

ITEM NO.19

COURT NO.3

SECTION PIL

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Writ Petition(s)(Civil) No(s). 30/2014

IN RE:

Petitioner(s)

VERSUS

CHOPPING OF THE PALMS OF TWO MIGRANTS

Respondent(s)

WITH

W.P.(C) No. 55/2014

(With prayer for Office Report)

Date : 15/07/2014 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE C. NAGAPPAN
HON'BLE MR. JUSTICE ADARSH KUMAR GOEL

For Petitioner(s)

By Courts Motion

Petitioner-in-person .

For Respondent(s)

Ms. C. K. Sucharita ,Adv.

Ms. Kirti Renu Mishra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

"The Hindu" in its issue dated 03.01.2014 reported

a gruesome incident involving chopping of the palms of t

wo

Signature Not Verified

migrant workers in the State of Odisha.

Digitally signed by

Shashi Sareen

The report became a

Date: 2014.08.05

08:09:26 ALMT

Reason:

basis for Suo Motu action by this Court in terms of an order

dated 27.01.2014 by which this Court issued notice to the Chief

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Secretary, State of Odisha as also to the Chief Secretary, State

of Andhra Pradesh.

At the same time W.P.(C) No. 55 of 2014

raising a similar issue and seeking redress against exploitation

of migrant workers from the State of Odisha was filed by the

petitioner Shri Radhey Shyam Jena. Notice having been issued in that petition also, both the matters have been listed today for directions.

We have heard learned counsel for the petitioner at some length. We have also heard learned counsel for the States of Odisha and Andhra Pradesh. In the counter affidavit filed by the State of Odisha in W.P.) No. 55 of 2014, the correctness of the press report suggesting traumatising of the two migrant workers referred to in the said report has been acknowledged. The counter affidavit asserts that Criminal Case No. 241 has been registered in regard to the incident in question at Jaipatna Police Station in Kalahandi district for offences punishable under Sections 342, 343, 326, 307, 387, 120-B read with 34, Indian Penal Code and Section 3(2) (v) of the Scheduled Tribes and Schedules Castes (Prevention of Atrocities) Act, 1989. Investigation conducted by the SDPO, Dharamgarh has according to the counter led to the apprehension of seven accused persons allegedly responsible for the incident in which the palms of two workers were chopped off. The affidavit further states that

apart from providing medical treatment to the victims of the incident, the State Government has provided Rs. 2,00,000/- each

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to the two workers from out of the Chief Minister's Relief Fund. A further sum of Rs. 3,75,000/- has been disbursed to each of the workers towards monetary relief under the provisions of the SC & ST (Prevention of Atrocities) Rules while a sum of Rs. 1,25,000/- each representing 25% of the amount of compensation will be disbursed after the disposal of the case. The Government

have also according to the counter affidavit recommended to Dr. Ambedkar Foundation, Government of India, Ministry of Social Justice and Empowerment, New Delhi the cases of the victims for grant of financial assistance of Rs. 4,00,000/- each under the said scheme. In addition assistance of Rs. 75,000/- has also been sanctioned to one of the victim eligible under Mo Kudia scheme of the State Government. Disability pension of Rs. 300/-

p.m. too appears to have been sanctioned in favour of the two

victims. The counter alleges that Bimal Rout and Parsuram Naik,

unlicensed recruiting agents are being prosecuted under the Inter

State Migrant Workmen (Regulation of Employment and Conditions of

Service) Act, 1979 in the Court of SDJM, Dharamgarh, Kalahandi.

The State Government also appears to have organised some

awareness camps during September, 2013 to December, 2013 at

village/Gram Panchayat level in the migration prone

Bolangir

district where posters, booklets and leaflets focussing on safe

migration and rights of migrant workmen who go to Andhra Pradesh

and other States in the country in search of work particularly

for working in brick kilns have been distributed. Government of

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Odisha has in addition entered into a Memorandum of Understanding

with the Government of Andhra Pradesh to develop a coordination

mechanism between the receiving and the sending States. Both the

States have it is stated prepared an action plan

for protecting

the rights of migrant workers especially those working in brick

kilns sector. Certain other steps are also being taken for the

benefit of the people from migration prone District of Bolangir

and Nuapada Districts (Bongamunda, Belapada, Khaprakho

1, Muribahal, Titlagarh and Tureikela of Bolangir District

and Boden, Khariar, Komna, Nuapada and Sinapali of Nupada District).

An application has been filed for intervention by Int Bhatta

Mazdoor Union in which the applicants have made avermen

ts describing the poverty stricken condition of people from these

districts and the manner in which they are exploited

by contractors who take them to not only Andhra Pradesh but other

States like Madhya Pradesh, Chhatisgarh, Punjab and U.P.

The

application also alleges that labourers employed to work in the

brick kilns in these States are neither paid adequately nor are

the working conditions and practice satisfactory which

is

tantamount to exploitation of human labour demeaning human
an
dignity made worse by law enforcement agencies turning a blind
eye to the State of affairs. Suffice it to say that
the

averments made in the application paint a dismal picture of the
state of affairs not only as to the conditions in which such
poverty stricken souls are forced to work but also the manner in
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which the middlemen and the owners of the establishment feed on
their labour. The application in that backdrop seeks permission
to intervene in the proceedings to highlight the plight of such
voiceless workers who are very large in number but who are in no
position to approach the courts for redress either within their
own States or the States where they are taken for labour.

