ABSTRACT

Labour and Employment Department - Bonded Labour- Standard Operating Procedure for Identification, Release, Rescue and Rehabilitation of Bonded Labour and implementation of Bonded Labour System (Abolition) Act, 1976 – Approved - orders issued.

Labour and Employment (U1) Department

G.O.(Ms).No.35

Dated 08.03.2019
விளம்பி வருடம், மாசி 24
திருவள்ளுவர் ஆண்டு 2050

Read:

1. From the Government of India, Ministry of Labour and Employment, Central Sector Scheme for Rehabilitation of Bonded Labourer-2016, Letter F.No.S-11012/01/2015-BL, dated 18.05.2016 and 23.06.2017.
2. From the Government of India, Ministry of Labour and Employment, Letter F.No.S-11012/01/2015-BL(Pt), dated 17.08.2017.
3. G.O.(Ms).No.163, Labour and Employment (U1) Department, dated 21.09.2017.
4. From the Commissioner of Labour, Chennai-6, letter No.T2/39824/2018, dated 23.02.2018 and 12.11.2018.

ORDER:-

In the letter first read above, the Government of India, Ministry of Labour and Employment have launched a revamped Central Sector Scheme for Rehabilitation of Bonded Labourer-2016 with effect from 17.05.2016.

2. In the letter second read above, the Government of India, Ministry of Labour and Employment have released the Standard Operating Procedure of Identification and Rescue of Bonded Labourer and Prosecution of offenders.

3. In the Government order third read above, the Government of Tamil Nadu have released a State Action Plan for Release, Rescue and Rehabilitation of Bonded Labourer and implementation of Bonded Labour System (Abolition) Act, 1976.

4. Accordingly, the Commissioner of Labour has sent a draft Standard Operating Procedure in the brief handout containing an uniform procedure for identification, release, rescue and rehabilitation of Bonded Labour to guide the implementing agencies of the Bonded Labour System (Abolition) Act, 1976 and the Central Sector Scheme for Rehabilitation of Bonded Labourer-2016 along with suggestions of line departments like State Project Director for Sarva Shiksha Abhiyan, Director of Industrial Safety and Health, Director of Employment and Training, Commissioner & Director of Industries and Commerce, Director of Public Health and Preventive Medicine etc., to the Government for approval.

5. The Government have examined the proposal of Commissioner of Labour carefully and approve the Standard Operating Procedure for Identification, Release, Rescue and Rehabilitation for Bonded Labourers, annexed to this Government order.

6. The Standard Operating Procedure will be followed by the concerned officials with fullest co-operation and will promote the implementation of uniform procedure and to ensure the clarification of understanding on the subject awareness & proper analysis combined with the basic objective of assisting the District Collectors and their team to achieve the goal of abolition of Bonded Labour System in our State.

7. The progress details, datas of rescued Bonded Labourers, online updation, release of immediate assistance etc., shall be monitored by the Commissioner of Labour and a report shall be sent to Government every month.

(BY ORDER OF THE GOVERNOR)

SUNIL PALIWAL,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
All Secretaries to Government, Chennai-9.
The Commissioner of Labour, Chennai-600 006.
The State Level Officer (Bonded Labour), Chennai-600 006.
The Commissioner of Employment and Training, Chennai-600 032.
The Director of Industrial Safety and Health, Chennai-600 032.
The concerned Heads of the Departments and all Collectors
(through Commissioner of Labour.)

Copy to:
The Special Personal Assistant to Minister for Labour, Chennai-600 009.
The Private Secretary to Principal Secretary to Government,
Labour and Employment Department, Chennai-600 009.
Stock file / Spare copies

//FORWARDED BY ORDER //

12/3/19
SECTION OFFICER.
12/03/19

ANNEXURE

G.O. (Ms) No.35, Labour and Employment (U1) Department, Dated 08.03.2019

STANDARD OPERATING PROCEDURE FOR IDENTIFICATION, RELEASE, RESCUE AND REHABILITATION OF BONDED LABOURER

1. VISION

The Standard Operating Procedure is a brief handout containing an uniform procedure for identification, rescue, release and rehabilitation of bonded labour and prosecution of offenders which has been developed to guide the implementing agencies of the Bonded Labour System (Abolition) Act, 1976 and the Central Sector Scheme for Rehabilitation of Bonded Labourer- 2016.

