

THERE IS A WAY OUT...

WORLD

The
Story
of
Suja
Abraham

Printed by:
National Campaign for Labour Rights
(NCLR)
With the support of :
International Labour Organisation (ILO)

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Preface

This booklet relates the story of Suja Abraham. The life of Suja Abraham is emblematic, in many ways, of our contemporary world of work.

When the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work in June 1998, the international community expressed a vision.

In that vision, Governments, Workers and Employers looked forward to a future in which people should prosper from economic growth, which itself will be invigorated by the exchange of ideas, products and investments within and - notably - between nations. That prosperity will not come about through any kind of magic, but will be generated by people themselves. Its benefits can be spread widely only if workers have the freedom to claim their fair and rightful share, a freedom which people will enjoy because they are guaranteed a number of fundamental rights. Those rights are : the right to organize to defend and further their interests, the right to bargain collectively to determine terms and conditions of work, the right to choose their work freely without coercion, the right to equal opportunities for and equal treatment at work, and the right of young people to remain unburdened by arduous work until they have grown up physically and had the opportunity for schooling.

Suja Abraham's story makes this vision tangible. Suja is one worker amongst millions, in India and around the world. But she is an individual person in her own right - a young woman, of an age who in many societies would still be thought of as a girl. One day, Suja is left to fend for herself, and to find the means of survival for herself and her child she travels far away from her home. The job which she finds is one which neither requires nor teaches sophisticated skills. It provides little security of income, and few workers would tolerate the appalling working conditions. Most of her fellow workers are young women, and their work certainly does nothing to fulfil their aspirations for their personal development. Pay is low, as Suja's employer, like many others, cites the pressure of competition to minimize his costs, and little care is shown for the human needs of employees. When Suja looks for other ways to eke out a living, she finds herself threatened physically.

However, as these threats become worse, other women, and other workers who have organized themselves to defend the vital interests of people like her, begin to show her support. On paper, the law offers Suja protection, but this can be achieved only with perseverance and intimate knowledge of the workings of the courts. This is where the experience and moral support of an organization - with the interests of the workers at heart - is needed.

There is another lesson to be drawn from the story of Suja Abraham, which I hope this booklet may bring to wider

attention. India, which is a founding member of the International Labour Organization, ratified ILO's Forced Labour Convention, 1930 (No. 29) as long ago as 1954, and in doing so formalized its commitment and determination to eradicate "forced or compulsory labour in all its forms within the shortest possible period." This Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The aim of the Convention is the eventual elimination of all forms of compulsion from the world of work, be it in factories, workshops, or working the land, and not simply the most overt forms, such as bonded labour. This aim is one which has not been achieved with either the speed or to the extent which was hoped 40 and more years ago. Attitudes which are now outmoded take time to change. India is, too, a large and diverse country, and the social forces which encourage change cannot win the battle in a day. But India has a tradition of respect for the law, and the law shows clearly the way ahead to a more enlightened future.

The need is daily more urgent in India to put an end once and for all to forced labour (of which bonded labour is only one form), and both the Union Government and the Supreme Court have given clear and consistent directions to do so.

It took a Suja Abraham to embody the hope that the law can be harnessed to those most in need of its protection, and a

proof that progress is possible with the help of the law if people organize themselves to make it happen.

The International Labour Organization relies (and is required by its tripartite constitution to do so) on organizations of employers and workers to create a new social momentum. Such independent organizations are integral to the fabric of society, and are needed to complement the - necessarily cautious - institutions of government. Suja Abraham's story not only reaffirms the fundamental values of society, but is a wonderful example of the way in which law enforcement agencies, workers' organizations and other organizations in civil society can enhance each other's efforts. For the International Labour Organization, her story provides a timely reminder of the continuing importance of its founding principles.

Suja Abraham's story thus illustrates, one by one, the International Labour Organization's fundamental principles at work. Many organizations here in India stand by her, and her fellow workers need to be made much better aware of this. Only then will they be able to find their own way to assert their rights at work. Organizations such as the Centre for Education and Communication are to be commended for their efforts to foster the work of trade unions, women's organizations, public servants and the judiciary, which, in partnership, have shown Suja Abraham a way forward.

*Mary Johnson, Director, International Labour Office
Area Office for India and Bhutan*

Introduction

The fish and seafood industry has been identified by the Union Ministry of Commerce as a thrust area. India is today the sixth-largest producer and sixteenth-largest exporter of marine products in the world. Indian marine products exports have risen from 85843 tonnes in 1986-87 to 385818 tonnes in 1997-98, a more than fourfold growth. In 1997-98, it contributed \$1295.85 million to India's exports earnings, a threefold increase from \$409.56 million, its contribution ten years ago. All this necessitates a large infrastructure, and as of 1997-98, it employed on a rough estimate as many as 75,000 to 100,000 workers, mostly migrant women from coastal states.

But, do workers share in this success story? On an average, they are promised Rs. 1200 per month, but end up getting as little as Rs. 300 at times. They are often made to work beyond twelve hours at a stretch, instead of the promised eight. The living quarters provided to them are usually located on top or beside the units, and are as a rule cold, insanitary and woefully inadequate. Employers have many reasons for providing accommodation within the factory premises; workers can be put to work whenever needed, and interaction with outsiders can be prevented. Added to all these are hushed up, yet frequent, instances of sexual harassment.

The National Campaign for Labour Rights (NCLR) is a network in which different trade unions and support groups (NGOs and other organisations) campaign on key labour issues from a common platform. It was formed out of a participatory process initiated by the Centre of Education and Communication (CEC) in response to issues related to the inclusion of labour and environmental standards within the WTO framework. Initially, a series of national consultations were organised. The first three national consultations, which were held in Delhi and Bangalore, led to regional consultations in cities like Calcutta, Bangalore and Bombay.

