



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CRWP-12592-2024

Decided on : 24.12.2024

Kanwarpal

... Petitioner(s)

Versus

The State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Aditya Partap Singh, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. 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 official respondents to get detenues mentioned in paragraph No.2 of the petition, released from the illegal custody of respondents No. 4 & 5.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner is permanent resident of village Nalhera Gujjar, Tehsil and District Saharanpur (U.P.), and presently labourer at the brick kiln under the name and style 'JAI DURGA', situated in between villages Manak Majra and Bhaini Kalan, Police Station Malerkoktla, Tehsil and District Malerkotla (Punjab), which is managed and owned by respondents No.4 & 5. Petitioner, some how managed to run away from the clutches of respondents No.4 & 5. Petitioner and detenues are close relatives and friends and are working as labourers in the said brick kiln. It is also alleged that they have not been paid any wages, weekly leave and neither allowed to leave the brick kiln to work somewhere else, rather, they were also given beatings by the goons hired by

respondents No.4 & 5. Further, more than Rs.55000/- are due against the respondents No.4 & 5.

3. Learned counsel appearing on behalf of the petitioner submits that he will be satisfied in case 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 rendered by this Court in the case of Murti v. State of Punjab and others (LPA No. 32 of 2013, decided on 11.01.2013). 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.”

4. A further reference is also made to the order passed in the case of Gurnam Singh v. State of Punjab and others (CRWP No. 4666 of 2020, decided on 08.07.2020), 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.”

5. In view of the above, the instant petition is disposed of with a direction to the District Magistrate, Malerkkotla, Punjab (respondent No.2), to look into the grievance of the petitioner, as raised in the instant petition and in case any substance in the allegations is found true, then to take appropriate action under the Act of 1976, 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.

6. Criminal Writ Petition is disposed of in terms as aforesaid.

(SANJAY VASHISTH)
JUDGE

December 24, 2024

J.Ram

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