2. COMPLAINT

2.1 The District Collector, Sub Collector, Revenue Divisional Officer, Jurisdictional Police Officer, Assistant Commissioner of Labour (Enforcement) and officials of Directorate of Industrial Safety and Health (hereinafter referred to as the authorities concerned) on receipt of a complaint, whether oral or written, by any person or facts constituting the commission of an offence under the Act, shall record it in writing including the time and date of receipt of such a complaint / information.

2.2 The authorities concerned shall issue a receipt to the complainant acknowledging that the complaint has been received and recorded.

2.3 The authorities concerned shall ensure that there is no tip-off or leak of information regarding the informant, complainant or the proposed rescue operation, at any stage.

3. RESCUE

3.1 The authorities concerned shall conduct a brief inquiry, as soon as possible within 24 hours from the time of complaint / information of Bonded Labour received.

3.2 The District Collector concerned shall form a rescue team which shall be multi-disciplinary and comprised of the following members,

a. one representative of the District Collector having jurisdiction not below the rank of Tahsildar to enable him to perform such duties as provided under Bonded Labour System (Abolition) Act, 1976 and Central Sector Scheme for Rehabilitation of Bonded labourer- 2016;
b. one Jurisdictional Police Officer not below the rank of Sub-Inspector of Police;
c. the Assistant Commissioner of Labour (Enforcement) and officials of Directorate of Industrial Safety and Health (hereinafter referred to as the DISH) having jurisdiction along with their subordinate officers to inquire into, enforce and compensate under various labour laws including Minimum Wages Act;

d. adequate number of police officers to secure the premises;
e. two or more women officers from Revenue / Labour /DISH concerned;
f. two independent witnesses, at least one of whom should be a woman ;
g. the complainant;
h. members of a civil society organization or social workers for rescued labourer support including counseling and other roles; and
i. any other necessary person nominated by District Collector.

3.3 If the authorities concerned has reason to believe that it is necessary to conduct the search and rescue operation without delay for any reason, including danger to the rescued labourer and likelihood of interference with potential evidence, notwithstanding that any member of the rescue team may be unavailable, they shall carry out the search and rescue operation, and give intimation to that member without any delay.

3.4 The authorities concerned in coordination with the Police shall ensure that the rescue location is secured, so as to protect the labourer from the offender and his associates.

3.5 The authorities concerned shall ask brief questions to the labourer in the absence of the offender and in the presence of a member of a civil society organization or a social worker to determine whether there are indications of bonded labour. Such brief questions should include questions regarding nature of the advance or other obligation, payment of minimum wages of rights, freedom to travel as per rule of Bonded Labour Act, such document as wages and ability of the labourer to leave or work elsewhere.

3.6 The authorities concerned shall ensure that all the relevant evidences if any available of the employer / Offender, such as phone books (directories with the number of other traffickers or accomplices), mobile phones, travel tickets and documents, accommodation receipts, bank statements, wage receipts/slips and registers, muster rolls, ledger books, bond agreement, notebooks, cash, weapons, locks, ownership documents, lease, license are photographed and seized by the police, and the offender is arrested as per the Code of Criminal Procedure, 1973 ("CrPC").

3.7 The authorities concerned shall ensure that the police prepare a "Magajar" seizure list and rescue memo detailing the identities of the rescued labourer and his contact details, and cause it to be signed by two independent and local witnesses.(Annexure – I and II) from the same of any other locality.

3.8 All police officers shall be competent to make arrest without warrant in accordance with Section 41 & 44 of the Code of Criminal Procedure, 1973 ("CrPC") duly adhering to the conditions for such arrest laid down therein.

3.9 The authorities concerned shall ensure that the labourers are moved out from the rescue location, and brought to safe location and given adequate protection from the offender and his associates. The authorities concerned shall also ensure that no bonded labourer is left behind.

