded labour system in Cutton, Anangpur and Lakkarpur areas of Faridabad District in Haryana State wherein the stone quarries workers are living in most inhu- man conditions, was treated as a writ petition under Article 32 of the Constitution. This Court appointed two Advocates as Commissioners to inquire into the working conditions of the stone quarry workers with particular reference to the cases mentioned in the writ petition. This Court finding the necessity of an in-depth investigation into social and legal aspects of the problem also appointed Dr.S.B. Patvardhan and Mr. Krishan Mahajan to study the working conditions prevail- ing in the, various quarries within the Faridabad district with particular reference to violation of provisions of the Bonded Labour System (Abolition) Act of 1976 and Inter-State Migrant workmen (Regulation of Employment & Conditions of Service) Act. The Commissioners furnished their report to the Court on 28th of June,1982.

Several questions were raised before the Court apart from merit of the dispute; the important ones being (i) whether an application under Art. 32 of the Constitution was maintainable, particularly when to allegation: of infringe- ment of petitioner's fundamental right was 529

made; (ii) whether a letter addressed to the Court could be treated as a writ petition and be proceeded with in the absence of support by affidavit or verification;. and (iii).whether the Court had power to appoint Commissioners or an investigative body to inquire into allegations made in the petition and by affidavits and require reports to be made to the. Court for facilitating exercise of its juris- diction under Art. 32 of the Constitution. The concept of public interest litigation had not then adequately 'developed and its contours sufficiently deline- ated; the practice of accepting letters as a foundation for a writ petition had not also been clearly established; in writ petitions the practice of appointing Commissioners or investigating agencies had not been precedented; the tradi- tional concept of defence of locus standi has not been wiped away notwithstanding the decision in S.P. Gupta v. Union of India, [1982] 2 SCR 365.

A 3-Judge Bench heard the matter at considerable length and each of them delivered a separate judgment. Though the main judgment was delivered by Bhagwati, J. (as he then was) and Justice A.N. Sen concurred with it by a separate judg- ment and Pathak, J. (as he then was) while concurring with Bhagwati, J. on some

issues gave his own views. The judgment of the Court was pronounced on 16th of December, 1983 [1964 3 SCC 161].

This Court dealt with various aspects of the problem; referred to available literature on material aspects; took into account the information collected by Advocate-Commissioners and the report made by Dr. Patvardhan. The Court also took note of the position that the Presidential Ordinance of 1975 for abolition of bonded labour and the subsequent Parliamentary legislation in 1975 were seeking to implement the mandate of Art. 23 of the Constitution but while statutory provision had been made, taking into account the fact that the pernicious practice of bonded labour had prevailed in this country for centuries; the then current social atmosphere had been tolerating this practice without any serious objection; the concentration of wealth in the hands of a few and the majority being poor it became convenient for the owners of property and wealth to exploit the poor and in India a social change opposed to traditional methods was difficult to implement, the Court did not treat the writ petition as disposed of by its judgment and the application survived for further monitoring. In paragraph 39 of the judgment of Bhagwati, J. with whom on that aspect the other two learned Judges agreed, it was said:

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"We accordingly allow this writ petition and issue the above directions to the Central Government and the State of Haryana and the various authorities mentioned in the preceding paragraphs of this judgment so that these poor unfortunate workmen who lead a miserable existence in small nooks, exposed to the vagaries of weather, drinking foul water, breathing heavily dust-laden polluted air and breaking and blasting stone all their life, may one day be able to realise that freedom is not only the monopoly of a few but belongs to them all and that they are also equally entitled along with others to participate in the fruits of free, freedom and development. These directions may be summarised as follows:-- .lm20

(1) The Government of Haryana will, without any delay and at any rate within six weeks from today, constitute Vigilance Committee in each sub-division of a district in compliance with the requirements of Section 13 of the Bonded Labour System (Abolition) Act, 1976 keeping in view the guidelines given by us in this judgment.

(2) The Government of Haryana will instruct the district magistrates to take up the work of identification of bonded labour as one of their top priority tasks and to map out areas of concentration of bonded labour which are mostly to be found in stone quarries and brick kilns and assign task forces for identification and release of bonded-labour and periodically hold labour camps in these areas with a view to educating the labourers inter alia with the assistance of the National Labour Institute.

