

Critical analysis on bonded labour system analysis act, 1976



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Critical Analysis on Bonded Labour System (abolition) Act, 1976 SALIENT

FEATURES OF THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 • This

Act provides for the abolition of the system of bonded labour. It freed unilaterally all the bonded labourers from bondage with simultaneous liquidation of their debts. • The Act does away with every obligation of a bonded labourer to repay any bonded debt; it also dispenses with the future liability of repaying a bonded debt.

The law provides that (a) no suit or other proceedings shall be instituted in any Civil Court for the recovery of any bonded debt (b) every attachment made before the commencement of the Act for the recovery of any bonded debt shall stand vacated and (c) such movable property shall be restored to the bonded labourer. • The district and sub-divisional magistrates have been entrusted with certain duties/responsibilities towards implementation of statutory provisions.

Under Section-13 of the Act, Vigilance Committees are required to be constituted at the district and sub-divisional level for implementation of the provisions of the law. They are composite bodies with representatives from different cross sections of the society and have a life of 2 years. • Registers containing the names and addresses of all freed bonded labourers, their vacation, occupation and income, details of the benefits received are required to be maintained under the Bonded Labour System (Abolition) Rules. The Act provides for imprisonment up to 3 years and fine up to Rs. 2000/- to whoever compels any person to render any bonded labour and whoever advances any bonded debt. An offence detailed surveys in their States. The same information was submitted to the Supreme Court by the

State Governments in the form of affidavits in 1997. ? One ILO project namely “ Prevention of Family Indebtedness with Micro Finance Scheme and Related Services” is being implemented in three States, namely Andhra Pradesh, Tamil Nadu and Karnataka.

The objective of the project is to induce existing micro finance institutions to develop, test and offer savings and loan products, particularly tailor-made for vulnerable families at the risk of getting into debt traps. The prime focus of the project is on preventing marginal families from falling into debt bondage and also to ensure sustainable rehabilitation of freed bonded labourers. Based on its experience, a model could be considered for replication or application in other parts of the Country. Liability to repay bonded debt to stand extinguished.

On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished. After the commencement of this Act, no suit or other proceeding shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof. Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the

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custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer. Property of bonded labourer to be freed from mortgage, etc.

All property vested in a bonded labourer which was, immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated. Authorities who may be specified for implementing the provisions of this Act. The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform

all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

Vigilance Committees. Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

Each Vigilance Committee, constituted for a district, shall consist of the following members, namely: -- (a) the District Magistrate, or a person nominated by him, who shall be the Chairman; (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate; (c) two social workers, resident in the district, to be nominated by the District Magistrate; (d) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government; (e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate. Act to have overriding effect. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act. Agreement, custom, etc. , to be void. - On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

CONSTRAINTS Bonded Labour System is a dynamic problem; it can occur and

reoccur at any point of time in any industry or occupation. • Once the bonded labourers are identified and released, in case they are not immediately rehabilitated, they become even worse off as compared to the situation when they were bonded and were at least able to survive by getting two square meals. • Contrary to the traditional perception that bonded labour is confined to the agricultural sector alone, it can also occur and reoccur in any form of economic activity such as, agriculture, brick-kiln, stone quarries, carpet weaving, pisciculture, etc. , CONSTITUTIONAL AND LEGAL PROVISIONS The Constitution of India guarantees to all its citizens- justice, social, economic and political, freedom of thought, expression, belief, faith and worship, equity of status and opportunity and fraternity, dignity of individual and unity of the Nation. • Under Article 23 of the Constitution 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. • Bonded Labour System (Abolition) Ordinance was promulgated. Which was later on replaced by the Bonded Labour System (Abolition) Act, 1976. CENTRALLY SPONSORED PLAN SCHEME FOR REHABILITATION OF BONDED LABOUR

In order to assist the State Governments in their task of rehabilitation of released bonded labourers, the Ministry of Labour launched a Centrally Sponsored Scheme since May, 1978 for rehabilitation of bonded labourers. Under this Scheme rehabilitation assistance of Rs. 20, 000/- per freed bonded labour is provided, which is shared by the Central and State Governments on 50: 50 basis; in the case of the Seven North Eastern States, 100% central assistance if they express their inability to provide their share.

