

and Conditions of Service) Act, 1979. The views expressed by my learned brother Bhagwati, J. in his judgment, to my mind, do not amount to any adjudication on the question of applicability of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The observations made by my learned brother Bhagwati, J. and the directions given by him on the various aspects with regard to the merits of the case after carefully considering the provisions of all the relevant labour legislations enacted for the benefit of labourers and for improvement and betterment of their lot, are for furthering the interests of the workmen and for proper protection and preservation of their just rights and to enable the appropriate authorities to take necessary action in the matter. As I am in agreement with the views expressed by my learned brother Bhagwati, J. I do not propose to deal with these aspects at any length and I content myself by expressing my agreement with the judgment of my learned brother Bhagwati, J. on these matters.

(1984) 3 Supreme Court Cases 243

(BEFORE P.N. BHAGWATI AND AMARENDRA NATH SEN, JJ.)

NEERAJA CHAUDHARY

... Petitioner ;

Versus

STATE OF M.P.

... Respondent.

Writ Petition (Cri) No. 1263 of 1982†,
decided on May 8, 1984

Constitution of India — Articles 21, 23 and 32 — Bonded labour — Non-implementation of Bonded Labour System (Abolition) Act, 1976 in stone quarries alleged — Failure to rehabilitate freed bonded labourers as a result of which those labourers living in a state of abject poverty and starvation — Held, Articles 21 and 23 violated — Suitable directions given to the State of M.P. for proper implementation of the Act

A journalist addressed a letter to a Judge of the Supreme Court complaining that about 135 bonded labourers within the meaning of the Bonded Labour System (Abolition) Act, 1976 working in the stone quarries in Faridabad who had been released from bondage in pursuance of an order made by the Supreme Court in March, 1982 and had been brought back to their respective villages in Madhya Pradesh with a promise of rehabilitation by the Chief Minister of the State, had not been rehabilitated even after a lapse of six months since their release and as a result they were living almost on the verge of starvation. Though the letter was directed to be treated as a writ petition but for the sake of completeness, before notice was issued to the respondent, the counsel for the petitioner filed a regular writ petition in substitution of the letter. Giving suitable directions and orders and directing the writ petition to be placed on board on August 6, 1984 for consideration of the affidavits which may be filed by the State Government pursuant to the directions, the Supreme Court observed :

†Under Article 32 of the Constitution of India

It is the plainest requirement of Articles 21 and 23 that bonded labourers must be identified and released and on release, they must be suitably rehabilitated. The Bonded Labour System (Abolition) Act, 1976 has been enacted pursuant to the Directive Principles of State Policy with a view to ensuring basic human dignity to the bonded labourers and any failure of action on the part of the State Government in implementing the provisions of this legislation would be the clearest violation of Article 21 apart from Article 23.

(Para 5)

Whenever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer unless the employer or the State Government is in a position to prove otherwise by rebutting such presumption. The State Government must apply this test throughout its territory for the purpose of ascertaining whether there are any bonded labourers or not and if so how large is their number.

(Para 3)

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161: 1984 SCC (L&S) 389, followed

The vigilance committees as they exist today are not effective and they need to be reorganised and activated. The State Government must include the representatives of social action groups operating at the grass roots level in the vigilance committees constituted under the Act and must give them full support and cooperation for the purpose of identification and release of bonded labourers. The State Government must also take immediate action for identification and release of bonded labourers, whenever any representative of these social action groups, whether on the vigilance committee or not, points out to the Collector/District Magistrate or the Deputy Collector that there is existence of bonded labour at a particular place and whenever any officer of the district administration goes to such place for identification and release of bonded labour on the basis of the information given by such representative of the social action group, he shall take such representative with him and a copy of the report made by him shall be handed over immediately to such representative.

(Paras 4 and 5)

An intensive survey of the areas which have been traditionally prone to the system of debt bondage should be done by the vigilance committees with the assistance of social action groups operating in such areas.

(Para 5)

It is also necessary that officers who are posted at different levels to deal with the problems of bonded labour including their identification, release and rehabilitation should be properly trained and sensitised and that there should be constant check and supervision over the activities of the officers charged with the task of securing identification, release and rehabilitation of bonded labourers.