CEC has always been closely involved in the struggle for the rights of workers in fish and seafood-processing industries. In 1997, based on a request from the National Fishworkers' Forum (NFF), Shobhana Warriar conducted a field study on behalf of CEC. This led to a series of meetings, culminating in the one on 21 June 1999, which was attended by Harekrishna Debnath and PV Khokhari (NFF), Bharat Pathak (Gujarat Trade Union Council), Amarjeet Kaur and Gita Mahajan (AITUC), Meghna (NFIW), D. Thankappan (NCL), Suneet Chopra (AIAWU), K.K. Niyogi (AICCTU), Tim de Meyer (ILO), Mohammad Talib (Jamia Milia Islamia), and J. John and Sanjay Mishra (CEC). It was decided at this meeting to launch a campaign on the topic under the banner of NCLR. This campaign intended to mobilise public opinion in favour of the rights of fish- and seafood-processing industry workers.

It and entailed the production of various materials, including letters to the Labour Secretary and the President of the Seafood Exporters' Association of India, a Charter of Demands on Minimum Labour Standards, and this present booklet, which recounts the experiences of Suja Abraham, a worker determined not to abide by the injustices prevalent in the industry.

Three factors prompted NCLR to take up Suja Abraham's story. The first is the extraordinary courage and resilience shown by the frail Suja herself. The second is the key role played by trade unions and other organisations in securing justice for Suja. This is especially notable in view of the many obstacles faced by workers in this industry in organising themselves. And the third relates to the progressive and forward-looking judgment delivered by the Mumbai High Court which not only upheld Suja's rights but also set in motion a process of transparent enforcement of labour laws in the industry. Suja's story thus has wide significance.

Suja's experiences epitomise the daily reality within this industry. This booklet seeks to speak for not only Suja but also others who are denied the right to speak up for themselves. And for this we have adopted a personalised narrative, instead of simply laying out bare, impersonal statistics.

Suja Abraham's story tells us . . . there is a way out.

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The contribution of the International Labour Organisation (ILO), New Delhi, which provided the finances for the production and printing work, is paramount. Within ILO, special thanks are also due to Mary Johnson, Director, Area Office for India and Bhutan, for writing the preface to this booklet, and Tim de Meyer, Specialist on International Labour Standards, for his support, innovative ideas and participation throughout the duration of the project.

We express our gratitude to Geeta Mahajan of AITUC, Mumbai, who prepared the initial draft of the booklet, based on her first-hand experiences in helping and working with Suja Abraham. Sanjay Mishra played an instrumental role in the preparation of the campaign materials. K.M. Madhusudhanan did the cover design and text layout, and Rajeev Choudhury, the DTP work.

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J. John
Abhik Majumdar
National Campaign on Labour Rights

There is a way out...

Suja Abraham was like any of the thousands of young women workers who migrate from Kerala every year to work in the fish processing industry in Maharashtra and other coastal states. Normally she would work for ten months, go back to her family for a month or so, and again join back on work for the next season. This cycle would go on for years without leaving any trace or record of her existence as a worker in the unit concerned or anywhere else for that matter. She would become just one of the countless and faceless workers as if she had no identity.

Thanks to a combination of various factors, including the timely and effective intervention of trade unions and other organisations, and her own extraordinary perseverance, Suja Abraham could survive the torture meted out to her and even fight for what was due to her. In the process, she has unwittingly become the symbol of the struggle carried on by women workers in the fish- and seafood- processing industry across the country. The landmark judgment by the Mumbai High Court, on the writ petition filed by Suja together with the organisations supporting her, is a major step in the struggle, while highlighting at the same time the sheer magnitude of the task still remaining.

The Background

Who is Suja?

Suja was born in 1974 in a poor family of Thiruvalla, in the Pathnamthitta district of Kerala. After completing her pre-university education, she did a three-year nursing course and worked as a nurse in Rajasthan for 3 years. Subsequently she came back to Kerala, got married, and gave birth to a baby girl after a year. Within months, however, her husband deserted her and their child, leaving them completely destitute. On hearing from a neighbourhood girl about jobs available in fish-processing plants in Mumbai, she decided to go there. She had to leave her baby with her aged mother even though she knew she would not be able to see her for almost ten months. This is how, beset with worries about her child, siblings and parents, Suja, a nurse in her twenties, began her work in the fish processing industry in 1995.

Work

For the first season Suja worked as a packer at the Wagle Industrial Estate in Thane. After ten months, she went home on vacation for three weeks. On returning to Thane in May 1996, she joined another fish-processing unit called Ravi Fisheries Co., located in the same area, and started working there as a grader. She was promised a monthly salary of

Rs. 1400 with free accommodation and food. In reality, however, she was paid only Rs. 1200, and food and other expenses were deducted from this sum. This meant that at the end of each month she received just about Rs. 200 to 300. She also came across several cases of women workers being sacked after six months of work without having been paid any money at all. These and other injustices prompted Suja to look for another job with fairer working conditions.

Working conditions in general

The conditions that Suja faced are substantiated by research studies on migrant women workers in the fish-processing industry, such as by Mathew & Lingam (1) and Warriar (2). Their work entails having to continuously stand for anything up to 14 to 16 hours a day (depending on the size of the consignment) in very cold and damp conditions and without any protective equipment such as warm clothing, gumboots or gloves. Graders are in fact dissuaded from using gloves as it reduces the speed of work. This causes numbness in hands and skin ailments. The supervisors are strict even about allowing workers to go to the toilet, although the low temperature environment makes the need for such visits more frequent. Overtime work is compulsory. The workers are at times even woken up in the middle of the night to immediately start work on fresh consignments. To facilitate all this, they are housed

within the factory premises itself and strict control is exercised over them through supervisors and contractors, who are generally all men.

Living conditions

The Thane District Collector's Report of January 1998, described the living quarters of these women as inhuman and marked by congestion, overcrowded, poor ventilation and a lack of adequate sanitation facilities. The food provided to them is both inadequate in quantity and poor in quality. The lack of hygiene is all the more important since the workers live in very close proximity, which means that diseases spread very quickly among them. Consequently, they fall prey to seasonal viruses and infections with alarming regularity. According to the doctors who treat them, this is aggravated by the severe anaemia that sets in within three months of their arrival resulting from inhuman working conditions and inadequate food. Fatigue, malnutrition, stress, separation from families, family problems, hazardous working environment, poor returns and the highhandedness of supervisors and contractors lead to depression and other mental problems as well.