4. RELEASE AND REHABILITATIONS

4.1 The authorities concerned shall provide the rescued bonded labourer with food, shelter, protection and medical screening / assistance.

4.2 In order to issue a release certificate, the authorities concerned shall conduct an enquiry in a free and fair environment, in respect of each labourer separately or with his family in the absence of the offender and in the presence of a member of a civil society organization or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked from the labourer should include questions regarding advance or other obligations, wage payments, freedom to travel, seek alternative employment, to sell or purchase of goods at market value, questions regarding other offences against schedule castes or tribes, offences against children etc. It shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedures for criminal trials do not apply to such an inquiry. (Annexure III)

4.3 The authorities concerned shall within 24 hours, issue a release certificate in the format prescribed in the Central Sector Scheme to each rescued bonded labourer, including children, found to be bonded labourer even if they are accompanied by families.

4.4 After issue of release certificate in the proforma prescribed in the Central Sector Scheme for Rehabilitation of Bonded Labourer-2016 and filing of FIR in the concerned Police Station, the concerned Assistant Commissioner of Labour (Enforcement) having jurisdiction should take appropriate action to release Rs. 20,000/- as immediate relief from District Bonded Labour Rehabilitation Fund Account, after getting approval from the respective District Collector, through ECS to each of the rescued bonded labourer whether resides in Tamil Nadu or an inter-state migrant worker including children found to be bonded labour even if accompanied by families.

4.5 The authorities concerned shall take necessary action for the medical examination of the victim by a registered medical practitioner for the purpose of age, injury or disease incidental to the exploitation and occupational health hazards.

4.6 The rescued bonded labourer shall be provided with necessary medical assistance by the concerned Deputy Director of Health Services in coordination with the Joint Director of Health Services if need be. In case of any children being rescued necessary health service including Immunization and Nutrition shall be provided.

4.7 In respect of trafficked / bonded children, the legal action should be initiated under the Bonded Labour System (Abolition) Act,1976 as well as under the Child and Adolescent Labour (P&R) Act, 1986 by the Revenue & Labour department respectively.

4.8 Where an Assistant Commissioner of Labour (Enforcement) / an official of DISH has an apprehension that a Child or an Adolescent has been employed in contravention to the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, he shall arrange to produce the Child / Adolescent for a medical examination by a Government Medical Officer not below the rank of an Assistant Civil Surgeon or a regular doctor of an equivalent rank employed in Employees' State Insurance

Dispensaries or Hospitals for the determination of age. Based on the age certificate issued by the above medical officers, the Assistant Commissioner of Labour (Enforcement) / Official of DISH has to take legal action under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 also, if applicable.

4.9 If the rescued bonded labour is a child, Samagra Shiksha Abiyan will provide academic support like admission in schools / special training centers immediately after identification, providing all cost free items supplied by the Government, providing on-site academic support by block resource teacher educator, mainstreaming of children in schools after completing special training and tracking their continuance in schools till they complete Elementary education. All these arrangements will be made by the local authorities working under the control of the Chief Educational Officer of the District. Hence the Assistant Commissioner of Labour/ Official of DISH shall take necessary action in respect of rescued children wherever necessary.

4.10 Assistant Commissioner of Labour (Enforcement) / Officials of the DISH shall initiate proceedings under the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 wherever applicable against the employer.

5. FIRST INFORMATION REPORT

5.1 If the authorities concerned finds prima facie that offences under laws other than the Bonded Labour System (Abolition) Act, 1976 have also been committed, they shall ensure that a complaint is made to the police for the registration of a First Information Report (FIR), under all the relevant sections and laws for the time being in force, including relevant sections under the Bonded Labour System (Abolition) Act, 1976 within 24 hours of the date of rescue.

5.2 Apart from the authorities concerned a Complaint may also be made by the victim himself, family of the victim, NGO or any other person to the police alleging offences under the Bonded Labour System (Abolition) Act, 1976 and other laws for the time being in force. Further, on receipt of such a complaint, Section 154 CrPC shall apply.