(Para 5)

It is imperative that the Government and the Court must make every effort to see that the freed bonded labourers are properly and suitably rehabilitated after identification and release, for, 'identification' and 'release' would be of no use to bonded labourers if after attaining their so-called freedom from bondage to a master they are consigned to a life of another bondage, namely, bondage to hunger and starvation which deprive them of all basic human dignity. Therefore, the State Government must provide rehabilitative assistance to the 135 freed bonded labourers in the present case within one month. What kind of appropriate rehabilitative assistance should be provided for the family of a particular freed bonded labourer would have to be decided by the vigilance committee and such assistance shall be provided by the State Government in the presence of a representative of one of the social action

groups. The Collector/District Magistrate will give sufficient notice to such representative so that he can remain present at the time when rehabilitative assistance is provided to these 135 freed bonded labourers. The State Government will file an affidavit of a responsible officer stating how and in what manner the State administration has provided rehabilitative assistance to them and which representative of the social action groups was present at the time when such rehabilitative assistance was given. (Paras 1 and 6)

The State Government will pay to the petitioner costs of the writ petition quantified at Rs 5000. (Para 7)

Per A.N. Sen, J. (supplementing)

Every law enacted, particularly welfare legislation for the benefit of the weaker section of the people, must be implemented in the proper spirit for achieving the noble object for which such legislation is passed. Implementing the law has necessarily to be effected through human agencies. It becomes the duty of the Court to see that the legislative provisions regarding their rehabilitation are properly implemented. Freedom from bondage without effective rehabilitation after such freedom would frustrate the entire purpose of the Act, for, in that event the freed labourer in all probability will have to slide back into bondage again to keep his body and soul together. The orders and directions were given by Bhagwati, J. on behalf of the Court so that responsibility and legal obligations of the respondent in the matter of properly rehabilitating bonded labourers freed from bondage may be duly discharged. I am in general agreement with them. (Paras 9 to 12)

R-M/6600/CL

Advocates who appeared in this case :

Kapil Sibal, Senior Advocate (K.K. Lahiri, Advocate, with him), for the Petitioner ;

R. Bana and A.K. Sanghi, Advocates, for the Respondent.

The Judgments of the Court were delivered by

BHAGWATI, J. (*for himself and A.N. Sen, J.*)—This is yet another case which illustrates forcibly what we have said on many an occasion that it is not enough merely to identify and release bonded labourers but it is equally, perhaps more, important that after identification and release, they must be rehabilitated, because without rehabilitation, they would be driven by poverty, helplessness and despair into serfdom once again. Poverty and destitution are almost perennial features of Indian rural life for large numbers of unfortunate ill-starred humans in this country and it would be nothing short of cruelty and heartlessness to identify and release bonded labourers merely to throw them at the mercy of the existing social and economic system which denies to them even the basic necessities of life such as food, shelter and clothing. It is obvious that poverty is a curse inflicted on large masses of people by our malfunctioning socio-economic structure and it has the disastrous effect of corroding the soul and sapping the moral fibre of a human being by robbing him of all basic human dignity and destroying in him the higher values and the finer susceptibilities which go to make up this wonderful creation of God upon earth, namely, man. It does not mean mere inability to buy

the basic necessities of life but it goes much deeper ; it deprives a man of all opportunities of education and advancement and increases a thousand fold his vulnerability to misfortunes which come to him all too often and which he is not able to withstand on account of lack of social and material resources. We, who have not experienced poverty and hunger, want and destitution, talk platitudinously of freedom and liberty but these words have no meaning for a person who has not even a square meal per day, hardly a roof over his head and scarcely one piece of cloth to cover his shame. What use are 'identification' and 'release' to bonded labourers if after attaining their so-called freedom from bondage to a master they are consigned to a life of another bondage, namely, bondage to hunger and starvation where they have nothing to hope for — not even anything to die for — and they do not know whether they will be able to secure even a morsel of food to fill the hungry stomachs of their starving children. What would they prize more : freedom and liberty with hunger and destitution staring them in the face or some food to satisfy their hunger and the hunger of their near and dear ones, even at the cost of freedom and liberty ? The answer is obvious. It is therefore imperative that neither the Government nor the Court should be content with merely securing identification and release of bonded labourers but every effort must be made by them to see that the freed bonded labourers are properly and suitably rehabilitated after identification and release.