Methods of coercion

The physical confinement of the women to the factory premises for months on end, without any social interaction with the outside world, has its psychological effect on the workers. The fear of managers, contractors and supervisors is constantly driven into them through the expedients of humiliation, ill-treatment, abuse, physical torture, slandering of reputations in home villages and, in some cases, even dismissal. Fear of the last mentioned is not baseless. In March 1997, around 250 women workers were sent back overnight to Kerala and Tamil Nadu because they had dared to articulate their demands.

The management heavily controls the movement of the workers. The women need permission to leave the premises even after the working hours, and even for personal reasons such as going to the temple or church or visiting the doctor. Furthermore, the permission given is for only a limited amount of time. They are strictly prohibited from discussing work-related issues with outsiders. Ironically, this is done in the name of their own security. Undue interference in their personal life is not uncommon. Some complain that they are not even given letters or messages from home informing them of any emergency. Suja remembers that she was not even allowed to meet her sick mother, who subsequently died without seeing her for the last time.

A select few among the workers are recruited as informants, whose job is to spy on the others and report indiscretions to the management. This step forments suspicion and disunity among the women, and effectively nips in the bud any attempt at unionisation or organisation. The consequent sense of loneliness and isolation takes a further toll on the mental and emotional health of the workers. Suja's case speaks volumes of this.

The Main Facts

Suja's attempt at escape

So far, Suja's experience was common to that of most other women employed in the fish-processing industry. What made her case unique was her attempt at escape, and its various consequences. For this reason, the facts of Suja's case may be said to start from when she made her attempt. They are as follows:

In November 1996, Suja, along with another worker called Usha, escaped and started working in another fish-processing unit situated nearby, called R.W. Sawant & Co. Soon, however, Abdul Karim Mohammed Bashir, a contractor/supervisor at Ravi Fisheries, managed to trace them. He then first tried to persuade and then threaten them, and finally forcibly brought them back to Ravi Fisheries. Once back, Suja still refused to

work at Ravi Fisheries. Mohammed Bashir then began to systematically subject her to intense physical and mental torture. In her FIR, Suja stated that he prohibited her from entering her own dormitory and forced her to sleep in verandah outside it. Moreover, he even stopped her food supply made her starve for two days. Suja was also forcibly confined to the factory premises under threat to her life.

Suja falls from the third floor

At about 5.30 a.m. on 14 November 1996, the security guard of Ravi Fisheries heard something falling. Upon investigation, he found that Suja had fallen on the ground floor (which had cement flooring) and was screaming in pain. As recorded in the police Panchnama, the fall measured about 32 feet. Miraculously, Suja survived, though she sustained serious injuries including multiple fractures. Suja was immediately admitted to the Civil Hospital of Thane by Rajesh Fernandes, a supervisor at the unit. The police did not record Suja's statement till on 27 February 1997. In fact, the record appearing in the medico-legal cases' register of the Civil Hospital states that Suja's injuries were caused by a fall in the bathroom. According to Suja, the management had maintained this version of the facts throughout her stay in hospital. Moreover, a close watch had been kept on her to prevent her from talking to outsiders. For this purpose, two women workers were specially

instructed to remain by her round the clock. In fact, had a suspicious news correspondent not informed the authorities, and had the District Collector not acted promptly, the truth in Suja's case may well have been successfully hushed up. The trade unions functioning in the Wagle Industrial Estate also played a very constructive role in the matter.

The District Collector raids the premises

Acting on the information received about Suja's case and also instances of child labour in Ravi Fisheries, a team led by the District Collector of Thane, Mr. Ujjwal Uke, raided the premises of three units of Ravi Fisheries on 27 February 1997. They found that there were 21 girl children working inside the units, of which at least 14 were medically confirmed to be below 14 years of age. Suja's statement was also recorded at that time, wherein she stated that as a result of the torture she attempted to commit suicide by jumping off the third floor. The media took a serious note of the case and gave it full publicity. Trade unions and women's organisations responded promptly. Most importantly, cases were registered against Abdul Karim Mohammed Bashir and Ambrose Pinto under sections 342, 374, 504, 506, 34 of Indian Penal Code (wrongful confinement, unlawful compulsory labour, intentional provocation and criminal intimidation).

Aftermath of the accident

Once Suja had undergone surgery, she was able to stand on her legs with the help of crutches. However, it was medically evident that she would not be able to walk unaided and work as before. That was when the question of compensation came up. The management of Ravi Fisheries, however, disclaimed all liability. It was later on found out that they had gone to the extent of tampering with the ESI Corporation records to avoid the responsibility and pass it on to the ESIC. For this reason, they had also abruptly transferred Suja from the Civil Hospital to ESIS Hospital on 23 December 1996 while she was still under treatment.

Beginning of joint action

The difficulties faced so far only emphasised how difficult Suja's fight for justice was going to be. It was here that the various involved organisations rose to the occasion so admirably to play a central role in this fight.

The first joint action was a demonstration by eleven participating organisations on 15 March 1997 outside Ravi Fisheries. The police, however, refused them the necessary permission. Nonetheless, the organisations decided to exercise their democratic right and more than 200 activists demonstrated

peacefully in front of Ravi Fisheries and courted arrest. Ironically, at about the same time, a group of workers, allegedly belonging to a 'Union' of 'permanent' workers, started to shout slogans against the demonstrators from inside the premises of Ravi Fisheries. While this was going on, a spontaneous agitation was begun by about 250 women workers in another unit of Ravi Fisheries, who demanded that they be given at least the minimum wages prescribed by law. Apparently, it was only in the course of the raid conducted by the Collector and subsequent visits by government officials that they had come to know of their legal rights. As a result of their action, however, they were summarily dismissed and forcibly sent off to their home villages in far-off Kerala and Tamil Nadu.

In the face of such retaliation by the management, it is admirable that a few local women workers of Ravi Fisheries openly joined the 15th March demonstration, helping the campaign take roots in the community of women workers itself. The women used this opportunity to express their grievances of almost two decades, in spite of being fully aware of the risks involved. For example, one of them had been working in the company from the age of ten and had seen how small children used to be hidden from the eyes of Factory Inspectors during their visits to the company. This solidarity was especially evident during the hearings of the Writ Petition subsequently filed by Suja, where the workers came forward to depose before the Court and reveal the real working conditions in the fish

processing units, in spite of continuous attempts at intimidation and coercion.

