

GOVERNMENT OF ANDHRA PRADESH  
SOCIAL WELFARE (H) DEPARTMENT

Memorandum No. 1631/H2/86-1

Dated: 28-7-1986.

SUB :—Bonded Labour System (Abolition) Act, 1976—Correct interpretation—Instructions—Issued.

It has been observed by Government that in a number of cases the provisions of Bonded Labour System (Abolition) Act, 1976 have not been properly understood and correctly followed by the implementing officers.

2. The following clarifications are therefore issued :—

(i) It has been noticed that in some cases, the amount advanced by the landlords have been extinguished under Section 6 (1) of the Bonded Labour System (Abolition) Act, 1976, but, the bonded labourers have not been released. It may be noted that under Section 2 (g) of the Act, Bonded Labour System has been defined as a system of forced or partly forced labour under which a debtor enters into an agreement with the creditor to the effect that in consideration of an advance obtained by him or in pursuance of any customary or social obligation etc., he would render labour or service to the creditor for a specified period or for an unspecified period either without wages or nominal wages. Under Section 2 (f) of the Act, Bonded Labourer means a labourer who has incurred a bonded debt. Under Section 2 (d) bonded debt means an advance obtained or presumed to have been obtained by a bonded labourer under or in pursuance of the bonded labour system. Moreover, under Section 2 (b) the existence of an agreement for forced labour is presumed in regard to the 'Jeetha' system. In view of this, there is no question of a bonded debt alone being cancelled without bonded labourer being identified and released simultaneously. In other words, wherever there is a bonded debt, there is always a bonded labourer. It is therefore, not correct merely to extinguish the bonded debt, but, not release the bonded labourer. It is therefore, clarified that in every case, where bonded debt is extinguished, the bonded labourer concerned has to be automatically identified, released and rehabilitated.

(ii) In some cases, it has been found that bonded labourers have not been released merely on the ground that the labourers have left the landlords for sometime past or a few months earlier. This is again not a correct approach, as it cannot be expected that the bonded labourer should continue to work with the landlords merely waiting for the Government Officers to release him. In fact, the bonded labour system is illegal and the landlords are liable to prosecution and penalties under the Bonded Labour Act for continuing the system after the commencement of the Act. It is therefore clarified that every bonded labourer has to be released and rehabilitated, even if he had left the landlord earlier, but, after the commencement of the Act. For the purpose of convenience, the date of representation of the bonded labourer, or date of inspection for investigation by the officers whichever is earlier, can be taken as the relevant point of time for deciding, whether he is to be identified as bonded labourer or not. In other words, if the person was a bonded labourer on the date of his application or representation or during the visit of enquiry, whichever is earlier, he should be treated as a bonded labourer and as such identified, released and rehabilitated.

(iii) It is also observed that in some cases bonded labourers have not been released on the ground that they have been working with the landlords for less than one year or some period of time. This is again incorrect as the Act has not laid down any minimum period for this purpose. On the other hand, it will be seen from Section 2 (g) of the Act, that Bonded Labour System means any such agreement for labour for a specified period or an unspecified time. Hence, the period of bondedness by itself cannot be a ground for not treating a person as bonded labourer. This is a misconception and should *not* be any longer adopted.

(iv) In certain other cases, it has been noticed that the bonded labourers are not being identified on the ground that the relations between them and the masters are not strained. This is again a wrong reasoning as for the purposes of identification of bonded labourers, the question of strained relationship or otherwise does not arise.

(v) In some other cases it has been mentioned that the masters are *not* pressing for the loan amount. This is also not a relevant consideration at all, as, under the Act, bonded debt is extinguished and the masters have no right to ask for or press for the loan amount.

(vi) In certain other cases, it has been noticed that instead of going into the question of bonded debt, bonded labourer and bonded labour system, it has been merely mentioned that the labourers did not forfeit the freedom of employment or the right to move freely or the right of sale at market value any of the property or product of his labour



etc. It will be noticed that the provisions under Section 2(g) of the Act, various alternatives have been indicated by the term 'or'. If the labourer speaks to the bonded debt i.e. a debt or advance obtained on the understanding that he would work for the landlord till the debt is repaid, the burden of proof would shift to the landlord under Section 15 of the Act that it is not a bonded debt. It has also to be established by the landlord that he is paying not less than the minimum wages fixed by the Government.

3. Attention of the District Collectors is also invited to Section 12 of the Bonded Labour System (Abolition) Act, 1976, under which it shall be the duty of every District Magistrate and every officer specified by him under Section 10 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

4. The above clarification should be strictly followed by all implementing officers. Any orders passed in contravention of these instructions should be reviewed and the cases are enquired for proper action.

5. The receipt of this Memorandum should be acknowledged.

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