5.3 Upon a complaint being made to the Police, the authorities concerned shall ensure that all relevant documents in their custody including the Inquiry Form, Release Certificate, Executive Releasing order, Acquaintance of Initial Rehabilitation amount, Sub Divisional Magistrate's Report to District Magistrates and other relevant documents (W.P. No.32091 of 2016) and Medical Examination Reports, are furnished to the police at the earliest for effective investigation.

5.4 The authorities concerned shall ensure that the police completes all the necessary procedure under the CrPC, the Bonded Labour System (Abolition) Act, 1976 in relation to the labourer, as soon as possible, such as taking of statements under Section 161 CrPC, if applicable, before the labourers are repatriated / moved beyond the jurisdiction of the said police.

5.5 The Police shall take all effective steps to file FIR within 24 hours of the rescue and proceed under the Bonded Labour System (Abolition) Act, 1976, SC and ST (Prevention of Atrocities) Act, 1986 or under Section 370 of Indian Penal Code against the employer for having engaged in Human Trafficking, employing Bonded and forced labour. The charge sheet shall be accompanied with all the relevant documents for a fair trial.

6. WELFARE ASSISTANCE TO THE RESCUED BONDED LABOURER

6.1 The police after completion of investigation, will file the final report before local Judicial Magistrate. The District Collector in Coordination with other line departments shall ensure to provide various benefits such as benefits under the Central or State Schemes including issuance of the following to the rescued labourer. The Rescued release certificate shall be considered as identity proof for the labourer.

a. Aadhar Card,
b. Family Ration Card,
c. Community Certificate,
d. Voter ID,
e. MGNREGA Card,
f. House Site / Land Patta,
g. Health Insurance under Hon'ble CM's comprehensive Health Insurance Scheme,
h. Registration in the relevant welfare board and provide assistance under various schemes of Welfare Board like Marriage assistance / Maternity assistance / Educational assistance / Old Age Pension,
i. Self Employment Schemes through Bank loans,
j. Construction of houses under Indira Awas Yojana,
k. Adi Dravidar and Tribal Welfare benefits if they are eligible,
l. Employable skill development training.

6.2 Assistant Commissioner of Labour (Enforcement) being the Nodal Officer shall coordinate with the district administration officials of DISH, District lead Bank Manager, Directorate of Employment and Training, Rural Development and Panchayat Raj Department, Health and Family Welfare Department, Department of School Education, Adi Dravidar and Tribal Welfare Department, Backward Class, Most Backward and Minorities Welfare Department, etc., and Trade Unions and Non-Government Organizations in the process of rehabilitation.

6.3 The following self employment schemes through bank loans operated by the Department of Industries and Commerce will be made available to the eligible rescued bonded labourers.

1. Unemployed Youth Employment Generation Programme (UYEGP)
2. New Entrepreneur cum enterprises Development Scheme (NEEDS)
3. Prime Minister Employment Generation Programme (PMEGP)
4. Amma Skill Training and Employment Scheme.

6.4 The Assistant Commissioner of Labour(Enforcement) / Official of DISH shall take necessary action to provide the above schemes to the eligible rescued bonded labourer.

6.5 After the conviction of a case under the Bonded Labour System (Abolition) Act, 1976 the Assistant Commissioner of Labour(Enforcement) shall coordinate with the district administration for sending proposal from the District Collector to the Government of India, Ministry of Labour and Employment through the Commissioner of Labour and the State Government in Labour and Employment Department for claiming the final disbursement of the financial assistance of Rs.1 lakh, 2 lakh and 3 lakh as the case may be as per Para 5(ii), (iii) and (iv) of the Central Sector Scheme for Rehabilitation of Bonded Labourer- 2016.

6.6 Assistant Commissioner of Labour(Enforcement) shall upload all relevant datas, in the Bonded Labour Management System software developed by the Labour Department .

7. PROCEDURE IN CASES OF RELEASED DISPLACED/ MIGRANT BONDED LABOURER OPTING TO RETURN TO THEIR NATIVE PLACE:

7.1 A displaced / migrant bonded labourer is defined as any labourer working outside his native district or State.

7.2 If a displaced / migrant bonded labourer does not want to continue to work in the same place but wants to return to his native place, the authorities concerned shall arrange for his return to his native place safely.

