



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

H.C.P.[MD].No.594 of 2017

Arumugam

.. Petitioner

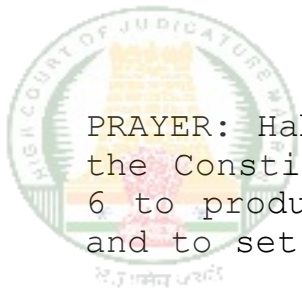
Vs.

- 1.The Inspector of Police,
Ammayanaickanur Police Station,
Dindigul District.
- 2.The Inspector of Police,
Anti-Human Trafficking Unit (AHTU) (CBCID),
District Police Headquarters,
Dindigul District.
- 3.The Sub Collector / Sub Divisional Executive Magistrate,
Dindigul, Dindigul District.
- 4.The Superintendent of Police,
District Nodal Officer AHTU (CBCID),
Dindigul, Dindigul District.
- 5.The District Collector,
Dindigul, Dindigul District.
- 6.The Additional Director General of Police,
CB CID, State Nodal Officer, AHTU,
DGP Office, Chennai,
Tamil Nadu.
- 7.The Secretary to Government,
Labour Department,
Fort St. George,
Chennai.

.. Respondents

(R7 impleaded suo motu as per the order of this Court dated

19.06.2017 in H.C.P(MD).No.594 of 2017)



PRAYER: Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to direct the respondents 1 to 6 to produce the body of petitioner's son viz., Mr.Surya Prakash and to set him at liberty.

WEB COPY

For Petitioner : Mr.David Sunder Singh
For respondents : Mr.B.Pugalendhi,
Addl. Advocate General,
assisted by Mr.C.Ramesh,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by R.SUBBIAH, J.)

In this case, the detenu has been produced before this Court on 20.07.2017. It is seen that the detenu was forced to work as a bonded labour in a specified place in the State of Maharashtra in a Food Industry right from the age of 13 years and he underwent ordeal and faced inhuman treatment. Taking cognizance of the larger issues involved in the Bonded Labour system and in view of the fact that there was no action plan for identification and rescue of bonded labourer in the inter-state and prosecution of offenders, this Court directed the Secretary to Government, Labour Department to formulate a comprehensive plan and also directed to consider the suggestions given by the learned counsel for the petitioner.

2. When the matter came up for hearing on 14.12.2017, this Court directed the Additional Advocate General to get instructions as to what are all the modalities that the Government is going to take on the suggestions given by the learned counsel for the petitioner which was incorporated in the order dated 16.08.2017.

3. Today, when the matter was taken up for hearing, the learned Additional Advocate General filed a counter affidavit, wherein at paragraph No.9, it is stated as follows:

"9. It is submitted that there are two primary issues are involved, the one being prevention of bonded labour and the other is rehabilitation of the rescued from the bondage of bonded labour. Insofar as the Labour Department is concerned, as per G.O.Ms.No.119, Personnel and Administrative Reforms Department, dated 05.12.2016 the subject relating to Bonded Labour has been transferred from the Adi Dravidar and Tribal Welfare Department to Labour and Employment Department. In order to provide effective enforcement for Bonded Labour, the Government have decided to allocate the subject to Commissioner of Labour vide G.O.Ms.No.21, Labour and Employment (U1) Department, dated



21.02.2017. The salient facts involved is as given below:

i) As per the Office memorandum in F.No.S.11012/01/2015-BL dated 18.05.2016, a detailed guidelines for strict adherence by the State Governments/UTs were issued by the Government of India regarding Central Sector Scheme for Rehabilitation of Bonded Labourer-2016.

ii) One Roseann Rajan filed a writ petition before the Principal Seat in W.P.No.32091 of 2016 as a Public Interest Litigation and the Principal Bench of this Hon'ble Court directed that a State Level Officer should be nominated within a period of 4 weeks from today and the State Action Plan be also structured and published within a period of three months from today.

iii) In accordance with the above order, State Level Officer has been nominated in G.O.ms.No.44, Labour and Employment (U1) Department, dated 10.03.2017.

iv) As per the orders of this Hon'ble Court in H.C.P.No.881 of 2016, anti-child trafficking units have been constituted vide G.O.(Ms.)No.169, Home (Pol.12) Department, dated 02.03.2017.

v) A State level Monitoring Committee: A State level monitoring committee has been constituted by the Government headed by the Chief Secretary to Monitor and implement the provisions of this act and also to decide various rehabilitation measures for freed labourers vide G.O.Ms.No. 79, Adi Dravidar and Tribal Welfare Department, dated 17.09.2002. This committee consist of Chairman Member Secretary and Thirteen other members.