(3) The State Government as also the Vigilance Committees and the district magistrates will take the assistance of non-political social action groups and voluntary agencies for the purpose of ensuring implementation of the provisions of the Bonded Labour System (Abolition) Act, 1976.

(4) The Government of Haryana will draw up within a period of three months from today a scheme or programme for rehabilitation of the freed bonded

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labourers in the light of the guidelines set out by the Secretary to the Government of India, Ministry of Labour in his letter dated September 2, 1982 and implement such scheme or programme to the extent found necessary.

(5) The Central Government and the Government of Haryana will take all necessary steps for the purpose of ensuring that minimum wages are paid to the workmen employed in the stone quarries and stone crushers

in accordance with the principles laid down in this judgment and this direction shall be carried out within the shortest possible time so that within six weeks from today, the workmen start actually receiving in their hands a wage not less than the minimum

wage.

(6) If payment of wages is made on truck basis, the Central Government will direct the appropriate officer of the Central Enforcement Machinery or any other appropriate authority or officer to determine the measurement of each truck as to how many cubic ft. of stone it can contain and print or inscribe such measurement on the truck so that appropriate and adequate wage is received by the workmen for the work done by them and they are not cheated out of their legitimate wage.

(7) The Central Government will direct the Inspecting Officers of the Central Enforcement Machinery or any other appropriate Inspecting Officers to carry out surprise checks at least once in a week for the purpose of ensuring that the trucks are not loaded beyond their true measurement capacity and if it is found that the trucks are loaded in excess of the true measurement capacity, the Inspecting Officers carrying out such checks will immediately bring this fact to the notice of the appropriate authorities and necessary action shall be initiated against the defaulting mine owners and/or thekedars or jamadars.

(8) The Central Government and the Government of Haryana will ensure that payment of wages is made

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directly to the workmen by the mine lessees and stone crusher owners or at any rate in the presence of a representative of the mine lessees or stone crusher owners and the Inspecting Officers of the Central Government as also of the Government of Haryana shall carry out periodic checks in order to ensure that the payment of the stipulated wage is made to the workmen.

(9) The Central Board of Workers Education will organise periodic camps near the sites of stone quarries and stone crushers in Faridabad District for the purpose of educating the workmen in the rights and benefits conferred upon them by social welfare and labour laws and the progress made shall be reported to this Court by the Central Board of Workers' Education at least once in three months. (10) The Central Government and the Government of Haryana will immediately take steps for the purpose of ensuring that the stone crusher owners do not continue to foul the air and they adopt either of two devices, namely, keeping a drum of water above the stone crushing machine with arrangement for continuous spraying of water upon it or installation of dust sucking machine and a compliance report in regard to this direction shall be made to this Court on or before February 28, 1984.

(11) The Central Government and the Government of Haryana will immediately ensure that the mine lessees and stone crusher owners start supplying pure drinking water to the workmen on a scale of at least 2 litres for every workman by keeping suitable vessels in a shaded place at conveniently accessible points and such vessels shall be kept in clean and hygienic condition and shall be emptied, cleaned and refilled every day and the appropriate authorities of the Central Government and the Government of Haryana will supervise strictly the enforcement of this direction and initiate necessary action if there is any default.

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(12) The Central Government and the Government of Haryana will ensure that minimum wage is paid to the women and/or children who look after the vessels in which pure drinking water is kept for the workmen.

(13) The Central Government and

the Government of Haryana will immediately direct the mine lessees and stone crusher owners to start obtaining drinking water from any unpolluted source or sources of supply and to transport it by tankers to the work site with sufficient frequency so as to be able to keep the vessels filled up for supply of clean drinking water to the workmen and the Chief Administrator, Faridabad Complex will set up the points from where the mine lessees and stone crusher owners can, if necessary, obtain supply of potable water for being carried by tankers.

(14) The Central Government and the State Government will ensure that conservancy facilities in the shape of latrines and urinals in accordance with the provisions contained in Section 20 of the Mines Act, 1950 and Rules 33 to 36 of the Mines Rules, 1955 are provided at the latest by February 15, 1984.