Suja gives a different account

The support of co-workers and outside agencies, together with her own improving health, emboldened Suja to give a different account of her fall on 14 November 1996. She stated that it had not been possible for her to give the true account to the police on 26 February 1997, since she was still under the 'care' of the management. On subsequent intervention by the District Collector, the women workers standing round the clock as guards at Suja's bedside were removed.

Suja's revised account appeared in the issue of Times of India dated 17 April 1997. In this, she stated that she had been pushed from the third floor of the factory building by a male co-worker during the early hours of 14 November 1996. She wrote her whole story in her own words, stating that she was forcibly dragged from R.W. Sawant & Co. by Mohammed Bashir and was made to starve for six days. She was severely tortured mentally and physically. "On that night," she wrote, "when I was going to bathroom, someone came from behind and held me. As I tried fight him off, he threw me down from the third floor." She said that she does not know the name of the co-worker but could recognise him. The police, however,

said that they had to rely only on her statement in the FIR and not on the subsequent ones.

The collective struggle continues

Once the actual facts of the case started emerging, the involved trade unions and four women's rights groups began to coordinate their efforts. It was decided that their immediate goal would be to secure for Suja what was justly her due, while alleviating the conditions of the workers in fish-processing industries would form their long-term (though no less important) objective. The participating organisations included Thane-based trade unions like Contract Laghu Udyog Kamgar Union, All India Trade Union Congress (AITUC), Centre for Indian Trade Unions (CITU), Sarva Shramik Sangh and women's organisations like the Bharatiya Mahila Federation (BMF). With the help of Malayalam-speaking volunteers, regular contact was established with Suja at the ESIS Hospital and her daily needs were looked after. Joint representations were made to the Police Department, the Industrial Safety and Health Directorate, the ESI Corporation, the Deputy Commissioner of Labour, and the Maharashtra Industrial Development Corporation. In particular, the ESI Corporation was contacted to expedite the recovery of dues payable to Suja and to ensure her the due compensation. ESIC was also informed of the non-implementation of insurance scheme to the majority of

the workers in the fish processing units. The question of making illegal use of MIDC land for operation of bonded labour system and residential purpose was placed before the MIDC and the Industrial Safety and Health Directorate. An appeal was made to the police to take note of Suja's subsequent statements and also book the owners of Ravi Fisheries for the offences committed against her. These efforts, however, did not bear much fruit, and the various governmental authorities largely continued to remain apathetic.

Intimidation by the management

Throughout this time the management of Ravi Fisheries continued the harassment and intimidation of Suja even in the ESIS Hospital premises. On 26 March 1997, Mohammed Bashir, the supervisor and Mrs. Joicey, the personal assistant of Ambrose Pinto, approached Suja in the hospital and accused her of causing great financial loss to the company. They also told her that they had received a telephone call from her father, asking her to return to her native place immediately. On another occasion, on 26 May 1997, Bashir and a contractor called Ravi approached her again and frightened her so much that she was not able to eat or sleep for the next 24 hours. The matter was brought to the notice of the authorities and the police. Thanks to the vigilant employees of the ESIS Hospital and volunteers from outside groups, Suja was spared further harassment.

This approach of the management was also seen in their response to the persistent demands by trade unions that Suja be paid proper compensation. On 15 July 1997, the Personnel and Administrative Manager of Ravi Fisheries came to the Hospital personally to pay Suja a sum of Rs. 12099. There were, however, two conditions attached to this deal. First, the Manager wanted Suja to accept the sum in full and final settlement of her entire claim against the company. When the trade unions objected to this stipulation, the amount was finally recorded on the cash voucher as an ex-gratia payment on humanitarian considerations against 'Special Leave Wages' from October 1996 to June 1997. Secondly, the amount was paid against a cash voucher bearing the name of M/s. Ajay Food Packers, Mumbai, the supervisor Mohammed Bashir being its alleged proprietor. Evidently this was the precursor to an attempt by the management to deny that Suja was their employee.

Denial by management

The above apprehension was confirmed by the events that followed. In August 1997, the doctors of the ESIS Hospital informed the groups and individuals fighting for Suja's cause about the long-term effects of Suja's injuries. According to this, she would never walk again unaided or be in a position at any time in her life to earn a livelihood to support herself, her daughter or the rest of her family. The trade unions contacted

the management of Ravi Fisheries to discuss the amount of lump-sum compensation to be paid to Suja. Eventually, in November 1997, through their letter addressed to the Contract Laghu Udyog Kamgar Union, the management categorically denied that Suja was ever their employee. They claimed that she was an employee of M/s. Ajay Food Packers and, in spite of the efforts of the trade unions, stuck to their position. Thus the organisations involved were left with no alternative but to approach the judiciary for relief.

Intervention by the High Court

The Writ Petition

Ms. Suja Abraham, together with five organisations, viz. Contract Laghu Udyog Kamgar Union, AITUC, CITU, Sarva Shramik Sangh and Bharatiya Mahila Federation (NFIW) filed a Writ Petition in the High Court of Mumbai in January 1998 against eight Respondents, namely ESIC, M/s. Ravi Fisheries, Mr. Dilip Kapoor (Managing Director, Ravi Fisheries), Mr. Ambrose Pinto (Manager, Ravi Fisheries), Mr. Mohammed Bashir (Proprietor of M/s. Ajay Food Packers), the District Collector, the Deputy Labour Commissioner, and the Industrial Health and Safety Directorate. Advocates Ms. Tanu Mehta, Ms. Jane Cox and Dr. D.Y. Chandrachud represented the Petitioners. In this Writ Petition (numbered W.P.124/1998), the Petitioners decided to address the issue of conditions in

the fish-processing industry in general rather than confine themselves to the specific case of Suja Abraham alone. Accordingly, they prayed that the Hon'ble Court be pleased to:

