

SC 'directions' in child labour case

From T. Padmanabha Rao

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The Supreme Court today in a significant judgment — aimed at abolition of child labour in occupations specified in the Child Labour (Prohibition and Regulation) Act, 1986, and implementation of "free and compulsory education" for all children until they attain the age of 14 years as prescribed under Article 45 of the Constitution — gave a series of "directions" to all the States, including Tamil Nadu, the Union Territories and the Central Government for compliance.

Mr. Justice B. L. Hansaria, who delivered the judgment of the Bench, directed those employers offending the 1986 Act to pay a compensation of Rs.20,000 for every child employed.

This fine should be deposited in a fund to be known as "Child Labour Rehabilitation-cum-Welfare Fund". This fund could be "district-wise or area-wise" and the fund so generated shall form corpus whose income shall be used only for the child concerned. The quantum could be the income earned on the *corpus* *qua* the child and to generate greater income, the fund can be deposited in high-yielding scheme of any nationalised bank or other public body.

The Bench, noting that the income accruing from the corpus fund of Rs. 20,000 (per the child concerned) would not be enough to dissuade the parent/guardian from seeking employment of the child, directed the appropriate government (in relation to the offending employer employing the concerned child) to deposit in the "aforesaid fund" Rs. 5,000 for each child, if the government concerned is not in a position to provide a job to an adult in the family.

The Bench, which included Mr. Justice Kuldip Singh and Mr. Justice S. B. Majumdar, said the aforesaid would either see an adult (whose name would be suggested by the parent/guardian of the child concerned) getting a job in lieu of the child, or deposit Rs. 25,000 in the "Child Labour Rehabilitation-cum-Welfare Fund".

In case of getting employment for an adult,

the parent/guardian shall have to withdraw his child from the job. Even if no employment would be provided, the parent/guardian shall have to see to it that his child is spared from the requirement to do the job, as an alternative source of income would have become available to him.

Other directions given by the Court to all the States, the Union Territories and the Centre are that:

A survey would be made of the "aforesaid type of child labour" which would be completed within six months from today.

To start with, work could be taken up regarding those employments which have been mentioned in Article 24 of the Constitution (prohibiting child labour in any hazardous industries etc) which may be regarded as core sector, to determine which the hazardous aspect of the employment would be taken as criterion. The most hazardous employment may rank first in priority, to be followed by comparatively less hazardous and so on.

The National Child Labour Policy as announced by the Centre has already identified some industries for priority action and the industries to be identified are: the match industry in Sivakasi, Tamil Nadu; the diamond polishing industry in Surat, Gujarat; the precious stone polishing industry in Jaipur, Rajasthan; the glass industry in Firozabad, Uttar Pradesh; the brass-ware industry in Moradabad, Uttar Pradesh; the hand-made carpet industry in Mirzapur-Bhadchi, Uttar Pradesh, the lock-making industry in Aligarh, Uttar Pradesh; the slate industry in Markapur, Andhra Pradesh and the slate industry in Mandasaur, Madhya Pradesh.

The employment to be given as per the court's direction could be dovetailed into other assured employment.

On this being done, "it is apparent that our direction would not require generation of much additional employment," the Bench observed.

The employment so given could as well be the industry where the child is employed, a public undertaking and would be manual in nature

inasmuch as the child in question must be engaged in doing manual work. The undertaking chosen for employment shall be one which is nearest to the place of residence of the family, the Bench said.

In those cases where alternative employment would not be made available, the parent/guardian of the child concerned would be paid the income which would be earned on the corpus, which would be Rs. 25,000 for each child every month.

"The employment given or payment made would cease to be operative if the child would not be sent by the parent/guardian for education," the Bench directed.

On discontinuation of the employment of the child, his education would be assured of in a suitable institution with a view to making it a "better citizen".

A district could be a unit of collection so that the executive head of the district keeps a watchful eye on the work of the Inspectors. Further, in view of the magnitude of the task, a separate cell in the Labour Department of the appropriate Government would be created.

Monitoring of the scheme would be necessary and the Secretary of the Department could perhaps do this work.

"Overall monitoring by the Ministry of Labour, Government of India, would be beneficial and worthwhile," the Bench noted.

The Secretary, Union Ministry of Labour, shall apprise this court "within one year of today" of the compliance of directions given in this judgment.

If Mr. M. C. Mehta, advocate (petitioner in this public interest litigation) would need any further or other order in the light of the compliance report, it would be open to him to do so, the Bench said.

On the directions given in this judgment being carried out, penal provision contained in the 1986 Act "would be used where employment of a child labour, prohibited by the Act, would be found".