(15) The Central Government and the State Government will take steps to immediately ensure that appropriate and adequate medical and first aid facilities as required by section 21 of the Mines Act, 1952 and Rules 40 to 45-A of the Mines Rules, 1955 are provided to the workmen not later than January 31, 1984. -

(16) The Central Government and the Government of Haryana will ensure that every workman who is required to carry out blasting with explosives is not only trained under the Mines Vocational Training Rules, 1966 but also holds first aid qualification and carries a first aid outfit while on duty as required by Rule 45 of the Mines Rules, 1955.

(17) The Central Government and the State Government will immediately take steps to ensure that

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proper and adequate medical treatment is provided by the mine lessees and owners of stone crushers to the workmen employed by them as also to the members of their families free of cost and such medical assistance shall be made available to them without any cost of transportation or otherwise and the doctor's fees as also the cost of medicines prescribed by the doctors including hospitalisation charges, if any, shall also be reimbursed to them.

(18) The Central Government and the State Government will ensure that the provisions of the Maternity Benefit Act, 1961, the Maternity Benefit (Mines and Circus) Rules, 1963 and the Mines Creche Rules, 1966 where applicable in any particular stone quarry or stone crusher are given effect to by the mine lessees and stone crusher owners.

(19). As soon as any workman employed in a stone quarry or stone crusher receives injury or contracts disease in the course of his employment, the concerned mine lessee or stone crusher owner shall immediately report this fact to the Chief Inspector or Inspecting Officers of the Central Government and/or the State Government and such Inspecting Officers shall immediately provide legal assistance to the workmen with a view to enabling him to file a claim for compensation before the appropriate court or authority and they shall also ensure that such claim is pursued vigorously and the amount of compensation awarded to the workman is secured to him.

(20) The Inspecting Officers of the Central Government as also of the State Government will visit each stone quarry or stone crusher at least once in a fortnight and ascertain whether there is any workman who is injured or who is suffering from any disease or illness, and if so, they will immediately take the necessary steps for the purpose of providing medical and legal assistance.

(21) If the Central Government and the Government of Haryana fail to ensure performance of any of the

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obligations set out in clauses 11, 13, 14 and 15 by the mine lessees and stone crusher owners within the period specified in those respective clauses, such obligation or obligations to the extent to which they are not performed shall be carried out by the Central Government and the Government of Haryana.

The Court went on to further say:

"We also appoint Shri Laxmi Dhar Misra, Joint Secretary in the Ministry of Labour, Government of India as a Commissioner for the purpose of carrying out the following assignment:--

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(a) He will visit the stone quar-

ries and stone crushers in Faridabad District and ascertain by enquiring from the labourers in each stone quarry or stone crusher in the manner set out by us whether any of them are being forced to provide labour and are bonded labourers and he will prepare in respect of each stone quarry or stone crusher a statement showing the names and particulars of those who, according to the enquiry made by him, are bonded labourers and he will also ascertain from them whether they want to continue to work in the stone quarry or stone crusher or they want to go away and if he finds that they want to go away, he will furnish particulars in regard to them to the District Magistrate, Faridabad and the District Magistrate will, on receipt of the particulars from Shri Laxmi Dhar Misra, make necessary arrangements for releasing them and provide for their transportation back to their homes and for this purpose the State Government will make the requisite funds available to the District Magistrate.

(b) He will also enquire from the mine lessees and owners of stone crushers as also from the thekedars and jamadars whether there are any advances made by them to the labourers working in the stone quarries or stone crushers and if so, whether there is any documentary evidence in support of the same and he will also ascertain what, according to the mine lessees and owners of stone crushers or the jamadar or the

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kedar, are the amounts of loans still remaining outstanding against such labourers.

(c) He will also ascertain by carrying out sample check whether the workmen employed in any particular stone quarry or stone crusher are actually in receipt of wage not less than the minimum wage and whether the directions given in this order in regard to computation and payment of minimum wage are being implemented by the authorities.