Issue a Writ of Mandamus directing M/s. Ravi Fisheries Ltd. to comply with all labour legislation in respect of the workers employed in its establishment, including those migrant workers, and especially with the Minimum Wages Act, 1948, Employees State Insurance Act, 1948, Provident Fund Act, 1996, Factories Act, 1948, Payment of Wages Act, 1936 and Contract Labour (Regulation and Abolition) Act, 1970;

Issue a Writ of Mandamus directing the Deputy Labour Commissioner, Thane to randomly visit the factories of Ravi Fisheries Ltd. at least once in a month and check that the M/s. Ravi Fisheries is complying with all labour legislation in respect of the workers and is not maltreating them;

Direct M/s. Ravi Fisheries to pay Ms. Suja Abraham Rs. 10 lakhs by way of compensation for the injuries suffered by her;

Pending the hearing and final disposal of the case:

Appoint a Commissioner to randomly visit the factories of M/s. Ravi Fisheries Ltd. to assess the existing situation prevailing in the said factories vis-a-vis treatment of all of the workers employed therein and implementation of Labour Legislation, and to report to the Hon'ble Court accordingly;

Call for the file in respect of Ms. Suja Abraham and M/s. Ravi Fisheries maintained by the Employees State Insurance Corporation;

Call for the reports of the District Collector, Thane regarding the factories of M/s. Ravi Fisheries in Wagle Estate, Thane, both before and pursuant to the raid conducted in February 1997;

Call for all the papers and files pertaining to M/s. Ravi Fisheries' factories in Wagle Estate, Thane which have been completed by the Deputy Labour Commissioner, Thane before and pursuant to the District Collector's raid of the factories in February 1997;

Direct M/s. Ravi Fisheries Ltd. to pay Ms. Suja Abraham an amount of Rs. 2 lakhs to enable her to support herself and her family in her native place.

Directions of the High Court

The Hon'ble Chief Justice Shri M. B. Shah and Hon'ble Justice Shri R. J. Kochar directed the District Collector, Thane and the Deputy Labour Commissioner to inspect the various factories in the Thane region. Accordingly, on 22 January 1998, the officials visited eight factories in Thane and Navi Mumbai. In total, six teams were formed with overall

supervision of the Collector Mr. Sree Kant Singh and senior officials of the Collectorate. The teams included the Collector, senior officials of the Collectorate, police authorities, lady-constables, officers from Deputy Labour Commissioner's office, doctors, and officers from the Directorate of Industrial Safety and Health and MIDC. Interpreters conversant with Malayalam and Hindi were included in each team. Video cameras were deployed in each of the locations. The raids were conducted from 6.30 p.m. to 11.30 p.m.

The report submitted by the Collector after conducting the raids revealed serious violations of law. It stated that in seven factories, inter alia:

"Female employees were found . . . staying in the factory premises itself. They were not allowed to go out of the premises without the permission of the contractor. If they are required to go out, some gate pass is issued only on the ground of medical treatment or visiting religious places. Prima facie it appeared to the government authorities that these employees are not allowed to go out of the factory premises. Because of force or fear of the contractors, free movement at will by the employees is not possible.

"The places where the workers are living are inadequately ventilated and poorly illuminated. In most cases only one exit is provided. The places for cooking and store are extremely unsatisfactory. Overcrowding was seen in most of these

residential premises, and the overall appearance of living condition was inhuman.

"Female employees work in factories from 9.00 a.m. onwards and work beyond 7.00 p.m. and the working hours depend upon the time of receipt of the fish consignment in the factory."

Based on these and other findings, the following recommendations were given:

"The general living conditions require substantial improvement. It is marked by overcrowding, poor sanitary conditions, inadequate ventilation/illumination, poor mess facilities, almost no provision for cots, beds etc.

"Prima facie these can be the cases of "bonded labour when seen from the angle of spirit of law although workers did not come forward with complaints of forceful confinements, harassment, cruelty etc. inside the factory.

"Unauthorised residential structures should be demolished by MIDC.

"Separate residential facilities outside factory premises with proper amenities and security arrangements should be provided by the factory. The rule of no residential accommodation except for emergency maintenance staff inside the factory premises should be strictly enforced. Till such facilities are created outside the factory premises, the factory should not

be allowed to operate.

"Regular vigil as regards enforcement of various related Labour Laws shall be kept and legal action should be initiated in deserving cases.

"Habitual offenders should be directed to close down their units.

"Offences under various Acts, after detailed examination of their records shall be tried by concerned authorities."

The Hon'ble Mumbai High Court incorporated these conclusions and recommendations in the order issued in the Writ Petition on 27 January 1998. By the same order some of the other factories of fish processing industry operating in Thane and Navi Mumbai were also joined as respondents thereby expanding the scope of the Writ Petition.

The High Court final order

The final order of the Hon'ble High Court in the Writ Petition No. 124/98 was given on 5 May 1998 by Hon'ble Chief Justice Shri M. B. Shah and Hon'ble Justice Shri A.Y. Sakhare. The order stated:

"To sum up from the statements/allegations in this petition it stands proved that the labourers are treated brutally and in some cases as bonded labourers and there are serious breaches of the labour laws.

"Authorities enjoined with the duties of enforcement of labour laws have failed to discharge their duties. To our shock and surprise, even in a city like Thane, to some extent, bonded labour system still exists. The respondents no. 3 and 4 (Mr. Dilip Kapoor, Managing Director and Mr. Ambrose Pinto, Manager, Ravi Fisheries) have treated Ms. Suja Abraham as bonded labour and brutal and inhuman treatment was meted out to her by confining her to the factory premises and even dragging her back when she tried to escape, which forced her to attempt to commit suicide.

"Considering (i) the state of affairs prevailing in the region with regard to the factory workers (ii) the submissions of the learned counsel for the parties and (iii) the report of the Collector, we issue the following further directions:

"The Labour Commissioner as well as the Collector, Thane District, are directed to keep constant vigil to see that labour welfare legislations are specifically enforced. They would keep constant watch with regard to the enforcement of (i) The Minimum Wages Act, 1948, (ii) Contract Labour (Regulation and Abolition) Act, 1970, (iii) The Factories Act, 1948, (iv) The Employees State Insurance Act, 1948, (v) The Employees Provident Fund and Miscellaneous Provisions Act, 1996, The Inter State Migrant Workmen Act, 1979 (vii) The Maternity Benefits Act, 1961, (viii) Industrial Employment (Standing Order) Act, 1946 and all other Labour Welfare Legislation.

