

W.P.(CRL) No. 2069/2005

SAVE THE CHILDHOOD FOUNDATION Petitioner

Through: Ms. Prabhsahay Kaur with Mr. Bhuwant Ribhu and Mr. Anand Kumar,
Adv.

Versus

UNION OF INDIA and ORS. Respondents

Through: Mr. V.K. Tandon, Adv. with Mr. Rajinder Dhar, Addl. Labour
Commissioner for GNCTD.

Ms. Meera Bhatia, Adv. for UOI.

SI Jagdeep Malik, PS Geeta Colony.

Insp. Anil Kumar, ATO/PS Bawana.

Ms. Mini Pushkarna, Standing Counsel and Ms. Namrata, Adv. for
MCD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R

05.11.2014

1. Vide order dated 24th September, 2008 in this petition as well as
in W.P.(C) No. 9767/2009, W.P.(C) No.15090/2006, W.P.(C) No.4125/2007 and
W.P.(C) No.4161/2008, directions were issued to the National Commission
for Protection of Child Rights (NCPCR), for formulation of a detailed

action plan for strict enforcement and implementation of Child Labour?(Prohibition?
and?Regulation)?Act,?1986 and other related
legislations,

in consultation with various stakeholders and after conducting research
and survey and to also suggest measures for timely recovery and
proper

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utilization of funds collected under the directions in M.C. Mehta Vs.
State of Tamil Nadu AIR 1997 SC 699.

2. In accordance with the aforesaid direction, a Delhi Action Plan for
Total Abolition of Child Labour was prepared and presented to this Court.
This Court, vide judgment dated 15th July, 2009, accepted the aforesaid
plan called the Delhi Action Plan, which provides a detailed procedure
to be followed by the Labour Department for interim care and protection
of rescued children and directed all authorities concerned to immediately
implement the same. The Government of National Capital Territory of Delhi
was directed to file the First Action Taken Report.

3. This Court thereafter has been supervising and goading
implementation of the Delhi Action Plan and Status Reports were filed
from time to time.

4. However the petitioner, from time to time continued to point out the deficiencies and lackadaisical approach of the authorities concerned.

5. Ultimately vide order dated 16th July, 2014 the petitioner was requested to come up with constructive proposals for crossing the hurdle of the deficiencies pointed.

6. The petitioner, in compliance therewith, has on 4th August, 2014 made the following suggestions:-

(i) all enforcement agencies should understand Child Labour as meaning the system of employing or engaging a child to provide labour or service to any person, for any payment or benefit, paid to the child or to any other person exercising control over the said child;

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(ii) constitution of a Steering Committee on Child Labour at the State level headed by the Divisional Commissioner, to ensure compliance of all laws and Court directions;

(iii) action on complaints of a child labour within 24 hours of the receipt of the complaint and latest within three days if number of child labour are above 100;

(iv) compulsory registration of all factories and other places of production employing young labour, by the Labour Department;

(v) conducting at least 20 large scale child rescue operations per

month and laying down a target of rescuing at least 500 children in a month;

(vi) the police, while registering FIR in a case of child labour should also invoke Sections 370, 370A of the IPC, Sections 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000, Sections 3 and 14 of Child Labour (Prohibition and Regulation) Act, 1986, Section 16 of Bonded Labour System (Abolition) Act, 1976 and on rescue of girl children, if any sexual exploitation is found, appropriate provisions of the Protection of Children from Sexual Offences Act, 2012

(vii) intensive investigation by the Investigating Officer throughout the chain of trafficking;

(viii) collection of material evidence in respect of age, as per Rule 12 of Juvenile Justice (Care and Protection of Children) Act, 2000 by the Investigation Officer and for providing proper

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counselling by the officer of Child Welfare Committee before recording statement under Section 164 Cr.P.C. before the Metropolitan Magistrate;

(ix) laying down a target of completing investigation within 45 days

from the rescue of the child, so that necessary formalities for rehabilitation and compensation can be completed within the said time;

(x) the Investigation Officer should forward the cases of child labour to the appropriate authorities / department for recovery of due back wages, compensation for victims and if applicable, compensation under Section 357A Cr.P.C.;

(xi) police officials having custody of child should produce the child before the Sub Divisional Magistrate, Child Welfare Committee, Metropolitan Magistrate and Dy. Labour Commissioner;

(xii) constitution of teams at the District Level under the supervision of Steering Committee of Delhi for identification of child labour and for such identification drives to be conducted at least once in a month;

(xiii) Dy. Labour Commissioner to immediately initiate proceedings for recovery of due wages of rescued child;

(xiv) sealing of premises from where children have been rescued;

(xv) immediate recovery of Rs.20,000/- from the employer of child labour as an arrear of land revenue;

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(xvi) action including of sealing of establishment / cancellation or suspension of license failing the recovery of fine within one week;

(xvii) if the facts and circumstances in which child labourers are found for drawing the presumption that child labour is forced / bonded labour within the meaning of Bonded Labour System (Abolition) Act, 1976 and action thereunder;

(xviii) Divisional Commissioner to preside over the meetings of the Steering Committee on monthly basis;

(xix) Divisional Commissioner to formulate schemes for providing incentives, scholarship etc. to children from Delhi who are unable to continue their education; and,

(xx) for formulation of schemes for identification, rescue and withdrawal of child labour engaged or employed in begging or selling various items at traffic junctions.

7. The counsel for the Government of National Capital Territory of Delhi under instructions from Mr. Rajinder Dhar, Addl. Labour Commissioner present in Court states that the aforesaid suggestions of the petitioner are found to be within the ambit of Delhi Action Plan and have been accepted by the Government of National Capital Territory of Delhi and

will be implemented.

8. We bind the respondent to the aforesaid statement.

9. The counsel for the petitioner states that in view of the above no further orders are necessary.

10. We accordingly dispose of this petition.

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11. We also take this occasion to convey our appreciation for the sustained efforts put in by the petitioner, during the last nearly nine years since when these proceedings are pending, for the cause of eliminating child labour and for saving childhood. We also place on record our deep pleasure for the public recognition of the works of Mr. Kailash Satyarthi, one of the trustees of the petitioner, by the conferment of Nabal Peace Prize on him.

CHIEF JUSTICE

NOVEMBER 05, 2014

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