(d) He will conduct an enquiry in each of the stone quarries and stone crushers in Faridabad District for the purpose of ascertaining whether there are any contract labourers or inter-State migrant workmen in any of these stone quarries or stone crushers and if he finds as a result of his enquiry that the Contract Labour Act, and/or the Inter-State Migrant Workmen Act is applicable, he will make a report to that effect to the Court.

(e) He will ascertain whether the directions given by us in this judgment regarding effective arrangement for supply of pure drinking water have been carried out by the mine lessees and stone crusher owners and pure drinking water has been made available to the workmen in accordance with those directions.

(f) He will also ascertain whether the mine lessees and owners of stone crushers in each of the stone quarries and stone crushers visited by him have complied with the directions given by us in this judgment regarding provision of conservancy facilities.

(g) He will also ascertain whether the directions given by us in this judgment in regard to provision of first aid facilities and proper and adequate medical treatment including hospitalisation to the workmen and the members of their families are being carried out by, the mine lessees and stone crusher owners and the necessary first aid facilities and proper and adequate medical services including hospitalisation are provided to the workmen and the members of their families.

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(h) He will also enquire whether the various other directions given by us in this judgment have been and are being carried out by the mine lessees and stone crusher owners."

This Court indicated its expectation in paragraph 40 of the judgment thus:

"We have no doubt that if these directions given by us are honestly and sincerely carried out, it will be possible to improve the life conditions of these workmen and ensure social justice to them so that they may be able to breathe the fresh air of social and economic freedom."

The proceedings thereafter continued with a view to fulfilling the fond hope and expectation of the Court. Mr. Laxmidhar Misra, In due course, submitted his report in two parts-one dealing with the identification' of the bonded labour and the second covering the inquiry into the implementation of the 21 directives. The petitioner-Morcha came before the Court with a petition for contempt action alleging that the directions were not being implemented. That led to the appointment of Mr. Mahabir Jain of the Faculty of National Labour Institute-to inquire into the measures and report on the degrees to which the 21 directives issued by the Court had implemented and to present to the Court a clear picture of the issues involved for enabling it to make its own assessment and come to a conclusion as to whether the directions had been or were being implemented and also as to whether action for contempt was appropriate or in the matter of monitoring the social problem, some other course was necessary to be adopted. In February, 1989, Mr. Jain gave a very detailed report to the Court which is on record and to which reference has to be made in a later part of our order.

The Union Territory of Delhi housing the capital of the country is surrounded on three sides by the Haryana State and on the other lies the State of Uttar Pradesh. The stone quarries of Faridabad have thrived for almost half a century now on account of building activity in the industrial belt of Haryana particularly Ballabgarh and Faridabad and in the Union Territory of Delhi. The quarrying process involves substantial manual labour and the need of Continuous availability of labour at cheap rate has led to the growth of the system of bonded labour in that trade. For a loan taken at an exorbitant rate of interest

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the debtor virtually sells himself to the creditor and gets bonded usually for a period of life and renders service for the purpose of satisfying' the debt. The creditor anxious to exploit the situation ensures that the debt is never satisfied and often on the traditional basis of pious obligation the liability is inherited by the children of the original debtor. The system thus provides a built-in mechanism for continuation of exploitation of the under-privileged section of the society by the privileged few living therein. The bonded labourers are, paid nominal wages and often their family members are not permitted to take remunerative jobs elsewhere without permission of the master, Normally, such permission is not granted and the impoverished condition is allowed to continue to the advantage of the creditor. The Constitution-fathers were aware of this prevailing inhuman practice and in Art. 23(1) provided: .lm`5

"Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law."

So powerful was the rich men's lobby that it took 25 years after the enforcement of the Constitution to provide a definite law for the purpose and the Presidential Ordinance was the first positive measure in this direction. That got replaced Act entitled Bonded Labour System (Abolition) Act, 1976. We may point out that the directives in Arts. 39(c), 41 and 42 are also relevant in this regard. It is perhaps not necessary to delve into the philosophy involved in the matter as the 3-Judge Bench has gone into it in the judgment of December 1983, and what remains for consideration at this stage is more or less a clear review of the enforcement of the directives and assessment of the outcome for achieving the statutory purpose and the constitutional goal and for the fulfilment of the hopes and expectations of this Court in that regard and if it is necessary to take further action and if so, what such action, should be. This will require an analytical study of, the reports furnished by Mr. Laxmidhar Misra and Mr. Mahabir Jain.

