

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

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CRWP-11590-2022 (O&M)

Date of Decision: 08.12.2022

MAHAVEER

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Kamal Singh, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

This petition has been filed under Articles 226 of the Constitution for issuance of a writ in the nature of Habeas Corpus for the release of the detenues, mentioned in para No.3 of the petition from the illegally unlawful custody of respondents No.4 to 6 by appointing a warrant officer.

Learned counsel for the petitioner restricts his prayer to the extent that the present petition be disposed of with a direction to respondent No.2-Deputy Commissioner, Patiala, 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 stipulated period.

Notice of motion to respondents No.1 to 3 only.

On the asking of this Court, Mr. Harkanwar Jeet Singh, AAG, Punjab, accepts notice on behalf of respondents No.1 to 3 only.

Learned counsel for the petitioner is directed to supply a complete set of paper book to the learned State counsel, during the course of the day, itself.

I have heard the learned counsel for the parties.

A Division Bench of this Court in **LPA No. 32 of 2013**, titled as **Murti versus The State of Punjab and others**, has held as under:

“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 along with a

copy of the writ petition.”

Accordingly, this Criminal Writ Petition is disposed of with a direction to respondent No.2-Deputy Commissioner, Patiala, 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 receipt of a certified copy of this order along with a copy of the writ petition.

08.12.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned

: *Yes/No*

Whether reportable

: *Yes/No*