For this Superior Officers would carry out inspection in various factories within their jurisdiction and find out, on spot inspection, whether the provisions of the aforesaid Acts are implemented or not. In the present case it has been pointed out that Employees State Insurance Act was not at all complied with. In any set of circumstances in future, appropriate care should be taken by all concerned officers and inspection should not be left in the hands of lower-ranking officers.

"With regard to migrant workwomen, the concerned factory owner should provide residential accommodation to them so that they are safe and protected from other abuses by contractors and other persons.

"We make it clear that it would be open to the Bharatiya Mahila Federation, which is a Non-Governmental Organisation, to visit the premises where women employees are working and to find out their grievances. All factory owners, particularly the Respondents, are directed to allow free access to the office bearers of Bharatiya Mahila Federation to places where women employees are working or residing.

"It is further directed that the Respondents/factory owners should see that employment is provided to seasonal workers who were previously employed in their factories. This is required to be done so that contractors may not exploit needy workmen/women by taking undue advantage.

"Respondent No. 2 (M/s. Ravi Fisheries Ltd.) is directed not

to victimise any worker associated with this petition on any ground whatsoever and to re-employ the following workwomen viz.,

- (i) Nirmala Masurkar
- (ii) Sushila Shinde
- (iii) Lalita Gurav

"As far as Petitioner No.1 Suja Abraham is concerned, it has been agreed that M/s. Ravi Fisheries Ltd. would see that an amount of Rs. 2,500/- per month is paid to her for the rest of her life. For this purpose, an amount which will fetch interest of Rs. 2,500/- per month would be deposited by M/s. Ravi Fisheries Ltd. in Fixed Deposit with a Bank or in any other scheme of a Post Office of the village where Suja Abraham finally settles down, within one month from the date of receipt of the address from Suja Abraham. During that time M/s. Ravi Fisheries Ltd. would send a cheque of Rs. 2,500/- every month to Suja Abraham. On the death of Suja Abraham, the aforesaid Fixed Deposit amount would vest in her heirs and legal representatives or any other duly authorised persons.

"In view of the aforesaid payment being made by M/s. Ravi Fisheries Ltd. towards compensation to Suja Abraham, the Employees State Insurance Corporation would not be required to pay any amount to Suja Abraham nor would they recover any amount from M/s. Ravi Fisheries Ltd. in respect of Suja Abraham".

The Aftermath

Suja's compensation

Suja has started receiving Rs. 2500 per month as part of her compensation from M/s. Ravi Fisheries Ltd. but the formality of investing an amount as fixed deposit in her name has not yet been completed. Medically she has recovered to the extent possible and has joined her family back in Kerala.

The courageous three

The three locally recruited workers who had come forward to depose before the Court (and were given protection by the Court order) were subsequently given work by M/s. Ravi Fisheries. But the process was not smooth and they were shifted from their earlier unit to another one. Nevertheless, this had an impact on other local workers who had worked with Ravi Fisheries previously but had not been taken on during the current season. They approached the supporting organisations, particularly the AITUC unit of Thane, who organised them and put forward their demand of preference in employment before the management. The management resisted bitterly. So did the so-called official 'Union' that had opposed the demonstration of 15 March 1997 organised in support of Suja. The AITUC unit finally filed a contempt petition in the Mumbai High Court and was successful in getting the workers re-employed. The story, however, did not end there. The workers

have once again been kept out of job during the present season that starts from June 1999 onwards.

Essentially the question of whether the fish processing industry is seasonal or not has to be decided objectively to deal with the constant insecurity and uncertainty of job faced by the workers and the resulting exploitation. Research studies undertaken on migrant women workers in the fish/prawn processing industries suggest that there is continuous work throughout the year as a result of intensive fishing, improved storing facilities and transportation (3).

Similarly, whether the prevailing contract labour system is truly a contract system or only a camouflage to hide the employer-employee relationship between the owners of the industry and thousands of women workers employed in their units also needs to be examined carefully. Otherwise workers will continue to be at the mercy of the contractors and recruitment agents despite the order of the High Court as well as the efforts of workers.

Visits and findings by Bharatiya Mahila Federation

The Hon'ble High Court had laid down in its order that the Bharatiya Mahila Federation (BMF) would have free access to places where women employees worked and resided.

Accordingly, the office bearers of BMF visited six fish processing units in Thane and Navi Mumbai. In the beginning the attempt seemed futile because the workers showed considerable inhibition and fear in interacting with them. To give them some sort of reassurance, therefore, pamphlets printed in Malayalam were distributed in the rooms of the workers. The address and telephone number of BMF office-bearers were printed on the pamphlets for contact. Copies of the pamphlets were also supplied to the management for their information and for displaying on the notice boards. This step did help in breaking the ice to an extent, but not enough to make them talk about their grievances. After a few days however, BMF activists began to receive anonymous letters written in Tamil and Malayalam by women workers of the Ravi Fisheries group of companies.

Anonymous letters

The first letter was received in October 1998. Even the translated excerpts below gives us substantial insights into conditions prevailing in the industry:

Before bringing us here we were promised jobs as packers, but here we are made to do the job of peeling. Out of our monthly wages of Rs. 1536.75 an amount of Rs. 700 is deducted towards food charges. Due to the high cost of food we are made to live only on kanji (strained water of

cooked rice). Even then we are charged so much for food.

We are woken up every morning by 3 o'clock to proceed for work. We are relieved from work by 10.00 p.m. If we do not work for one day, Rs. 52 are deducted from our wages.

We are given fish in measured quantities against tokens. The quantity of four basins of fish corresponds to eight tokens. If we do not complete peeling of four basins of fish, then our work is not recorded and we are marked absent for that day.

If for some reason we are required to go to our native places urgently, they do not allow us to go.

