

CHAPTER XII

LABOUR LAWS

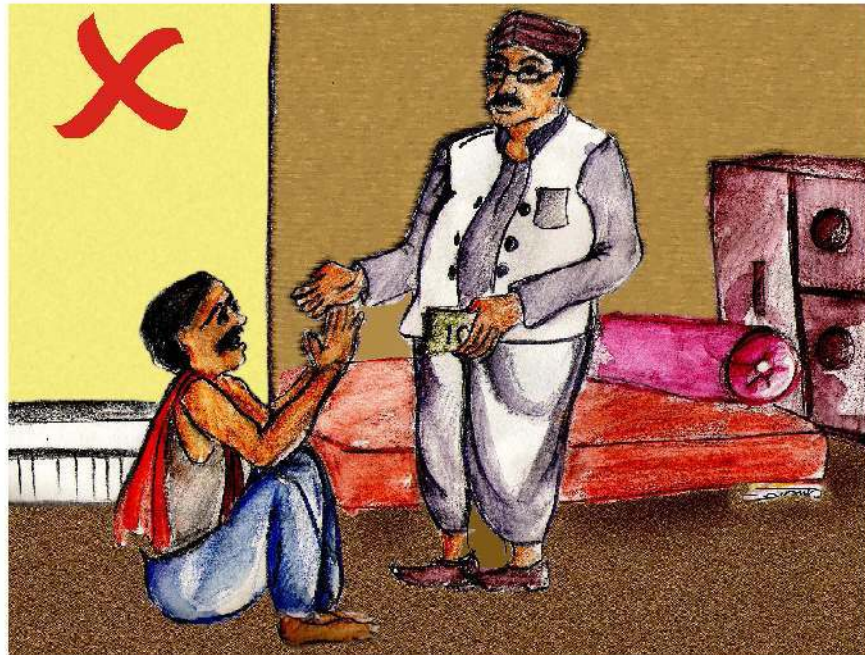
One-day kavita approached Meera Didi with a group of workers who were mainly women. Of them people like shanty and mangla were employed by some zamindars and landowners who paid no wages, rest were employed by contractors and factory owners and were subjected to ill treatment with no facilities. The men were paid much more for the same work, which the women were also doing.

Meera Didi on hearing them explained that there were many laws, which provided safeguards, benefits and other welfare measures. She told them that every women worker should be aware of the important provisions of various welfare laws

❖ **Bonded labour**

- What is bonded labour? Any arrangement under which a debtor or his dependents have to work for the creditor without wages in order to extinguish the debt is bonded labour and is banned by law
- System of beggar or other forms of forced labour is an offence under BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976
- If any such system is existing then it must be reported to the District Magistrate /any social worker/NGO/ SC-ST Officer/local vigilance committee which is at district and each sub-division
- **Characteristics of the Bonded Labour System**
Bonded labour system means the system of forced or partly forced labour under which a debtor enters, or is presumed to have entered into an agreement with the creditor to the effect that –

- 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 any document] and in consideration of the interest, if any, due on such advance or
- He would 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 specified period or for an unspecified period, either without wages or for nominal wages or
- Forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period or
- Forfeit the right to move freely throughout the territory of India or
- 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.



Pronouncements / Decisions of Apex Court on Bonded Labour

The issue of bonded labour was raised in the Supreme Court in the form of Public Interest Litigations. The Supreme Court through its judgments has held as under:

In the *Bandhua Mukti Morcha* case, the Supreme Court held that Whenever it is shown that a labourer is made to provide forced labour, the Court would raise the rebuttable presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is, therefore, bonded labour (*Bandhua Mukti Morcha v. Union of India and Others* 1984 2 SCR). The bonded labourers must be identified and released and on release they must be suitably rehabilitated. Any failure on the part of the State Government in implementing the provisions of the *Bonded Labour System (Abolition) Act, 1976* would be violative of Articles 21 and 23 of the Constitution of India (*Neerja Choudhary v. State of M.P.* 1984 3 SCC 243).

Whenever a person was forced to provide labour for no remuneration or nominal remuneration, the presumption would be that this was a bonded labour unless the employer or State Government was in a position to prove otherwise (*Neerja Choudhary v. State of MP*).

To detect bonded labour, some of the questions, which need to be addressed to the employers, are

- Whether the various labour laws like the *Minimum Wages Act*, the *Payment of Wages Act*, etc. are being observed.
- Whether the registers are being maintained.
- Whether the Employer is registered under the *Contract Labour Act* or any other law that requires it.

Child Labour

Children need to grow in an environment that enables them to lead a life of freedom and dignity. Opportunities of education and training are to be provided for them to grow into worthy citizens. Unfortunately a large proportion of children are deprived of their basic rights. They are found working in various sectors of the economy particularly in the unorganized sector. Some of them are confined and beaten, reduced to slavery or denied freedom of movement thus making child labour a human rights issue and a developmental issue.

