

CRWP-10037-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

131

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Date of Decision:-10.10.2023

Mustfa

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON’BLE MR. JUSTICE ALOK JAIN

Present: Mr. Aditya Partap Singh, Advocate for the petitioner.

ALOK JAIN, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus to release the detenues mentioned in para 2 of the writ petition, who have been alleged to be in the illegal custody of respondents No. 4 & 5.
2. Notice of motion to the official respondents only.
3. On the asking of the Court, Mr. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of official respondents.
4. Learned counsel for the petitioner, at the very outset, submits that he does not press the prayer for appointment of Warrant Officer in this case and restricts his prayer only to the extent that the present petition be disposed of with a direction to respondent No.2 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.

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5. In support of his submissions, the learned counsel for the petitioner has referred to the decision of Division Bench of this Court in ***LPA No.32 of 2013, titled as 'Murti versus The State of Punjab and others',.***

6. I have heard the learned counsel for the petitioner and learned State counsel.

7. A perusal of the decision of Division Bench of this Court in ***Murti's case (supra)***, it has been held therein 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 1 of 2 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 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

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alongwith a copy of the writ petition. Accordingly, this Criminal Writ Petition is disposed of with a direction to District Magistrate, Hisar, 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 alongwith a copy of the writ petition.”

8. Thus, keeping in view the respective submissions and the decision of Hon’ble Division Bench of this in *Murti’s case (supra)*, the present Criminal Writ Petition is hereby disposed of with a direction to respondent No. 2-District Magistrate, District Sonipat, Haryana 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 alongwith a copy of the writ petition.

(ALOK JAIN)
JUDGE

October 10, 2023
Parul

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No