2. This issue of rehabilitation of freed bonded labourers arises squarely in the present writ petition. The writ petition is based upon a letter dated September 20, 1982 addressed to one of the Judges of this Court by the petitioner who is Civil Rights Correspondent of Statesman a leading newspaper in the country. This letter was directed to be treated as a writ petition but for the sake of completeness, before notice was issued to the respondent, Mr Govind Mukhoty, learned advocate who was good enough to accede to the request of the Court to appear on behalf of the petitioner, filed a regular writ petition in substitution of this letter and it is that writ petition which is now being disposed of by us. The petitioner averred in the writ petition that about 135 bonded labourers who were working in the stone quarries in Faridabad had been released from bondage by an order made by this Court in the first week of March, 1982 since they were found to be bonded labourers within the meaning of the Bonded Labour System (Abolition) Act, 1976 and on release, they had been brought back to their respective villages in Bilaspur District of the State of Madhya Pradesh with a promise of rehabilitation by the Chief Minister of that State. But, said the petitioner, when she visited three villages, namely, Kunda, Pandharia and Bhairavpura in

Mungeli Taluk of Bilaspur District in September, 1982 with a view to ascertaining whether or not the process of rehabilitation as promised by the Chief Minister had commenced, she found that most of the released bonded labourers who belonged to these three villages had not yet been rehabilitated though about six months had passed since their release and they were living almost on the verge of starvation. It may be pointed out that out of 135 released bonded labourers, about 75 belonged to these three villages and 45 out of them were from village Kunda. It is also significant to note that all the 75 released bonded labourers from these three villages belonged to Scheduled Castes. The petitioner annexed to the writ petition a copy of an article written by her and published in the issue of Statesman dated September 14, 1982 in which she set out how these released bonded labourers were without land and work, facing immense hardship and near-starvation in the absence of any rehabilitation assistance provided by the State Government. This article written by the petitioner setting out what she personally observed in the course of her visit to the three villages, namely, Kunda, Pandharia and Bhairavpura discloses a distressing state of affairs which shows how utterly callous and indifferent can the administrative machinery of the State Government be towards the plight of the released bonded labourers despite assurance of rehabilitation given by the Chief Minister. It seems that once these freed bonded labourers were brought back to their villages, the administration of the State Government thought they had discharged their duty and then they conveniently forgot about the existence of these unfortunate specimen of humanity. The fate which befell these released bonded labourers after their repatriation to their respective villages is perhaps symptomatic of what is happening to bonded labourers in other parts of the country. In the first place, very little attention is paid towards identification and release of bonded labourers and even if they are freed, there is complete neglect of rehabilitation programme for them with the result that from slavery they go back to starvation. That is why when the petitioner interviewed some of these bonded labourers they said that they would rather go back to the stone quarries for work than starve and added : "we might have been killed there, but we are also dying here". It is interesting to find that according to the information gathered by the petitioner, more than 100 years ago 90 per cent of the land was owned by Satnamis while now they own less than 50 per cent. The petitioner pointed out in the writ petition that some of these released bonded labourers owned land at one time but they had lost it to the Sahukars, that is, the money-lenders and some of them had pledged their jewellery and other small belongings in order to raise money for their subsistence. Some of these released bonded labourers were, according to the petitioner, going to the Bhadora forest to get bamboo

and wood which they would sell and they had to walk 10 kms. carrying head loads weighing 20 kgs. and more which would fetch them upto Rs 10 to Rs 15, though, if they were caught by the forest guards or policemen in this process, they would have to part with three or four days' earnings. The petitioner said that there were various schemes of the Government for the purpose of providing rehabilitation assistance to freed bonded labourers and there were also the Integrated Rural Development Plan and the 20-Point Economic Programme but "the benefits had been cornered by those with political influence and the well-to-do in the villages". The petitioner urged in the writ petition that it was the obligation of the State Government to ensure rehabilitation of freed bonded labourers under the provisions of the Bonded Labour System (Abolition) Act, 1976 and its failure to provide such rehabilitation assistance amounted to violation of the fundamental right of the freed bonded labourers under Article 21 of the Constitution. The petitioner therefore prayed for a direction to the State Government to take steps for the economic and social rehabilitation of the freed bonded labourers who were released as a result of the order made by this Court in the first week of March, 1982 and who were residing in various villages in Bilaspur District.