7.3 The authorities concerned releasing the displaced/ migrant bonded labourer shall ensure that there is a handover of the displaced migrant bonded labourer from the releasing District Administration / Government to the Rehabilitating District Administration/ Government. The handover shall include:

a) A letter from the releasing Official to the rehabilitating District Magistrate about the release of the displaced/ migrant bonded labourer. The letter shall include, inter alia:
   i. The names of the released displaced/ migrant bonded labourers,
   ii. The name of the employer / person from whom the bonded labourers were released,
   iii. A request for the rehabilitating District Magistrate to ensure rehabilitation.
b) A copy of each released displaced / migrant bonded labourer's Release Certificate.
c) A copy of each released displaced / migrant bonded labourer's identity card (if any).
d) A copy of the Executive proceeding / order which release the Bonded Labourer.
e) Written confirmation that each of the released displaced/ migrant bonded labourer has received the immediate assistance of Rs. 20,000/-.
f) The concerned official shall comply the section 28 of IMA when Interstate Migrant Bonded Labourer are rescued.

8. PROCEDURE FOR RELEASE OF CENTRAL ASSISTANCE FOR REHABILITATION OF BONDED LABOURERS. (RS.1 LAKH, 2 LAKH AND 3 LAKH AS THE CASE MAY BE)

1. As per the Central Sector Scheme for Rehabilitation of Bonded Labourer-2016 and the subsequent modification issued to the above scheme the District Administration will send the proposals for claiming the above assistance in the prescribed proforma along with the documents as specified in the check list (Annexure I and II of the above scheme) to the State Government (Labour and Employment Department) through the Commissioner of the Labour and the State Government will send the proposal to the Central Government.
2. Each such proposal shall have (i) details to cash and non-cash assistance and rehabilitation facilities provided by the State Government (Annexure-III of the above scheme); and (ii) the quantum of penalty / imprisonment awarded to the accused.
3. Under Section 21 of the Bonded Labour System (Abolition) Act, 1976 has not been concluded as per Rules, but the DM/SDM has arrived at the Madras High Court has struck down section 21, hence, "a prima facie" finding and proof of bondage, is sufficient to submit the proposal for cash assistance shall not be stopped for want of details of conviction. However final disbursement of cash assistance shall be made on the legal consequences as per the judicial process.

9. REPATRIATION

9.1 Repatriation shall be subject to the consent of the labourer. The rescuing DM or SDM shall be responsible for repatriation, which must be done at the earliest possible time and in any case, no later than 24 hours from the date of rescue.

9.2 The DM or SDM shall coordinate with both rehabilitation and rescue location's police and District Administration ("DA") for quick and safe transfer, protection and rehabilitation including.

a) fooding, shelter, transport and protection,
b) sending a written request to the local police of the rehabilitation location for protection of the rescued labourer against possible harassment and intimidation by the offender or his associates and
c) sending a written request for rehabilitation of rescued labourer to the relevant officials of the DA, including the DM, of the rehabilitation location, including,
   - name (s), final address(s), contact details(s) of the labourer(s),
   - name(s) of the offender(s), if available,
   - certified copies of the Identification Form(s) and Release Certificate(s),
   - identify card(s) of the labourer(s) and
   - receipt(s) of any rehabilitation given to the labourer(s).

9.3 DM or SDM shall ensure that his representative along with the police accompanies the labourer during such repatriation. At all times, the DM or SDM shall ensure that the offender is not allowed to come into contact with the labourer.

9.4 The pendency of investigation or trial in relation to commission of offences under the BLSA shall not stand in the way of repatriation of the labourer and / or his family at any stage.

9.5 Where a labourer has been repatriated but, in the opinion of the Designated Magistrate, is later required to be summoned for evidence, the designated Magistrate should ensure that any expenses incurred by the labourer or witness in this regard are met and that such labourer or witness is given adequate protection during and post trial.