vi) A District Level Vigilance Committee in every District and sub divisions have been constituted as per Section 13 of the Bonded Labour System (Abolition) Act, 1976 by the State of Tamil Nadu. These District Level Committees are headed by the District Collectors and are charges with overseeing identification and rehabilitation initiatives for bonded labourers. Vigilance Committees are to meet once in every month and keep minutes of all discussion of meeting.

vii) The anti Human Trafficking unit was incepted by the Government of India vide G.O.No.15020/2008/2007-ATC, dated 16.11.2007 of Joint Secretary, Ministry of Home Affairs, New Delhi. In accordance to the same, the Director



General of Police, Tamil Nadu vide his proceeding in Roc.No.96368/Trg.1/2009, dated 04.06.2009 set up a Anti Human Trafficking Unit.

viii) The Anti Human Trafficking Unit is an integrated task force to prevent and combat trafficking in persons and will function as a coherent unit. The Anti Human Trafficking Unit will attend to all the three aspects of trafficking viz., prevention of trafficking of persons, protection of victims and the prosecution of accused. They will also develop data base on traffickers and trafficking gangs.

ix) As per the orders passed by the Principal Bench in W.P.No.32091 of 2016 dated 19.12.2016 in 'Roseann Rajan vs. State', wherein the present counsel representing the petitioner has represented the petitioner, the Tamil Nadu Government has instructed a State Action Plan in G.O.Ms.No.163, Labour and Employment (U1) Department, dated 21.09.2017 in line with the instructions of the Government of India vide Office memorandum in F.No.S-11012/201/2015-BL (Pt), dated 17.08.2017.

x) Insofar the addressing the criminal issues in bonded labour and rehabilitation, there are umpteen legislation covering the area such as Bonded Labour (Abolition) Act, 1976, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (No.30 of 1979) and rules etc.

xi) If the petitioner herein whose prayer has already been complied with is aggrieved over the 'State Action Plan' he has every liberty to challenge the same. It is pertinent to mention that at page 8, in the 'State Action Plan' it has been clearly stated that the Government has proposed to conduct training to the District Administrators about the abolition of bonded labours in collaboration with the Non-Governmental Organizations, International Justice Mission, etc.

xii) In accordance with the direction of the Government of India in Memorandum F.No.S-11012/01/2015-BL(Pt), dated 17.08.2017, a Standard Operating Procedure (SOP) for identification and Rescue of Bonded Labourer and Prosecution of Offenders which is going to be developed to help implementing agencies in implementation of Bonded Labour System (Abolition) Act, 1976 and the Central Sector scheme for rehabilitation of Bonded Labourer,



2016. The Counsel representing the petitioner is a special-invitee to develop the Standard Operating Procedure (SOP) and that a representative has represented the meeting on 13.10.2017. Hence, he has every right to suggest inputs which can be implemented in the Standard Operating Procedure (SOP) which can be beacon for the implanting agencies from the Departments of Labour, Adi-Dravidar Welfare, Revenue, Police."

4. The learned Additional Advocate General would further submit that even before the direction of this Court to consider the suggestions made by the learned counsel for the petitioner, the "State Action Plan" has already been approved by the Central Government and that the learned counsel for the petitioner has been summoned as a special-invitee to offer his suggestions to develop the "Standard Operating Procedure (SOP)" and the suggestions given by the learned counsel for the petitioner would be taken into consideration by the Government, if it is feasible, before effecting the "Standard Operating Procedure". The said statement is recorded.

5. In view of the above and also considering the scope of this Habeas Corpus Petition, this Court is of the view that no further direction is necessary in this matter. Therefore, this Habeas Corpus Petition is closed. If the petitioner has any grievance, he is at liberty to initiate appropriate proceedings before the appropriate forum in the manner known to law.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Ammayanaickanur Police Station,
Dindigul District.

2. The Inspector of Police,
Anti-Human Trafficking Unit (AHTU) (CBCID),
District Police Headquarters,
Dindigul District.

3. The Sub Collector / Sub Divisional Executive Magistrate,
Dindigul, Dindigul District.

<https://hccourts.gov.in/services>
4. The Superintendent of Police,
District Nodal Officer AHTU (CBCID),
Dindigul, Dindigul District.



5.The District Collector,
Dindigul, Dindigul District.

6.The Additional Director General of Police,
CB CID, State Nodal Officer, AHTU,
DGP Office, Chennai,
Tamil Nadu.

7.The Secretary to Government,
Labour Department,
Fort St. George,
Chennai.

8.The Additional Advocate General,
Madurai Bench of Madras High Court,
Madurai.

9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.David Sunder Singh, Advocate SR.No. 94932

Order made in
H.C.P.[MD].No.594 of 2017
Dated : 21.12.2017

GCG
JM/SV MMS/SAR 1/17.01.2018/6P/11C