3. When this writ petition came up for preliminary hearing before the Court, notice was issued to the State Government and the State Government was directed to "inform the Court at the next hearing of the writ petition as to whether they have framed any scheme or schemes for rehabilitation of bonded labourers, whether any vigilance committees have been constituted in the District of Bilaspur and whether any and if so what steps have been taken or are being taken for rehabilitating 135 workers who were released by the order made by this Court in the first week of March, 1982 and who are now living in the three villages, namely, Kunda, Pandharia and Bhairavpura in Mungeli Taluk of Bilaspur District". Pursuant to this direction given by the Court, the State Government filed the counter-affidavit of one G.R. Mahajan, Asstt. Labour Commissioner at Bilaspur setting out what steps had been taken and were being taken by the State Government for identification, release and rehabilitation of bonded labourers. The State Government pointed out that "very often vested interests veil successfully the status of bonded labourers and thus obstruct the process of identification, the labourers themselves are not educated enough to come forward and lodge a complaint : they appear to be reconciled themselves to their fate" and that is why there is a wide gap between legal discharge of bonded labourers and their factual liberation. The State Government observed that all District Magistrates in the State were conferred powers under Section 10 of the Act and powers of Judicial Magistrate First Class for the trial of offences under

Section 21 of the Act were also conferred on all District Magistrates and Sub-Divisional Magistrates and repeated instructions were issued to the District Magistrates to identify bonded labourers. The State Government also pointed out that vigilance committees had been constituted by it in all the 44 districts of the State as required by Section 13 of the Act. The State Government also set out the composition of the vigilance committee for the Bilaspur District as also of the vigilance committees for the sub-divisions of Bilaspur, Jangjir, Katghora, Sakti and Mungeli. These vigilance committees, according to the particulars given by the State Government, included three non-Government nominees, but the performance of these vigilance committees appeared to be rather dismal, because on the admission of the State Government itself the number of bonded labourers identified, freed and rehabilitated in the whole of the State could not but be regarded as ridiculously low. The figures given by the State Government in the affidavit of G.R. Mahajan showed that in all 1531 bonded labourers were identified in the year 1978, 75 in the year 1980, 57 in the year 1981 and 114 in the year 1982 and even in regard to these freed bonded labourers, the State Government was not in a position to state definitely that they had been rehabilitated but all that the State Government could say was that "steps were taken for their rehabilitation". It is absurd to suggest that in the whole of the State there were only about 1800 bonded labourers and they were all freed in the course of four years, leaving no more bonded labourers in the State. It is significant to note that apart from the present writ petition, several other cases have come before this Court from Madhya Pradesh by way of public interest litigation initiated by social action groups engaged in the task of identification, release and rehabilitation of bonded labourers and the reports of the Commissioners, appointed by this Court in some of those cases have clearly shown that there is a sizable number of bonded labourers in the State who have yet to be identified, released and rehabilitated. But the absurdly insignificant figures of bonded labourers identified and released by the State administration so far are clearly indicative of the indifference and inadequacy of the State administration in securing identification, release and rehabilitation of bonded labourers within the State. Perhaps this indifference and inadequacy of the State administration arises from the fact that the State Government is not willing to admit the existence of bonded labour within its territory lest it might affect its image and moreover the officers of the State administration seem to be taking the view that unless a workman is able to show that he is forced to provide labour to the employer in consideration of an advance or for any other economic consideration received by him, he cannot be regarded as a bonded labourer within the meaning of the definition of that term in the Bonded Labour

System (Abolition) Act, 1956. But, having regard to the decision of this Court in *Bandhua Mukti Morcha v. Union of India*¹, it is clear that this view on which the officers of the State administration seem to be relying for the purpose of disputing the existence of bonded labour is erroneous. We have pointed out in our judgment in *Bandhua Mukti Morcha case*¹ that :

It would be cruel to insist that a bonded labourer in order to derive the benefits of this social welfare legislation, should have to go through a formal process of trial with the normal procedure for recording of evidence. That would be a totally futile process because it is obvious that a bonded labourer can never stand up to the rigidity and formalism of the legal process due to his poverty, illiteracy and social and economic backwardness and if such a procedure were required to be followed, the State Government might as well obliterate this Act from the statute book. It is now statistically established that most of bonded labourers are members of Scheduled Castes and Scheduled Tribes or other backward classes and ordinary course of human affairs would show, indeed judicial notice can be taken of it, that there would be no occasion for a labourer to be placed in a situation where he is required to supply forced labour for no wage or for nominal wage, unless he has received some advance or other economic consideration from the employer and under the pretext of not having returned such advance or other economic consideration, he is required to render service to the employer or is deprived of his freedom of employment or of the right to move freely wherever he wants. Therefore, 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. The State Government cannot be permitted to repudiate its obligation to identify, release and rehabilitate the bonded labourers on the plea that though the concerned labourers may be providing forced labour, the State Government does not owe any obligation to them unless and until they show in an appropriate legal proceeding conducted according to the rules of adversary system of justice, that they are bonded labourers.