Mr. Laxmidhar Misra in his letter to the Registry of this Court in January, 1984, indicated that the inquiry entrusted to him had two phases--the first relating to the inquiry into the implementation of the Bonded-Labour System. (Abolition) Act, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act and the Contract Labour (Regulation and Abolition) Act etc. and the 539

Second related to ascertaining the extent of compliance of the directions of this Court by the concerned authorities. On 4th February, 1984, this Court directed: "So far as the consideration of the

report of Mr. Laxmidhar Misra is concerned, the same does not brook any delay involving as it does the release and rehabilitation of the bonded labourers and amelioration of the lives and working conditions of the large number of stone quarry workers, we would direct that the matter be expeditiously taken up."

Mr. Laxmidhar Misra submitted his report on the second aspect too. His report gave the ultimate indication that the enforcement of the Acts covered by the first part of his report had not been adequate. In regard to the second part, namely, steps for implementation of the Court's directives, he also came to hold that nothing very substantial had been done though some steps had been taken. On 3.5.1988, this Court required Shri A.K. Srivastava, Director General of Labour Welfare in the Ministry of Labour to inquire into the matter again and furnish a report on the degree to which the directions issued by the Court had received compliance. Shri Srivastava was not in a position to undertake this inquiry and ultimately it led to the appointment of Mr. Mahabir Jain, as already indicated. On 6th of March, 1989, Mr. Jain furnished his report. He took into account the 21 directives of the Court. As the report indicates, he adopted the method of interviews, observations, representations, holding of formal and informal meetings, reference to documents and other available literature as the basis for collection of information. He spent considerable time in the jhuggi colonies where the bonded labourers dwell in different parts of the quarry area. He noticed absence of sufficient drinking water facility, no provision for schooling of the children of the bonded labourers and want of appropriate medical facility. Apart from these, he also found that the jhuggis were very small, unhygienic and did not constitute reasonable accommodation for human use. He noticed that there was lack of organisation among the jhuggi dwellers which facilitated their exploitation by the stone quarry owners. Even though camps were being organised at regular intervals for workers employed in the stone quarries and stone crushers by the Regional Directorate of Workers Education Centre, Faridabad, there was no discernible impact which would catch the eye of the visitor. He recorded the statements of several people he met 540

including workers, their widows, dependants, relations, outsiders and public officials. He noticed that adequate safety measures were not available in the mines and several accidents had taken place on that account. With reference to the Workers' Education Centre at Faridabad, Mr. Jain observed:

"A critical analysis of the camp reports shows that a few Acts like the Mines Act, Minimum Wages Act, Bonded Labour System Act, Maternity Benefit Act, Payment of Wages Act and Trade Union Act had been given much emphasis in almost all the camps. In only one or two camps, topics like eradication of social evils, economic problems, a sense of cooperation and the need for organisation of the workers had been discussed. If one goes back to the camp reports of the Centre for Workers Education, Faridabad, one finds that the basic

objectives of the camps were to desensitise the workers about their legal rights and the need for workers organisation. Compared to those objectives, the discussion of the topics relevant to organisation building had been given less emphasis. Besides, less emphasis was also on audio/visual method of teaching. However, topics discussed in different camps were more or less the same. Therefore, topics which would create awareness among stone quarry workers need to be discussed in the camps.

In regard to the specific direction of the Court, Mr. Jain noticed that Vigilance Committees as required under Section 13 of the Act had been constituted in all districts and sub-divisional headquarters of the State of Haryana and a good number of meetings of the Vigilance Committees had been held. He, however, came to the conclusion on verifying the proceedings of the Vigilance Committee at Faridabad that he did not find any useful information regarding the work of the Vigilance Committee'.

