

131

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP-9621-2022

Date of Decision: 04.10.2022

KALLU

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Chander Shekhar Seghal, Advocate
for the petitioner.

Mr.Sandeep Chopra, DAG, Punjab.

DEEPAK MANCHANDA J. (ORAL)

The present writ petition has been filed under Article 226 of the Constitution of India praying for issuance of writ in the nature of Habeas Corpus directing the respondents to get detenues mentioned in para No. 4 of the petition, released from the illegal custody of respondents No. 4 to 6.

Learned counsel appearing on behalf of the petitioner contends that the petitioner as well as the other detenues so mentioned in the petition had been engaged by respondents No. 4 to 6 to work as labourers in the brick kiln owned and operated by the said respondents. He contends that despite the amount being overdue, the petitioner as well as the other detenues are not being paid their dues and that the detenues have been illegally detained.

It is also submitted that a representation dated 03.10.2022 (Annexure P-1) in this regard has already been submitted by the petitioner to the District Magistrate, Ludhiana.

Learned counsel submits that he will be satisfied in case the said respondent No.2, who is also the competent authority in terms of Section 16 and 17 of the Bonded Labour System (Abolition) Act, 1976

(hereinafter to be referred as 'the Act of 1976') is directed to take decision on the same in terms of the judgment passed by this Court in LPA No. 32 of 2013 titled as ***Murti Versus the State of Punjab and others***. The relevant extract of the said judgment reads thus:

“It may be mentioned here that the allegations of the appellant in the writ petition are that the alleged detenues mentioned in para No.3 of the writ petition who are working as labourers at the brick kiln of respondent Nos.4 & 5 are being kept as bonded labours. There can indeed be no doubt that if a labourer has been detained as bonded labour, it amounts to an offence under Sections 16 & 17 of the Bonded Labour (Abolition) Act, 1976. We, however, clarify that the aforesaid observation does not mean that the allegations levelled by the appellant have been accepted. Suffice it to observe that under the Act, the District Magistrate is under statutory obligation to hold a fact finding enquiry as and when a complaint alleging violation of the provisions of Bonded Labour (Abolition) Act, 1976 is received. Since the appellant in the instant case has specifically averred that the persons mentioned in para No.3 of the writ petition have been detained as bonded labourers, we allow this appeal and set-aside/modify the order dated 9.1.2013 passed by the learned Single Judge to the extent that the petitioner's writ petition is disposed of with a direction to the District Magistrate, Sangrur, to treat this writ petition as a complaint under the 1976 Act and take immediate action in accordance with law, within a period of one week from the date of receiving a certified copy of this order alongwith a copy of the writ petition.

A further reference was also made to the order passed in Criminal

Writ Petition No. 4666 of 2020 titled as ***Gurnam Singh Vs. the State of***

Punjab and Others which reads thus:

“Accordingly, this Criminal Writ Petition is disposed of with a direction to District Magistrate, Fazilka to treat this petition as a complaint under the Bonded Labour System (Abolition) Act, 1976 and take immediate action in accordance with law, within a period of one week from the date of receiving a certified copy of this order along with a copy of the writ petition.”

In view of the above, the instant petition is disposed of with a direction to the District Magistrate, Ludhiana, to treat the instant petition as a complaint under the Act of 1976 and to take action in accordance with law within a period of one week from the date of receipt of a certified copy of this order along with copy of the criminal writ petition.

Criminal Writ Petition is disposed of in terms as aforesaid.

04.10.2022
Ajaygoswami

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No