1. (1984) 3 SCC 161 : 1984 SCC (L&S) 389

This is the test which has to be applied for the purpose of determining whether a workman is a bonded labourer or not and we would therefore direct the State Government to apply this test throughout its territory for the purpose of ascertaining whether there are any bonded labourers or not and if so how large is their number. Whenever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer unless the employer or the State Government is in a position to prove otherwise by rebutting such presumption.

4. The State Government also pointed out in the affidavit of G.R. Mahajan that instructions had been issued to all the Collectors and Commissioners to give widest possible publicity to the evil of the bonded labour system and the cooperation of the members of the Legislative Assembly was also sought in this vital task of identification, release and rehabilitation of bonded labourers and all the panchayats in the State were also asked to cooperate with the State Government in this behalf. The State Government observed in the affidavit that it had also announced an award of Rs 25 to those who give information about the existence of bonded labour. It is difficult to believe that the existence of bonded labour can be discovered and the evil of bonded labour can be wiped out by relying solely on action to be taken by the members of the Legislative Assembly or the bureaucracy or even the panchayats though their help must certainly be sought and taken. The Commissioners and Collectors have multifarious duties to attend and even if they are anxious to help in eradication of the vice of bonded labour system, which we are sure they are, they would not find time to make any personal enquiry or investigation but they would have to rely on their subordinate officers such as tehsildars and patwaris and at many places, the patwaris and tehsildars being either in sympathy with the exploiting class or lacking in social commitment or indifferent to the misery and suffering of the poor and the downtrodden, the task of identification, release and rehabilitation of bonded labour through the official machinery would be very difficult of achievement. So also the members of the Legislative Assembly, though extremely sincere and well meaning and having the welfare of the poor at heart, would, barring perhaps in a few cases, hardly have time to carry out any enquiry or investigation for the purpose of identification and release of bonded labourers. The panchayats also, dominated as they sometimes are, by vested interests, and having regard to their mode of functioning, may not be very effective in this task. What is really necessary is to involve social action groups operating at the grass roots level in the task of identification and release of bonded labourers. We do not think much useful purpose will be served by asking petty officials of the

Revenue Department to go from house to house with a view to ascertaining whether there are any bonded labourers or not. We had some time back a case before us where pursuant to a direction given by the Collector as a result of an order made by this Court, the tehsildar went to the villages in question and sitting on a dias with the landlords by his side, he started enquiring of the labourers whether they were bonded or not and when the labourers, obviously inhibited and terrified by the presence of the landlords, said that they were not bonded but they were working freely and voluntarily, he made a report to the Collector that there were no bonded labourers. It is only through social action groups working amongst the poor that we shall be able to discover the existence of bonded labour and we shall be able to identify and release them. There are fortunately in our country a large number of such dedicated social action groups — young men and women inspired by idealism and moved by a passionate and burning zeal to help their fellow beings — whose services can be utilised for identification, release and rehabilitation of bonded labourers. We would strongly urge upon the State Government to include the representatives of such social action groups in the vigilance committees and to give them full support and cooperation. These social action groups may appear to be unorthodox and unconventional and their actions may be marked by a sense of militancy, but they alone will be able to deliver the goods and it is high time that the State Government should start taking their assistance instead of looking at them askance and distrusting them. The vested interests would undoubtedly be against such social action groups which are trying to organise the poor and the oppressed and would try to attack and destroy such social action groups with all the resources at their disposal including filing of false cases and even physical assaults but the State administration should not allow itself to be dominated or influenced by the vested interests and under the guise of maintenance of law and order, harass and oppress the disadvantaged sections of the community whom such social action groups are trying to organise with a view to making them strong and self-reliant and capable of fighting for their rights through the process of law. We would therefore direct the State Government to include in the vigilance committee for Bilaspur District, as also in the vigilance committees of the various sub-divisions in that district, representatives of one or more of the following social action groups which are operating in one or the other part of that district :

- (1) Shri Sita Ram Kashyap, Advocate, "Lahar", Janajgeer Tehsil, District Bilaspur.
- (2) Shri Chandran, "Lahar", Near Korba, Bhainsa Munda, District Bilaspur.

