

MOST IMMEDIATE

F.No.M-11012/2/2009-E.S.
Government of India
Ministry of Finance
Department of Revenue

New Delhi, the 26th June, 2009

OFFICE MEMORANDUM

Subject: Compilation/collation of data for the Mutual Evaluation of India for the FATF/APG M.E. in November-December, 2009 – regarding.

Enclosed is a letter from the Cabinet Secretary which underlines the need to actively prepare and participate in the Mutual Evaluation process of the Financial Action Task Force (FATF).

Background

2. India is making efforts to get Membership of FATF. Presently, it has observer status. In this connection, FATF and Asia/Pacific Group on Money laundering (a FATF style Regional Body of which India is a Member), will conduct mutual evaluation of India in 2009 year end. In the evaluation, India will be assessed on the basis of progress made against the 40+9 Recommendations of the FATF on anti-money laundering and combating the financing of terror. For the said purpose, the FATF have devised a Mutual Evaluation Questionnaire (MEQ).
3. The progress made by India will have to be corroborated by statistical data. In this connection, it may be mentioned that the Prevention of Money-laundering Act (PMLA), 2002 has been recently amended with the Prevention of Money-laundering (Amendment) Act, 2009 coming into force w.e.f. 1.06.09. The PMLA now includes a large number of scheduled offences. The list is annexed. The data in respect of each of these offences in the enclosed format is urgently required.
4. For example, in respect of the Bonded Labour System (Abolition) Act, 1976, it may be specified in respect of Sections 16, 18 and 20 – (a) number of cases in which the enforcement agency concerned registered a case; (b) number of cases in which prosecution proceedings initiated; (c) value involved (Rs. in Lakh); and (d) value of goods/property confiscated (Rs. in lakh).
5. The Ministries/Departments administrating the various Acts may furnish the data by 15 July, 2009. If any delay is anticipated for furnishing the requisite information, the agencies/organizations from whom such data can be directly collected by this Department without any delay may be intimated along with name, designation, telephone/fax numbers and e-mail ID of the concerned officer.
6. This may please be accorded top priority.

Encl: As above.

To

[Ministries/Departments] as per list.

P. Singh
26.6.09
(Priya V.K. Singh)
Director
Tel.No.2309-2282

M-13011/4/09-BL

(79) (SC)

Further Line of Action

SUGGESTED BY GOVT. OF INDIA

A wide difference in perception of the State Governments and those of the Commissioners appointed by the Court suggests that the enforcement machinery of the State Governments has not been active and has not been giving adequate attention to this problem which continues to exist more than 20 years after being banned under the law. It is obvious that the State Governments and their officers need to be adequately sensitised to this social evil and duly activated. For doing this, the State Governments need to take action on following lines:-

1. Even though the Act provides for constitution of Vigilance Committees under Section 13 at the district as well as the sub-divisional levels, it is obvious that these Committees are not functioning effectively. It is imperative that these Committees should be activated and should meet regularly with due seriousness. For ensuring that the State Governments may make periodic meetings of these Committees compulsory instead of leaving the option of convening the meetings with the local conveners. In any case the frequency of such meetings should not be less than once in two months.
2. The District Magistrates and the Sub-Divisional Magistrates should personally participate in these meetings and not be represented by other functionaries.
3. The non-official members of these Committees should be selected not for extending political patronage but on the basis of track record of social work taking into account their commitment and sensitivity to social issues in general and to the issue of bonded labour in particular.

4. Under the overall supervision of these Committees an intensive door to door Survey should be carried out to identify and enumerate the bonded labourers who may still be in bondage. Such Surveys need not be confined to Government machinery. Help of bonafide social workers and NGOs should be taken wherever possible.
5. Such Surveys should be undertaken at least once in a year so that any new cases of bondage can be detected early and without delay.
6. On detection of such cases of bondage, immediate action for release of the bonded labourer and his or her rehabilitation should be taken and the same should be supervised by the District Magistrates personally. Under Section 21 of the Bonded Labour System (Abolition) Act, an executive magistrate is to be appointed & vested with powers of a judicial magistrate for summary trial of all cases under the Act. He/she is also required to release the bonded labourer(s) & issue a release certificate.
7. For the purpose of rehabilitation of bonded labourers, apart from assistance available under the centrally sponsored scheme, assistance from other welfare and poverty alleviation schemes should also be ensured through due convergence of all such schemes and programmes. Convergence in this sense would mean pooling resources from a variety of sources & integrating the same imaginatively & skillfully to achieve the objective of a qualitative rehabilitation.

Even at the State Government level, this programme is not getting due priority. It is felt that the existing arrangement for monitoring the programme at the State level needs considerable improvement and strengthening. A Committee headed by the Chief Secretary comprising of other concerned Secretaries like Secretary (Home), Secretary (Finance), Secretary (Planning), Secretary (Labour), Secretary (Rural Development), Secretary (Agriculture), Secretary (Animal Husbandry), Secretary (Revenue), Secretary (Women & Child Development), Secretary (Health & Family Welfare), Secretary (Education), Secretary, in-charge of Tribal Development and SC/ST Programmes and such other officers, who may directly or indirectly be concerned with this work, should be constituted. The mandate of the Committee will be as follows:

- to review the arrangements for conducting door to door surveys for identification and enumeration of bonded labour;
- to review the arrangements for collection and compilation of data on the basis of survey;
- to review the pace of release of bonded labourers under Section 21 of the Act and issue of release certificate;
- to review the pace of implementation of rehabilitation efforts;
- to ensure that lapse back to bondage is prevented;
- to attend to public complaints and grievances and the pace of their disposal at various levels.

9. There is need for total attitudinal change in the State Governments on this issue. Instead of brushing aside the problem under the carpet, at least at the State level, the reality should be accepted and sincere and committed efforts should be made for effectively tackling the problem. State Governments must devise methods for conveying to the District Magistrates and other field staff their seriousness and commitment on this issue.
10. The above State level committee may meet at least once a quarter and review the progress under the programme. This item should also be made a standing item on Agenda of the periodic meetings of District Magistrates called for review of issues like law and order, implementation of development scheme, etc.
11. Chief Ministers and their Cabinet Colleagues, Chief Secretaries and other senior officers in the State Secretariat should encourage flow of information on this subject through non-official channels so that correct and proper picture of the situation on the ground is available with the State Government. The State Government's total reliance for information on extent and magnitude of this evil, on officers who are themselves responsible for tackling the issue is unfortunate and needs to be changed.