If we get telegrams or telephone calls they do not inform us. Even if we get a letter from our home informing us of some serious matter they do not allow us to go to the native place.

Having come to this company for work we are put to a lot of hardships. We are not in a position to tell you our grievances in person. Hence this letter.

Other letters

Very soon, more letters of this kind began to come in. Each contained a list of grievances that the women workers were facing in various fish-processing plants, along with pleas for assistance. A number of instances have been set out below: We have been working for 5 to 9 years but have still not

received any benefits.

We do not know where is the Labour Office. When the Labour Officer comes to our company we are removed from the place of work by the management.

Help us get Identity Cards. We don't know how to go about it.

The company people made us sign a paper and we don't know what was written on it.

They told us if we do not want to stay outside the company, we may go to our native place.

They tell us that they will not give us any benefits.

They call us in the morning at 3.30 or 4.00 a.m. and we have to work till 8.00 or 9.00 p.m.

We were not able to talk to you when you came here. If we say something we will be immediately sent back to our home villages. That is why we are writing this letter to you.

While coming from Kerala they gave us an advance amount and after coming here they are recovering it from us.

They do not give us any bonus for Diwali, Onam or Vishu. We celebrate these festivals with our own money.

If we want to buy any necessities for us from outside they do not allow us to go out.

Life here is sheer hell. We came here because we had no choice. They tell us that they are going to send us back this month

without giving us our wages. We came here only three months ago. How much can we save within that period? Our parents are old and our family expects a lot from us. What do we do?

We are ten Tamil girls in the group of 89 girls from Karnataka. The supervisor, being a Kannadiga, humiliates us regularly. We read your pamphlets to others, and he was very angry with us.

We have no place to cook. The kitchen is very dark.

We are not allowed to open our windows and look out.

We want one more help. Nobody should know that we have written to you. We do not know any language other than Malayalam. That is why we are writing to you in Malayalam.

Contact established with authors of letters

On receiving the first letter, the BMF office-bearers decided to visit the factory referred to in the letter and verify the contents thereof. The visit was planned deliberately after working hours in the late evening. As the BMF members mentioned the letter during the visit, a large group of women workers gathered around them and started talking about their problems. The watchman, supervisor and other staff tried to interrupt. They had to be asked to stay away as the women

workers declined to speak in their presence.

During the discussion women confided that they were extremely scared of the contractor and supervisor. They said that they would be packed off to their home villages if the contractor knew about their participation in the meeting. They were assured of complete confidentiality, and it was only then that they talked about their problems such as the poor quality of food, hard work, piece rate system of wages, sickness, job insecurity, lack of water and sanitation facilities etc. It was clear that a sizeable group of workers had come together and written the anonymous letter. First, they were asked if anybody was interested in going back to her home village but was unable to do so. They responded unambiguously that none of them wanted to go back due to the poverty back home, but at the same time they badly needed relief in terms of better work conditions and fair returns.

The situation was observed to be very depressing. A strong smell of ammonia filled the area. Some women were sick and coughing constantly while some were suffering from malaria. They were drinking kanji as mentioned in the letter. Most of them had worked for more than twelve hours that day. All of them worked as peelers and complained about body-ache due to the awkward working posture and the cold humid and watery surroundings. They showed their skin problems developed due to working in cold water for long periods

without protective equipment such as gloves or gumboots. They spoke about the piece rate system of wages. For peeling half a basin full of fish, equivalent to one token, they were being paid Rs. 7 and that the same rate applied for overtime work. They were not aware of legal provisions with regard to overtime wages or any other benefits. On days when no fish consignment came, they were paid a fixed amount of Rs. 52. If a fish consignment came and a worker did not report for work due to sickness, she would be marked absent and her wages for that day would be cut.

To verify the effect of such rules, each worker present was asked to report her actual earnings for the previous month and the figures were noted down. The data thus collected serves to enhance our understanding of conditions prevailing in the industry. The total earning of a peeler for September 1998 ranged from Rs. 400 to about Rs. 1200. The low wages were due to illness and those on the higher side were obtained by working daily for almost 16 hours at a stretch. Food charges had been deducted at source from the wages.

The time period for which the workers had worked varied from one year to nine years. The majority of the workers were young and some of them had started work at the age of 14 to 15. An approximately 50-year-old lady asked anxiously if she would get any benefits when she goes back after the current season as she apprehended that she might not be brought back by the contractor in the next season due to her age.

The workers were asked if they were willing to speak out in the presence of Labour Department officials accompanied by BMF activists. They declined, expressing tremendous fear. None of them possessed any identification card, or a passbook issued under the Inter-State Migrant Workers Act or any other document to indicate their status as workers, their period of employment and so on. Incidentally, due to the workers' anxiety and the past experiences of Suja Abraham, the BMF chose not to disclose any of the anonymous letters to the managerial staff or government officials.

Another effort was made to speak to workers in another unit called Ravi Frozen Foods. Around 30 women were interviewed individually in detail. The majority of them were below the age of thirty, and educated up to SSLC level. Invariably all of them stated that they had been driven to this work by some domestic problem. These included widowhood, desertion by husband, the need to collect money for dowry, and even poverty in general. Their children had been left behind under the care of parents, sisters or other relatives. Money had to be regularly sent to these relatives for their upkeep.

Their work experience ranged from one to nineteen years. They were forced to change their place of work frequently as per the dictates of the contractor. Their working hours had been reduced from 12 hours to 8 hours after Suja's case. They acknowledged on being asked that they found such visits by

BMF activists to be very meaningful. It must be admitted, nonetheless, that even at this stage women workers did not feel completely free and confident to share all their problems.

Use of MIDC land for residential purposes

While the BMF was involved in looking into these anonymous letters and attempting to establish contact with their authors, another issue manifested itself. As an aftermath of Suja's case, the Maharashtra Industrial Development Corporation authorities had started sending notices to the management of Fish Processing Industrial units objecting to the use of MIDC land for residential purposes. The management of all the units of Ravi Fisheries and Castle Rock Fisheries made their women workers sign a memorandum that stated that they were happy with the management and that the authorities should permit residential arrangements in the factory premises. In all 153 workers of Sai Food Packers and 147 workers of Sagar Food Packers (the contractors of M/s. Ravi Fisheries) along with 190 workers of Cochin Food and of Vimal Food (the contractors of M/s. Castle Rock) had signed the memorandum.