(3) Shri J.R. Sachdev, Prayog Samaj Sevi Sanstha, P.O. Tilda, Neora, District Raipur-493114, Madhya Pradesh.

We expect the State Government to carry out this direction within one month from today. We would also direct the State Government to take immediate action for identification and release of bonded labourers, whenever any representative of these social action groups, whether on the vigilance committee or not, points out to the Collector/District Magistrate or the Deputy Collector that there is existence of bonded labour at a particular place and whenever any officer of the district administration goes to such place for identification and release of bonded labour on the basis of the information given by such representative of the social action group, he shall take such representative with him and a copy of the report made by him shall be handed over immediately to such representative of the social action group. We may make it clear that this direction given by us should not be interpreted to mean that the representatives of only those social action groups which are mentioned by us should be taken on the vigilance committees, but it will be open to the State Government to include in the vigilance committees representatives of any other social action groups which the State Government may think fit, having regard to the nature and quality of the work done by them at the grass roots level amongst the have-nots and the handicapped.

5. It appears that a review of the action taken by the State Government for the purpose of identification, release and rehabilitation of bonded labourers was undertaken in April, 1981 and a detailed survey was carried out in the districts of Satna, Panna, Bastar, Raigarh and Jabalpur. The learned counsel appearing on behalf of the State Government has filed a summary of conclusions and recommendations of this review and this summary frankly and boldly exposes the inadequacies of the State administration in regard to the implementation of the programme of identification, release and rehabilitation of bonded labourers and makes constructive suggestions and recommendations for remedying the existing state of affairs. We hope and trust that these suggestions and recommendations will be immediately carried out by the State Government and the entire machinery for identification, release and rehabilitation of bonded labourers will be streamlined in the light of these suggestions and recommendations. We do not think that it would be right for us to discuss these suggestions and recommendations because they involve administrative policy-making but there are a few observations we would like to make arising out of some of these suggestions and recommendations. One of the suggestions and recommendations made by the survey team is that : "the district and sub-divisional level vigilance committees should be *reorganised and activated* and their meetings should be more

frequent than now". This suggestion or recommendation clearly supports what we have said in the preceding paragraphs of this judgment, namely, that the vigilance committees as they exist today are not effective and they need to be reorganised and activated. We have no doubt that the direction given by us to include representatives of social action groups will go a long way towards activating the functioning of the vigilance committees. It is also necessary that officers who are posted at different levels to deal with the problems of bonded labour including their identification, release and rehabilitation should be properly trained and sensitised so that they may feel a sense of involvement with the misery and suffering of the poor and they may carry out their functions with total dedication to the cause of removal of poverty and in a manner which will inspire the confidence of the weaker sections of the community including the bonded labour. Every officer who is placed in charge of identification, release and rehabilitation of bonded labour should be made fully conscious of his great responsibility and he should be imbued with a sense of purpose and dedication which are necessary if this important task is to be accomplished successfully. It is also essential that there should be constant check and supervision over the activities of the officers charged with the task of securing identification, release and rehabilitation of bonded labourers. We have fortunately in our country quite a large number of socially committed officers who, inspired by idealism with their enthusiasm undiminished, minds untrammelled and hearts unpolluted by all kinds of pressures, are prepared to brave opposition and sometimes even danger, in order to help the deprived and vulnerable sections of the community. Such officers must be encouraged and their efforts appreciated so that they may become exemplary models for other officers to follow. The summary of conclusions and recommendations in paragraph 7 suggests that "an intensive survey of the area which has been traditionally prone to the system of debt bondage should be undertaken by the Revenue Department with the help of the available field agencies for the identification of bonded labourers". We would introduce a slight modification to this recommendation and we would suggest that an intensive survey of the areas which have been traditionally prone to the system of debt bondage should undoubtedly be undertaken but that should be done by the vigilance committees with the assistance of social action groups operating in such areas and that is perhaps what the survey team had in mind when they said that the help of "available field agencies" should be taken by the Revenue Department. We find ourselves wholly in agreement with the suggestions and recommendations set out in paragraphs 9 to 17 of the summary of conclusions and recommendations. We have no doubt that if these suggestions and recommendations are sincerely and speedily implemented

