

BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

(Act no. 19 of 1976)

PREAMBLE

[Act 19 of 1976 as amended by Act 73 of 1985]

[9th February, 1976]

An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :

1. SHORT TITLE, EXTENT AND COMMENCEMENT. - (1) This Act may be called the Bonded Labour System (Abolition) Act, 1976.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 25th day of October, 1975.

2. DEFINITIONS. - In this Act, unless the context otherwise requires,- (a) "advance" means an advance, whether in cash or kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor); (b) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality. Explanation : The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social customs, in relation to the following forms of forced labour, namely : Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru- Galu, Hali, Hari, Harwail, Holya, Jana, Jeetha, Kamiya, Khundit- Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti; (c) "ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the person who corresponds to such expression in accordance with the law of succession in force in such society; (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; (e) "bonded labour" means any labour or service rendered under the bonded labour system; (f) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt; (g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that - (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or (ii) in pursuance of any customary or social obligation, or (iii) in pursuance of any obligation devolving on him by succession, or (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or (v) by reason of his birth in any particular caste or community, he would- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or (2) forfeit the freedom of employment or other means of livelihood for an specified period or for an unspecified period, or (3) forfeit the right to move freely throughout the territory of India, or (4) forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him. and includes the

system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

Explanation : For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of Section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is 'bonded labour system' within the meaning of this clause.

(h) "family", in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,- (a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force ; and

(b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) "prescribed" means prescribed by rules made under this Act.

3. ACT TO HAVE OVERRIDING EFFECT. - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

4. ABOLITION OF BONDED LABOUR SYSTEM. - (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render, any bonded labour.

(2) After the commencement of this Act, no person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

5. AGREEMENT, CUSTOM ETC., TO BE VOID. - On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act,) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

6. LIABILITY TO REPAY BONDED DEBT TO STAND EXTINGUISHED. - (1) On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Act, no suit or other proceedings shall lie in any civil or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Act, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family or other dependent was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5)

is not made within thirty days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared, that where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

Provided that the bonded labourer, or an agent authorised by him in this behalf, may, at any time within five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits, which may, since the date of such proclamation of sale, have been received by the decree-holder.

(9) Where any suit or proceeding, for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

7. PROPERTY OF BONDED LABOURER TO BE FREED FROM MORTGAGE, ETC. - (1) All property vested in a bonded labourer which was immediately before the commencement of this Act under any mortgage, charge, lien or other encumbrances in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrances, and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall (except where it was subject to any other charges), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property, referred to in sub-section (1), to the possession of the bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

8. FREED BONDED LABOURER NOT TO BE EVICTED FROM HOMESTEAD, ETC. - (1) No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour.

(2) If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section (1), the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

9. CREDITOR NOT TO ACCEPT PAYMENT AGAINST EXTINGUISHED DEBT. - (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount

accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

10. AUTHORITIES WHO MAY BE SPECIFIED FOR IMPLEMENTING THE PROVISIONS OF THIS ACT. - The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

11. DUTY OF DISTRICT MAGISTRATE AND OTHER OFFICERS TO ENSURE CREDIT. - The District Magistrate authorised by the State Government under Section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

12. DUTY OF DISTRICT MAGISTRATE AND OFFICERS AUTHORISED BY HIM. - 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 of such forced labour.

Comment: whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a bonded labourer. This presumption may be rebutted by the employer and also by the State Government if it so chooses but unless and until satisfactory material is produced for rebutting this presumption, the Court must proceed on the basis that the labourer is a bonded labourer entitled to the benefit of the provisions of the Act. *Bandhua Mukti Morcha, Petitioner v. Union of India and others, Respondents. AIR 1984 SUPREME COURT 802*

13. VIGILANCE COMMITTEE. - (1) Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely- (a) the District Magistrate, or a person nominated by him, who shall be the Chairman; (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the District, to be nominated by the District Magistrate;

(c) two social workers, resident in the district, to be nominated by the District Magistrate;

(d) not more than three persons to represent the official or non- official agencies in the district connected with rural development, to be nominated by the State Government;

(e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely- (a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;

(b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(c) two social workers, resident in the Sub-Division to be nominated by the Sub-Divisional Magistrate;

(d) not more than three persons to represent the official or non- official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate.

(e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(f) one officer specified under Section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by- (a) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

15. BURDEN OF PROOF. - Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

16. PUNISHMENT FOR ENFORCEMENT OF BONDED LABOUR. - Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. PUNISHMENT FOR ADVANCEMENT OF BONDED DEBT. - Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

18. PUNISHMENT FOR EXTRACTING BONDED LABOUR UNDER THE BONDED LABOUR SYSTEM. - Whoever enforces, after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

19. PUNISHMENT FOR OMISSION OR FAILURE TO RESTORE POSSESSION OF PROPERTY TO BONDED LABOURERS. - Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

20. ABETMENT TO BE AN OFFENCE. - Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation : For the purpose of this Act, "abetment" has the meaning assigned to it in the Indian Penal Code (45 of 1860).

21. OFFENCES TO BE TRIED BY EXECUTIVE MAGISTRATES. - (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

22. COGNIZANCE OF OFFENCES. - Every offence under this Act shall be cognizable and bailable.

23. OFFENCES BY COMPANIES. - (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against

and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section.- (a) "company" means any body corporate and includes a firm or other association of individual; and

(b) "director", in relation to a firm, means a partner in the firm.

24. PROTECTION OF ACTION TAKEN IN GOOD FAITH. - No suit, prosecution or other legal proceeding shall lie against any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

25. JURISDICTION OF CIVIL COURTS BARRED. - No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

26. POWER TO MAKE RULES. - (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely- (a) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of Section 6 is to be submitted of sub-section (6) of that section.

(b) the time within which application for restoration of possession of property is to be made, under sub-section (6) of Section 6, to the prescribed authority;

(c) steps to be taken by Vigilance Committee under clause (a) of sub-section (1) of Section 14, to ensure the implementation of the provisions of this Act or of any rule made thereunder;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is session, for a total period of thirty days which maybe comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. REPEAL AND SAVING. - (1) The Bonded Labour System (Abolition) Ordinance, 1975 (17 of 1975) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance (including any notification published, direction or nomination made, power conferred, duty imposed or officer specified) shall be deemed to have been done or taken under the corresponding provisions of this Act.