We do not for the present consider it necessary to
pronounce on any one of the aspects that are sought to be
agitated before us. We say so because the State of Odisha has in
its affidavit claimed to have taken steps which according to the
Government are needed to prevent incidents like the one reported
in the press besides malpractices and exploitation that appears
to be rampant. Even so there is need for doing much more
especially in the Districts of Bolangir, Nuapada, Kalahandi
and Bargarh and in establishments where they go for work far
removed from their native districts as they are to ensure that
there is no exploitation. It is in that spirit that we propose

to direct the State of Oridha and A.P. to furnish certain further
information to enable us to examine the issues in some depth and
pass effective orders in the matter at a later stage. We make it

clear that the information that we are directing from the State
Governments of Odisha and A.P. for the present is only to give
us an idea as to the ground realities notwithstanding the claims
made by the State of Odisha that effective steps are under way to
prevent the recurrence of incidents like the one reported in the

Hindu. We accordingly direct the State of Odisha to file an

additional affidavit setting out the following information:

1) Whether the State Government have formulated any long term/short term action plan to prevent recurrence of the incidents like the one reported in the press and to prevent exploitation of the migrants labour by the Contractors and other workman who induce such workmen to leave their homes in search of livelihood outside their States. If so, what is the larger picture of such action plan and the steps that are taken pursuant thereto.

2) Whether and if so, how many complaints have been filed against those found violating the statutory provisions including Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

3) Whether any survey as to the ground realities prevailing in the six districts mentioned by us earlier has been conducted at any stage. If so, a copy of such survey be furnished along with an affidavit. If no such survey has been conducted, the same may be got conducted by the State Government expeditiously but not later than three months from the date a copy of this order is furnished to it. The survey shall be conducted by an officer not below the rank of Revenue Divisional Commissioner.

4) Whether Inspectors appointed under Section 20 of the Act aforementioned conduct inspection and report violation of the provisions of the Act on a regular basis. If so, the number of such reports, the action taken on such inspection reports may be indicated in regard to all the six districts mentioned earlier.

5) What additional steps, if any, apart from those which have been taken by the State can be taken immediately in order to prevent not only recurrence of incident like the one reported in the press but also the violation of the relevant provisions of law and the alleged exploitation of migrant workers.

6) An additional affidavit to be sworn by a responsible officer from the State Government on the above aspects apart we

deem it just and proper to direct Secretary, State Legal Services Authority to visit the six districts mentioned above submit a report on the said aspects including failure, if any, on the part of the authorities concerned in enforcing the provisions of law and steps that can be taken to prevent the exploitation, malpractices and violations relating thereto. We direct that the State Labour Department, the concerned police authorities of the district and Deputy Commissioner of the district concerned shall lend all assistance to the Secretary, Odisha State Legal Services Authority in the discharge of duties assigned to him.

From a reading of the intervention application filed by the Mazdoor Union, we find that the working conditions prevailing in Brick Kilns set up in Ranga Reddy, District of Andhra Pradesh are like many other places wholly unsatisfactory and violate the safeguards prescribed in the relevant statutory provisions. Keeping in view the nature of the allegations and the experience about such establishments, we deem it proper to direct Secretary of Telangana, State Legal Services Authority, In-Charge of Ranga Reddy district to conduct a preliminary survey of the brick kilns and to submit a report as to compliance with the provisions of the Statutes and the working conditions of the migrant labourers and whether there is any element of exploitation of such labour by those who employ them. We are not for the present directing similar inspections in regard to other States in order to avoid delay in the hearing of the matter but we keep that option open after we receive a report from the State of Odisha and Andhra Pradesh.

From the Affidavit filed by the State of Odisha it appears that the amount sanctioned in favour of the victims hasve been disbursed except a sum of Rs. 1,25,000/- each representing 25% of the amount of compensation under the Scheduled Tribes and Schedules Castes (Prevention of Atrocities) Act, 1989. In the facts and circumstances of the case we see no reason why the

disbursement of that amount should be withheld especially when the affidavit filed by the State Government does not dispute the veracity of the report appearing in the press or the manner in which the victims have been traumatised.

So also the competent authority dealing with Dr. Ambedkar Foundation scheme ought to have taken a decision on the recommendation made by the State

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Government for sanction of further relief to the victims.

We

were inclined to direct the competent authority to pass appropriate orders in this regard but for the fact that the

authorities competent to do so is not a party to these proceedings. We all the same direct State of Odisha to take up

the matter with the competent authority and request it to expedite orders on the sanction of the additional financial help

for the victims. We hope and trust that the needful shall be

done by the competent authority and the requisite amount sanctioned in favour of victims as early as possible but in any

case before the next date of hearing.

These proceedings shall in the meantime shall stand adjourned, to be posted after three months. Learned counsel for

the State of Odisha and A.P. may file their response to the intervention application in the meantime.

Since Union of India

is arrayed as a party but no body has entered appearance despite

service, we direct a fresh notice to the said respondent and

permit the petitioner to serve a copy of the petition on the

Central Agency.

Post after the needful is done.

(Shashi Sareen)
Court Master

(Indu Bala Kapur)
Court Master