by the State Government, it would go a long way towards rehabilitation of the released bonded labourers. We have plenty of good schemes in our country but the real difficulty lies in securing their proper and effective implementation. The evaluation of the implementation of these schemes must be target-oriented and not expenditure-oriented. What is necessary is that the benefits of the expenditure must reach the masses and particularly the lowest amongst the low and the weakest among the weak, because they constitute the target groups sought to be benefited and if the benefits do not reach them, it is futile for any government to say that it has expended such large amount. We would therefore urge upon the State Government to immediately take up the implementation of the suggestions and recommendations made by the survey team in its report and inform the Court by an affidavit to be filed by a responsible officer on or before July 31, 1984 as to what concrete steps have been taken towards implementation of these suggestions and recommendations and how many bonded labourers have been identified and freed and how many of them have been rehabilitated and in what manner. It is the plainest requirement of Articles 21 and 23 of the Constitution that bonded labourers must be identified and released and on release, they must be suitably rehabilitated. The Bonded Labour System (Abolition) Act, 1976 has been enacted pursuant to the Directive Principles of State Policy with a view to ensuring basic human dignity to the bonded labourers and any failure of action on the part of the State Government in implementing the provisions of this legislation would be the clearest violation of Article 21 apart from Article 23 of the Constitution.

6. It is obvious from the writ petition as also from the affidavits filed in these proceedings that the large majority of 135 bonded labourers released as a result of the order made by this Court in the first week of March, 1982 have not yet been rehabilitated though more than 18 months have passed. We wonder how these outcasts of humanity, forgotten by their fellow beings and neglected, by their government, must be eking out their daily existence : how they must be feeding the hungry bellies of their children and how they must be covering the shame of their wives. These unfortunate human beings for whom life is a long unceasing rigel with no resources except perhaps a forlorn hope, who cannot even cry for help because they know that it will be a cry in the wilderness which no one will hear and who drag on their earthly existence in the hope that one day death will relieve them from their misery and suffering, today ask the Legislature, the Executive and the Judiciary, "What have you done for us ; have we not a right to live with human dignity and share with all of you the fruits of freedom and development or are we consigned to a life of slavery and starvation where we see before

our eyes the emaciated bodies of our children with hollow cheeks, sunken eyes and shrivelled bodies withering away and dying?" We would therefore direct the State Government to provide rehabilitative assistance to these 135 freed bonded labourers within one month from today. They have waited too long; they cannot wait any longer. What kind of rehabilitative assistance should be provided and what would be appropriate for the family of a particular freed bonded labourer would have to be decided by the vigilance committee and such rehabilitative assistance shall be provided by the State Government in the presence of a representative of one of the social action groups to which we have specifically referred in the earlier part of this judgment. The Collector/District Magistrate, Bilaspur will give sufficient notice to such representative so that he can remain present at the time when rehabilitative assistance is provided to these 135 freed bonded labourers. The State Government will file an affidavit of a responsible officer stating how and in what manner the State administration has provided rehabilitative assistance to these 135 freed bonded labourers and which representative of the social action groups was present at the time when such rehabilitative assistance was given. Such affidavit shall be filed on or before July 15, 1984.

7. The writ petition will be placed on board on August 6, 1984 for consideration of the affidavits which may be filed by the State Government pursuant to the directions given by us in this judgment. The State Government will pay to the petitioner costs of the writ petition quantified at Rs 5000. We must in the end express our deep gratitude to Mr Govind Mukhoty who has so ably, with a sense of social commitment and dedication, presented the case on behalf of the petitioner and assisted the Court in arriving at its decision.

AMARENDRA NATH SEN, J. (*supplementing*)—I have had the benefit of reading the judgment of my learned brother Bhagwati, J. The facts have been set out in the judgment of my learned brother. Though I am in general agreement with the directions given and orders proposed by my learned brother, I wish to make my own observations.