Definition of a Child

Article 1 of The United Nations Convention on the Rights of the Child defines a child as anyone below the age of eighteen years. The Child Labour (Prohibition and Regulation) Act, 1986 defines child as “a person who has not completed his fourteenth year of age.”

Meaning of Child Labour

‘Child labour’ is defined as any work within or outside the family that involves time, energy, commitment, which affects the ability of a child to participate in leisure, play and educational activities. Such work impairs the health and development of a child. According to the International Labour Organization, “child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development.” They are often separated from their families and deprived of meaningful education and training opportunities that would offer them a better future

All children in the age-group of 6-14 years, who should actually be in school but are out of school, are deemed to be **actual or potential child labourers**. Child labour in India is much of a rural phenomenon than urban. 90.87 per cent of the working children were found to be in the rural areas and 9.13 per cent were in the urban areas.

Adverse Effects of Child Labour on the Health of Children

Children work for long hours often in dangerous and unhealthy conditions and are exposed to lasting physical and psychological harm. They tend to develop

- Respiratory problems such as asthma, tuberculosis
- General weakness, stunted growth, body ache and joint pains
- Poor eyesight and other eye problems such as watering, irritation and reddening of eyes
- Loss of appetite
- Tumors and burns
- Disability by working on looms
- Susceptibility to arthritis as they grow older
- Mental disabilities

Salient Features of the *Child Labour (Prohibition and Regulation) Act, 1986*:

- Prohibits/bans the employment of any person who has not completed his fourteenth year of age in occupations and processes enlisted in Part A and B of the Schedule of the Act.
- Lays down a procedure to decide modifications to the Schedule of banned occupations or processes
- Regulates conditions of work where children are not prohibited from working
- Lays down enhanced penalties for employment of children in violation of the provisions of the Act and other Acts Section 14 of the Act provides for punishment upto 1 year (minimum being three months) or with fine upto Rs. 20,000/- (minimum being ten thousand) or with both, to one who employs or permits any child to work in contravention of provisions in Section 3 Children employed in

occupations and processes, not banned by the Act are regulated by the following provisions:

- A child shall not be required to work for more than six hours a day which shall be inclusive of his/her half an hour break.
- No child shall be permitted or required to work between 7 p.m and 8 a.m.
- No child shall be required or permitted to work over-time.
- Every child shall get a weekly off.

There is an obligation on the part of the employer to furnish information to the inspector regarding the employment of children. It is mandatory for the employer to maintain a register on this matter.

❖ **Maternity benefit**

- Every women is entitled for payment of maternity benefit
- Maternity benefit means the wages payable to the women by the employer due to her absence on account of maternity
- Woman is also entitled to medical bonus
- Entitled to leave with wages on account of miscarriage or medical termination of pregnancy or for tubectomy operation
- The benefit is applicable to every women employed at a factory, mine, plantation, shops, any government establishment, any industry, etc. Benefits Include during pregnancy and after pregnancy and during the early months of motherhood.
- 6 week's leave with full pay before the delivery, 6 week's leave with full pay after the delivery.

- If the employer does not have any medical facilities, then he must also give a medical bonus of Rs.250/- to the worker.
- The employer cannot make a woman do any heavy work in the last working month of her pregnancy.
- If a woman has a miscarriage, then she is entitled to get 6 weeks leave with full pay after the miscarriage.
- If a worker falls sick due to pregnancy, delivery, or miscarriage or because of delivering a premature child, she can take one month's more paid leave. A woman worker must get some time off twice a day to feed her baby till the baby is 15 months old, in addition to the normal breaks given to the workers.
- Maternity benefits are given even if the child dies before birth or after birth.

❖ **MINIMUM WAGES ACT**

The Minimum Wages Act 1948 provides that:

- A worker should get a minimum wage fixed by law. A minimum wage is fixed by Government for each kind of work.
- A woman should get the same wage as a man gets for similar kind of work.
- Wages can be fixed by the hour, by the day or by the month.
- Wages must be paid in cash. In Agriculture, wages may be partly paid in kind.
- No deduction should be made from the wages except by law.
- The hours of work are fixed. The employer cannot ask a worker to work for more than 9 hours a day.
- For extra work, employer has to pay double the wages.

❖ **FACILITIES TO WOMEN WORKING IN FACTORIES**

- The law provides for special facilities to women, who work in factories.
- Separate toilets and washrooms.
- A factory with more than 30 women workers must provide for a crèche for children.
- Women cannot be made to lift more than the prescribed weight.
- Women should not be asked to clean or oil any moving machine.
- Working hours cannot be more than 48 hours in a week.
- Women must get one day off in a week.
- Women cannot be made to work for more than 5 hours at a stretch.
- Working hours for women can be between 6 in the morning and 7 in the evening.

❖ **Equal pay for equal work**

- If you are performing same work or doing a work of a similar nature where skill, effort and responsibility required are the same – you are entitled to the same remuneration as a man working under similar circumstances gets.

Any discrimination by any employer should be reported to the Labour officer/ inspectors /trade unions /NGO's ,social workers.