Mr. Jain then referred to the report submitted by Shri Laxmidhar Misra to this Court where he had said that 26 per cent of the bonded labourers had been released and rehabilitated by the State Government; nearly 30 per cent of the identified bonded labourers were not willing to go back to their native places. At the same time, 41 per cent of the bonded labourers had left the work site. According to 541

Mr. Jain, these facts showed that only one bonded labourer out of every three identified was willing to go back to his or her native place. Mr. Jain, however, found that most of the bonded labourers who had been released or rehabilitated came back to the mines--a feature which clearly indicates that the rehabilitation process was defective and not useful. If the rehabilitated bonded labourer had a sense of confidence in the arrangement of rehabilitation, there would indeed be no occasion for him to run away from the rehabilitative process back to bondage. Mr. Jain found that the task of identifying the bonded labourers had not been sincerely carried out. It is true that in 1982 the Haryana Government had instructed all the District Magistrates to make rehabilitation schemes for released bonded labourers in accordance with the Government of India's scheme and contemporaneously or near about that point of time some rehabilitation had been undertaken. In the absence of constant goading, the exercise had become sporadic and even fell into disuse. Mr. Jain found that there had been an increase in the number of bonded labourers and stone quarries were again thriving. The minimum wage programme had not been effectively introduced. A few prosecutions had been lodged but that was not adequate and had not generated the requisite consciousness. Payment of wages had not been properly recorded and in the absence of documents cross-verification became indeed difficult. The Commissioner found that even though Mr. Laxmidhar Misra had indicated about deficiency of drinking water, schooling facility, medical treatment and the like, no attention had been bestowed on improving these aspects and he noticed dearth of these wherever he went. Portions from the conclusions of the Jain report may now be extracted. His report said:

"It is a technologically backward industry thriving on continuous plentiful supply of cheap replaceable labour. The impoverished rural hinterland sends forth an unending stream of uprooted, assetless, illiterate people from the 'traditionally oppressed communities, mainly the Scheduled Castes and Tribes. As workers in stone quarries and crushers, they must remain uprooted, assetless, illiterate and oppressed---so that they may be easily replaced; so that the industry may continue to get its labour cheap." He further found:

"It is an industry which--in the mineral extraction part--allows unchecked operation of self-appointed, unregistered

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middlemen, nicknamed 'contractors' who perform a variety of functions."

His yet further findings were that there was no accountability, the trade was ecologically hazardous, there was lack of planning and the working involved 'an in-built system of criminality. He, therefore, recommended that there should be central registration of all workers, conferment of the status of small producers by

allocating-permits directly to them, determining the minimum remuneration, facilitating modernisation, total exclusion' of contractors and middlemen from the trade and protection and restoration of the natural environment.

This matter was heard for' some time on the basis of these reports of Mr. Jain and we reserved judgment on 10th of July, 1990., Swami Agnivesh at Whose instance this Court had registered the proceeding had undertaken to supply a list of unrehabilitated bonded labourers. He took quite Some 'time to submit the statements and these reports indicated their number to be 3993. When we were proceeding to dispose of the matter a communication was received by the Court dated 24.1.1991 from the 'Director General of Labour Welfare in the Ministry of Labour that the total number was 523 upto 30.11.1990. The gap was so huge that we found it difficult to proceed tO Conclude the matter on the basis of the state- ments given by Swami Agnivesh by ignoring the situation. These aspects were brought to the notice of the parties and after hearing them, by an order of 2 1st FebrUary, 1991 this, Court directed:

"With a view to meeting the situation, we direct that a Committee shall immediately be set up' with Director General, Labour Welfare of the Union Government or a very senior officer from his establishment, the'Chief Judicial Magistrate, Faridabad, Mrs. Raju Ramachandran, an advocate of the Supreme Court with social service background, an officer from the Haryana Government nor below the rank of Additional District Commissioner and Swami Agnivesh representing the petitioner. Mr. Rohtagi or his nominee advocate 'appearing for the brick kiln owners would be permitted'to associate in the activities of the Committee. This Committee shall within six

weeks from now check up the particulars pro- vided in the list by the petitioner, identify the persons claimed to have been bonded 543

labour and collect all relevant material in respect of them; so as to assist this Court to make further directions in terms of the re- quirement of the scheme to rehabilitate them. In course of their movement, for the purpose of complying. 'with this order if fresh cases of bonded labour are noticed by them they would collect the particulars separately and report to the Court."