9. These orders have been passed and directions have been given so that responsibility and legal obligations of the respondent in the matter of properly rehabilitating bonded labourers freed from bondage may be duly discharged. Bonded labour system had been one of the vile systems which had been degenerating human beings for years. Appreciating the unjust, immoral and pernicious nature of this system, our country which values human dignity and guarantees personal freedom had passed appropriate legislation to do away with this system. The Bonded Labour System (Abolition) Act, 1976, abolishing bonded

labour system and making various other provisions including provisions for the rehabilitation of bonded labourers was enacted. It is indeed sad and unfortunate that though this piece of welfare legislation was passed years ago, no proper steps were being taken for implementation of the same. Various social organisations and individuals working for the upliftment of the poor, weak and the downtrodden had brought to the notice of the Court the pitiable plight in very many parts of our country of the bonded labourers who were being exploited and held in bondage notwithstanding the passing of the Bonded Labour System (Abolition) Act, 1976. Suitable action had been taken by the Court for freeing bonded labourers from bondage and restoring to them the liberty guaranteed under the Constitution in all appropriate cases. Action taken by the Court had the effect of creating an awareness not only in the minds of the sufferers but had also helped to an extent in removing the inertia and lethargy in the administration which started taking appropriate steps for implementation of the provisions of this eminently beneficial social welfare legislation, either on the basis of the directions given by the Court or on its own initiative.

10. It has to be appreciated that mere passing of welfare legislation for the upliftment of the downtrodden, the meek and the weak is by itself not sufficient, though undoubtedly the legislation is the first step in the right direction. What is really important is that every law enacted, particularly welfare legislation for the benefit of the weaker section of the people, must be implemented in the proper spirit for achieving the noble object for which such legislation is passed. Implementing the law has, necessarily to be effected through human agencies. Unfortunately, frailties of human nature and degeneration of human character often add to existing problems instead of solving them.

11. The provisions of the Bonded Labour System (Abolition) Act, 1976 must be implemented effectively and properly in terms of the provisions of the Act, if the desired objective which the Act seeks to achieve, is to be attained. The Legislature in its wisdom very aptly appreciated that mere release of the bonded labourer from bondage without making appropriate arrangements for his rehabilitation will serve no useful purpose and may even create a very real problem as to livelihood of the labourer so set free and accordingly the legislation made suitable provision for the rehabilitation of the bonded labourer. If any bonded labourer is only freed from his bondage and is set at liberty, he will in all probability have to slide back into bondage again to keep his body and soul together. Freedom from bondage without effective rehabilitation after such freedom will

258

SUPREME COURT CASES

(1984) 3 SCC

indeed be of no consequence and in the absence of proper arrangement for such rehabilitation being made, the entire purpose of the Act will be frustrated and the vice of the bonded labour system which the Legislature thought it fit to abolish in the larger interest not only of our country, but also of humanity as a whole will continue to perpetuate its evil existence.

12. The real grievance of the petitioner in this writ petition based on personal knowledge is with regard to non-implementation of the legislative provisions made for the rehabilitation of the bonded labourers after they had been freed. A sad and woeful tale is narrated in the writ petition about the plight of the bonded labourers set free pursuant to the orders of this Court for not taking effective measures enjoined by law for their rehabilitation. It becomes the duty of the Court to see that the legislative provisions regarding their rehabilitation are properly implemented and these poor and miserable persons are allowed to enjoy the benefit which the law and the Constitution of the land afford to them.

13. With these observations, I express my agreement with the directions given and orders proposed by my learned brother in the judgment.

(1984) 3 Supreme Court Cases 258

(BEFORE A.P. SEN AND A. VARADARAJAN, JJ.)

Civil Appeals Nos. 11970-71 of 1983

CHINGLEPUT BOTTLERS .. Appellants ;

Versus

MAJESTIC BOTTLING COMPANY .. Respondents.

And

Civil Appeal No. 11972 of 1983

STATE OF TAMIL NADU .. Appellant ;

Versus

MAJESTIC BOTTLING COMPANY .. Respondents.

Civil Appeals Nos. 11970-11972 of 1983†,
decided on March 15, 1984

Constitution of India — Article 226 — Mandamus — When cannot be issued — Where grant of licence by Commissioner is subject to final discretion of State Government but writ petition is filed against Commissioner's

†Appeals by special leave from the Judgment and Order dated July 27, 1983 of the Madras High Court in W.A. Nos. 523, 531 and 528 of 1983