The BMF held a number of meetings on this issue in various different units. Workers expressed their anxiety about residential arrangements and tenure of work both in person and through letters. They said that they wanted safe,

proper and secure accommodation. They even requested the BMF activists to find out if the alternative accommodation arrangements organised by the management were satisfactory or not. In the presence of the contractors and supervisors however, they said that they were very happy with the existing residential arrangements as they provided them safety, security and convenience.

Around the same time an incident was reported to the BMF by the workers that on the night of 25th-26th October 1998, some boys had jumped the wall of Ravi Frozen Foods and entered the factory, terrifying everybody within. On being asked, the management told BMF activists that it was a case of attempted theft and had been reported to the police. When the activists mentioned the concern of the women workers about their residential arrangements and formally enquired about the proposed plans in this regard, the management curtly refused to divulge any information and wrote in reply that the BMF had no locus standi in the matter.

Need for official intervention

In response to this hostile attitude of the management, the District Collector was contacted and a joint meeting held with the Deputy Labour Commissioner in November 1998. It was brought to their notice by the BMF that the workers' conditions continued to be deplorable, which called for an effective

and creative intervention by their respective offices. The foremost question in this context concerned the job-security of the workwomen and the need to initiate a mechanism to ensure that they would not be arbitrarily removed from work. The BMF communicated to the authorities that the BMF was willing to contribute towards every effort in this regard. However, nothing significant emerged and as a result, the issues of local as well as migrant women workers continued to remain unresolved. Whether and how the question of permission for residential arrangement within MIDC area was settled is not yet clear. The fact remains, however, that to date, women workers continue to be housed within factory premises.

Effect of labour laws

One outcome of the High Court order was that the contractors were forced to get the necessary licences. The Kerala Labour Department and State Women's Commission have repeatedly intervened in this regard, and also to ensure that child labour is not being transported, by conducting raids on trains carrying women workers. Secondly, the management have been compelled to bring the workers on record by making contributions towards the statutory Provident Fund and ESIS. The workers have expressed their happiness about the PF and ESIS contributions but also their concern about whether they would be able to recover the PF amount since they might not be brought back by the contractors the next year.

Also, women workers possessing ESIS cards were taken not to the ESIS Hospital but only to privately run local dispensaries to avoid hospitalisation; moreover, the workers themselves had to pay for their medicines.

They have also started receiving their legal minimum wages which are more than what they got in the past. But these are not only disconnected from the profit margins that the industry enjoys, but also inadequate and disproportionate to the amount of labour the workers put in, which ultimately takes a toll on their health. Whether the deductions made from wages at source are lawful or not also needs to be looked into. The duty hours have shown some improvement over the earlier system but vigilance is necessary to monitor the working hours, the rate of overtime work and provision for leave. Many other facilities provided under the Factories Act, like canteens, creches etc. are conspicuously absent. Much needs to be done at the ground level to ensure effective enforcement of labour legislation. Nevertheless, it may be safely said that the first step towards due empowerment of these women workers has already taken.

Need for social advocacy

Social advocacy would be very fruitful if carried out in a co-ordinated manner by all concerned like the Labour Department, Women's Commission, Trade Unions, women's organisations

and the Judiciary, not to forget the media and people at large.

At this point of time, merely exposing conditions within these factories would not be of much use without simultaneously involving women workers and the government machinery. Most crucially, the women workers need to be further educated about their rights; apart from anything else this is possibly the most effective way of ensuring implementation of welfare legislation. The offices of the Labour Commissioner, Women's Commissions at the State as well as National levels and the Board of Workers' Education can play a significant role in this regard. Also, the effectiveness of the print and electronic media in Kerala, Tamil Nadu and Kamataka in disseminating relevant information to workers and their families can hardly be understated. After all, it was the distribution of pamphlets by BMF activists that led to the workers expressing their grievances (first through anonymous letters and currently under their signatures) and articulating their demands.

In short, these initiatives, however small, cannot be dismissed lightly. At the same time, however, if they are to be effective in empowering women workers in fish-processing industries, it is essential that they be properly co-ordinated and organised.

The Way Ahead

The extreme cruelty that Suja faced, together with its consequences including redressal of wrongs by the Mumbai

High Court, has focussed attention to the fact that they deserve at least at least a life of human dignity if not their just share of profits. Towards that end several steps may, indeed need to, be taken.

First, identity cards must be compulsorily issued to each and every worker both at the place of recruitment and later at the place of employment. Similarly, compulsory registration of each worker is equally important.

Secondly, working women's hostels equipped with creches situated close to the factories must be provided.

Thirdly, provision of subsidised food must be made to ensure adequate nourishment to workers.

Fourthly, the workers' health must be monitored regularly by the ESIC. Ailments must also be treated in time. Occupational hazards like skin irritation and breathing trouble need to be identified and preventive measures be worked out and adopted.

Fifthly, all labour legislation shall have to be enforced. The minimum wage legally due to the workers in fish processing industry has to be fixed in a realistic manner.

Finally, a Welfare Board should be set up at the national level to protect the overall interests of the workers. It is not only the High Court order but also the Conventions adopted by international bodies like the ILO support the case of the workers.

The precondition to all these actions must necessarily be a persistent grassroots-level effort at educating, organising and empowering these women workers. Because ultimately the only long-term means of ensuring justice to these workers is through making them aware of what they may justly expect and demand, and what they may rightfully do to achieve it. And only then will the extraordinary courage and heroism show by the young Suja Abraham stand vindicated.

Notes

1. Pauline Mathew and Dr. Laxmi Lingam, *Migrant Women Workers in the Fish/Prawn Processing Industries*, Navi Mumbai, Unpublished Report, 1998.
2. Dr. Shobhana Warriar, *Labour Rights of Workers in Fish Processing Industries in the context of Globalised Economy*, Unpublished Report Submitted to CEC, 1998.
3. e.g. Mathew & Lingam, *op. cit.*, and Warriar, *op. cit.*