The Committee obtained extension of time from this Court and ultimately has furnished its report on July 1, 1991. This Committee adopted the questionnaire form to elicit information on all relevant aspects Which were 18 in number and have collated the material. In a part of the report it has said:

"The Committee members have personally identi- fied every person whose name appears in the list prepared by the Committee. They were approximately 1983 persons so identified but from each dera there were about 20% per- sons who were not available for identification either out of fear of the contractor or be- cause they had gone out that day for buying provisions or to the doctor. Some persons could not be identified because the Committee missed finding them in their homes 'and also missed finding them in their places of work. Some workers from the list given by the peti- tioner had left and gone elsewhere and in their place some others had come. There were some persons whose names had been missed in the list prepared by the Bandhua Mukti Mor- cha. The list of persons prepared by the Committee is all inclusive of the above iden- tified categories."

In this setting it would perhaps be appropriate to proceed on the footing that the total number of identified bonded labour is around 2000 and hot 3993 as stated by the petitioner. It may be that some of the people whose name appear in the list furnished by Swami Agniyesh are no more in the area. It may also be that people who had left their work even by then had been included in that list. The picture placed by the Committee in regard to wages does not give one different from what had been recorded by this Court when the original case was disposed of in 1982. It may be that the labourers have' 'become more' informed and educated about their rights. They have, 544

however, no organised base. They are the weaker party and once they are in the trap of bondage the capacity to negotiate is gone. That is how, exploitation thrives notwithstanding the intervention of this Court. The facility of schooling and medical treatment, availability of water, provisions and scope for recreation are aspects which still require attention.

The Committee has reported:

"In spite of order dated 17th October, 1990 of the Chief Labour Commissioner under section 25(2)(v)(b) of the Contract Labour (Regulation and Abolition) Central Rules, 1971 in respect of stone breaker who is a piece rated worker working in the stone mines in the Faridabad area, fixing the piece rated wage at the rate of Rs. 133 per 200 cft. stone, there is no implementation thereof."

At another place the Committee has said that though this Court in the main judgment had indicated that untrained workers should not be engaged in the blasting operation with explosives the practice seems to be still continuing and the law as also the direction of this Court were being violated by the contractors. The Committee, therefore, has recommended that the principal employer should be made liable for implementation of the directions both of law and the court. The contractors working under the Haryana Minerals Ltd. were mostly unregistered and unlicensed. The Committee has noted that the entire area of operation has a dust cover in the atmosphere which is hazardous to the workmen's health. No attention has been bestowed by the inspecting authority or the labour law enforcers to secure improved conditions of working. There has been division of opinion as to whether it is the responsibility of the State Government or the employer in regard to providing educational facility to the children of the quarry workers. We have not been able to see any reason for the difference. Quarries are located in a particular area away from habitation. On account of necessity for workmen in the area people from different parts of the country are made to live therein along with their families under very insanitary and inconvenient conditions. Health care of workmen and members of their families and education of the children as also the adults in such exclusive locality should be of the employer. To require a school to be built in such an area where there may not be adequate number of children for the purpose of schooling at the expense of the State exche-

quer may not be appropriate. That apart these institutions should be a part of the trade. In the manner the employer has to make provision for water and medical care, it should also have the responsibility of providing schooling for the children of the workmen. Today emphasis is also being given on adult education. If appropriate facility is provided the workmen beyond their working hours can also have scope for learning the three Rs and this could be through a process of adult education with State support under the relevant scheme.

The State of Haryana must come forward to play its role in a better way. As already pointed out, these are quarries located near about the industrial belt of Haryana and not far away from Delhi. Ecology is not only a focal problem but must be taken to be a problem of Delhi also. Dust emanating from the working area in Haryana is bound to affect adversely the Delhi atmosphere. In fact, if adequate importance is given to the angle of pollution the industry itself has to be regulated or may have to be stopped. The State of Haryana, we must say, has not taken our intervention in the proper spirit and has failed to exercise appropriate control though some eight years back this Court had in clear terms laid down the guidelines and had called upon the public authority to take charge of the situation and provide adequate safeguards.

