

CRWP- 2396-2023 (O&M)

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

CRWP- 2396-2023 (O&M)

Date of Decision: 13.03.2023

Viki

... Petitioner

V/s.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Ajay Bhardwaj, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

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, and for appointment of a Warrant Officer with a roving writ to search for the detenues at the premises of respondent Nos. 4 and 5 or at any other place to be pointed out by the petitioner at the spot, and get the detenues mentioned in paragraph No. 4 of the petition, released with their belongings from the illegal custody of respondents No. 4 and 5 forthwith.

Learned counsel appearing on behalf of the petitioner contends that the petitioner as well as the other detinue so mentioned in the petition had been engaged by respondents No. 4 and 5 to work as labourers in the brickkiln owned and operated by the said respondents and that the labourers were to be paid at the rate of Rs. 900/- per 1000 bricks. He contends that despite the amount being overdue, the petitioner as well as the other detinue

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are not being paid their dues and that the detenues have been illegally detained. Learned counsel submits that he will be satisfied in case the respondent No. 2, who is 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 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 Bounded 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 is also made to the order passed in Criminal Writ Petition No. 4666 of 2020 titled as Gurnam Singh Vs. 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

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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 Deputy Commissioner, District Jhajjar 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.

(DEEPAK MANCHANDA)
JUDGE

13.03.2023
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>