9.6 For offences under laws other than Bonded Labour System (Abolition) Act, 1976, where statements under Section 161 CrPC are required to be recorded, the DM or SDM shall ensure that the same is done at the earliest, prior to repatriation.

SUNIL PALIWAL,
PRINCIPAL SECRETARY TO GOVERNMENT

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12/3/19
SECTION OFFICER
12/03/19

ANNEXURE- II

மகஜர்

நாள்.. .....

.....என்ற முகவரியில் திரு/திருவாளர்கள்----------

அவர்களால் நடத்தப்பெறும் தொழிற்சாலையில் / நிறுவனத்தில் திருவாளர்கள்.

வ.எண்	பெயர்	த.பெ / க.பெ	வயது
1.			
2.			
3.			
4.			

ஆகியோர் பணியிலிருந்தனர்

இவர்கள் முறையே ரூ. .....

நிறுவன / தொழிற்சாலை உரிமையாளரிடமிருந்து முன்பணமாக பெற்றதற்காக, கடந்த .. ..

ஆண்டுகளாக / மாதங்களாகப் பணிபுரிவது கண்டறியப்பட்டு மீட்கப்பட்டனர். இது கொத்தடிமை தொழிலாளர் முறை (ஒழிப்பு) சட்டம், 1976 பிரிவு----- ன் படி தண்டனைக்குரிய குற்றமாகும்.

சாட்சி முகவரி / ஆதார் / அடையாள அட்டை /
தொலைபேசி எண்

அலுவலர்களின் ஒப்பம்

அனுமதி வழங்கிய அதிகாரியின் பெயர், பதவி மற்றும் கையொப்பம் எப்பொழுது ஆரம்பிக்கப்பட்டது எப்பொழுது முடிக்கப்பட்டது.

SUNIL PALIWAL,
PRINCIPAL SECRETARY TO GOVERNMENT

//TRUE COPY//

SECTION OFFICER.
12/03/19

ANNEXURE-III
RESCUE MEMO

This is to certify that the following persons found to be engaged under Bonded Labour System by Thiru / Tmt. ..... S/o / W/o..... ..... in the industry owned by him / her situated at .....

.....

has / have been rescued by the (Name & Designation of the Officer) on ..... at

Sl. No	Name & age of the rescued Bonded Labour	Father / Husband's Name	Sex	Permanent address

Name & Designation of the Officer
(with Seal)

Office Seal

SUNIL PALIWAL,
PRINCIPAL SECRETARY TO GOVERNMENT

//TRUE COPY//

12/12/19
SECTION OFFICER.
12/03/19

ANNEXURE-IV
QUESTIONNAIRE

1	Date and time of inspection	
2	Name and address of the industry / place from where the bonded labourer is rescued	
3	Name of the rescued person	
4	Caste or Community	
5	Father's / Guardian's / Husband's Name	
6	Age	
7	Sex	
8	Qualification	
9	Employer Name and address	
10	Whether the rescued bonded labourer is staying in the premises of the place of employment	
11	If not his / her present address	
12	Permanent address	
13	How did he / she come to work for the employer (on his / her own / middleman / other)	
14	Did he / she received any advance and if so how much and when it was received	
15	For how long he / she is employed there	
16	Details of the family members, if any, employed	
17	Details of children staying with the rescued bonded labourer	
18	Nature of work	
19	working hours	
20	Did he / she receive wages per day/ per week/ piece rate and if so how much	
21	Did he / she signing wages slip	
22	Are any deductions are made from the wages and if so for what purpose	
23	If so, any documentary evidence available regarding the advance	
24	Whether he / she is allowed to go outside on his / her own wish	
25	Whether he / she is allowed to take alternate employment	
26	Whether he / she is allowed to purchase / sell the goods at market value	

27	Whether he / she is subjected to any discrimination with respect to caste	
28	If a woman / child labourer is rescued, is there any instance of sexual abuse / exploitation	
29	If children are staying with them whether they subjected to any violence or compelled to work	
30	Any other information	

SUNIL PALIWAL,
PRINCIPAL SECRETARY TO GOVERNMENT

//TRUE COPY//

12/3/19
SECTION OFFICER

12/03/19