The Scheme also provide for financing of the following activities. • Rs. 2. 00 lakh per sensitive district can be provided to concerned state government to conduct survey for identification of bonded labour once in three years. • Central assistance of Rs. 10. 00 lakhs every year can be sanctioned to every state government to undertake awareness generation activities relating to bonded labour system. • Rs. 5. 00 lakh per year can be sanctioned to every state government to study impact of existing land-debt related issues affecting bonded labourers and the impact of poverty alleviation programmes and financial assistance provided by various Government sources so far. Besides above the States Governments have also been advised to integrate/ dovetail the Centrally Sponsored Scheme for rehabilitation of bonded labour with other ongoing poverty alleviation schemes such as Swarn Jayanti Gram Swa Rojgar Yojana (SJGSRY), Special Component Plan for Supreme Court, Tribal Sub-Plan etc.

Accordingly, the rehabilitation package provided by the concerned Stated Governments for the freed bonded labourers includes the following major components: (i) Allotment of house-site and agricultural land; (ii) Land development; (iii) Provision of low cost dwelling units; (iv) Animal husbandry, dairy, poultry, piggery etc. ; (v) Training for acquiring new skills; developing existing skills; (vi) Wage employment, enforcement of minimum wages etc. ; (vii) Collection and processing of minor forest products; (viii) Supply of essential commodities under targeted public distribution system; (ix) Education for children; and (x) Protection of civil rights.

INTERNATIONAL LABOUR ORGANISATION AND FORCED/ BONDED LABOUR •

There are two ILO Conventions, Convention No. 29 concerning Forced or

Compulsory labour (1930) and Convention No. 105 concerning Abolition of Forced Labour (1957). Government of India has ratified both the Conventions. • Before the 89th Session of the International Labour Conference (June 2001) the Director General of ILO submitted a global report on 'Stopping Forced Labour'. This report contained references regarding incidences of bonded labour in India on the basis of survey conducted by the Gandhi Peace Foundation and National Labour Institute and also the estimates of some other NGOs.

The Gandhi Peace Foundation and the National Labour Institute conducted a survey in 1978-79, which had estimated the number of bonded labour as 2.6 million. This survey was based on a random sample drawn from a total of 4,50,199 villages in the ten selected States. Finally, 1000 villages from out of the 4,50,000 villages were selected. Every 450th villages in the census list of villages of each State starting with a random number was selected for the survey. The findings of the survey in respect of the above 1000 villages were multiplied by 450 to find out the total number of bonded labourers in ten States. Since the methodology adopted by the Gandhi Peace Foundation was not scientific the Government have not accepted their estimates.

The need for having authentic data on number of bonded labourers in India was emphasized. It was urged that comprehensive and authoritative survey might be conducted in this regard. • From the Government side, it was stated that the Government has strong will and intent to abolish and totally banish the bonded labour system from every nook and corner of the country. It was indicated that the Government of India's estimates of bonded labour, as also reported in the following pages, were based on the information

submitted by the concerned State Governments after conducting detailed surveys in their States. The same information was submitted to the Supreme Court by the State Governments in the form of affidavits in 1997. One ILO project namely “ Prevention of Family Indebtedness with Micro Finance Scheme and Related Services” is being implemented in three States, namely Andhra Pradesh, Tamil Nadu and Karnataka. The objective of the project is to induce existing micro finance institutions to develop, test and offer savings and loan products, particularly tailor-made for vulnerable families at the risk of getting into debt traps. The prime focus of the project is on preventing marginal families from falling into debt bondage and also to ensure sustainable rehabilitation of freed bonded labourers. Based on its experience, a model could be considered for replication or application in other parts of the Country.