The operation of stone quarries is more or less concentrated in particular areas. That is a feature which facilitates control. If a local officer of appropriate status had been placed around the corner it would have helped in improving the lot of the workmen. If the pollution authority, had been made to visit the area at repeated intervals pollution control could have been imposed. If some authority entrusted with welfare had been made to inspect this area at regular intervals he could have ensured availability of facilities for schooling and hospital as also supply of drinking water to the workmen. It is a hot belt and for over 4 to 5 months water scarcity is there in this area. The workmen's job is such that they are exposed to the summer heat. It is the obligation of the employer, therefore, to provide a definite source of water."

The workmen are engaged almost on full time basis. As report indicates bulk ,of the workmen are not prepared to return to their States. What is,necessary; therefore, is provision of a permanent base for residence at or near the work site. This would necessitate reason-' able housing; supply of water, a reasonable provision store at hand, 546

schooling facility, facility of a hospital, :recreational facilities and attention to the law and order problem. Perhaps near the area a police station or an outpost could be located. If the workers were insufficient in number, a doctor could be taken as a visitor.to the. area at frequent intervals and instead of a regular. school one single teach- er could be provided to look after the health of the people. Court's judgment to regulate such matters has inherent limitation. These are not schemes which could be convenient- ly monitored by a court--far less can the apex court keep track of the matter. Its Registry has congestion. To get attention for a matter of this type from the Court is bound to take some time. Human problems in their normal Way do not. wait for a time schedule for attention. In such circum- stances, it should be the obligation of the State which on account of running stone quarries within its area must in various ways be getting benefits to look after these as- pects. As a welfare.' State it is now the obligation of the State of Haryana to cater to these requirements of the area. Haryana as we find has made substantial. advances compared to many other States of the country and there is some amount of welcome consciousness in the administration of the State. We hope and trust that if a direction is issued to the Chief Secretary of the State to regulate these aspects the repos- ing of trust by this Court would not turn out to be mis- placed.

In these circumstances we call upon the State of Har- yana to attend to the needs referred to above of the workmen in a wellconsidered' and systematic way. Since those workmen who will be working there have to be protected from the vagaries of employment and the anxiety of the employer to draw work without adequate payments, the authorities of the State of Haryana must take care to protect the workmen from.the hands of the employer by ensuring compliance with the laws and if there be any vacuum. in the laws, the State of Haryana should rise to play.the role of a welfare State and play it well. In fact there could be a special cess- raised against the quarry activities to be specifically utilised by way of return to the industry and there could be a special fund out of which all the amenities referred to above could be provided. What is wanting is not power but the mind and alertness regarding one's duty. If our directions are worked out there would really be no bonded condition and the workmen would be paid their due-share against employment and with the facilities ensured they can-live well in the area.

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At the point of enforcement of the directions as indi- cated above if any one turns out to be bonded and is freed and is also prepared to return to his State, the scheme. framed by the Government of India would be applicable to such person.

We are thankful to Mr. Laxmidhar Misra, Mr. Mahabir Jain and the members of the new Committee for their cooperation. The society to maintain its own elevation requires willing and voluntary contribution from all those who inhabit it. In a welfare State it is the society. which has to develop its welfare means. No society can have the welfare outlook unless geared up on the basis of amity, friendship, coopera- tion, consideration and compassion. If everyone living in India is willing to believe in the 'live and let live' principle he would be prepared to devote the same attention to the people around him as he is willing to devote for himself. This factor, if practised, would immediately bring about sufficient rejuvenation of the ailing society. It., is this elevated society that everyone must look forward to. We, therefore, dispose of this petition by directing that the State of Haryana shall now ensure that the people who have been identified numbering about 2000 are continued in work with the improved conditions of service and facili- ties as referred to above and such of them who want to go back to their native areas be treated as released from bondage and appropriate action must be taken in accordance with Government of India's scheme forthwith. There shall be no order as to costs.

We had called upon the State of Haryana:to deposit Rs.20,000 to meet the expenses of the Committee appointed by us. The Registry will look into that matter and on the basis of the statement furnished by the Committee put up a note within two weeks for giving direction regarding honorarium to be paid to the members of the Committee. V.P.R. Petition

allowed.

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