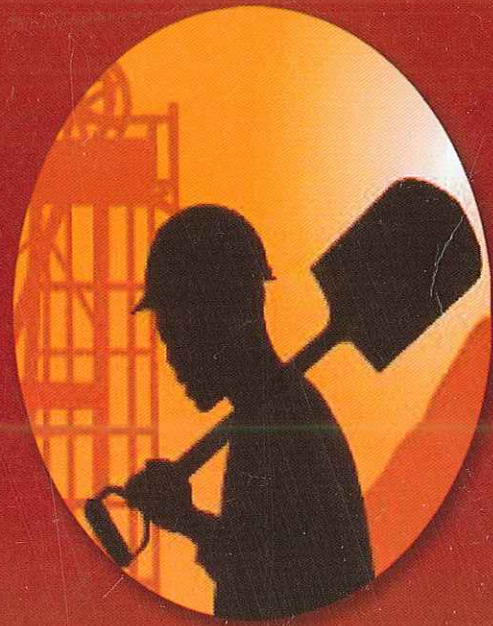


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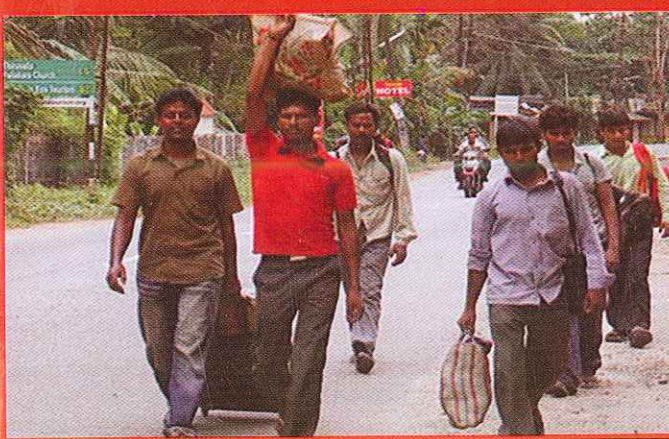
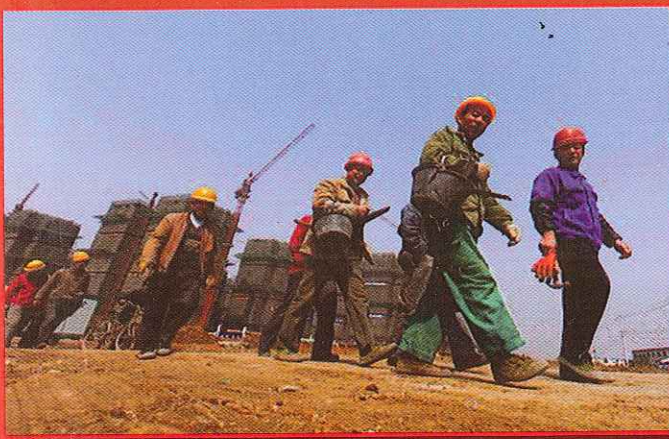


ତ୍ରିମାସିକ ପତ୍ରିକା

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର

ପ୍ରଥମ ବର୍ଷ : ଦ୍ୱିତୀୟ, ତୃତୀୟ ଓ ଚତୁର୍ଥ ମିଳିତ ସଂଖ୍ୟା

୨୦୧୩-୧୪



## श्रम दर्पण



## SHRAMA DARPAN

Quarterly bulletin of State Labour Institute, Bhubaneswar, 1st Year combined : 2nd, 3rd & 4th issue

## ଶ୍ରମ ଦର୍ପଣ

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର  
୨୦୧୩-୧୪

### ମୁଖ୍ୟ ଉପଦେଷ୍ଟା

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ପ୍ରମୁଖ ଶାସନ ସଚିବ, ଶ୍ରମ ଓ ରାଜ୍ୟ କର୍ମଚାରୀ ବୀମା ବିଭାଗ ଓ  
ଉପାଧ୍ୟକ୍ଷ, ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର

### ମୁଖ୍ୟ ସଂପାଦକ

ଶ୍ରୀ ସୁଧାକର ବୁର୍ଗା, ଓ.ଏ.ଏସ୍ (ଏସ୍) :  
ନିର୍ଦ୍ଦେଶକ, ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ

### ସଂପାଦନା ମଣ୍ଡଳୀ :

ସୌରାବନ୍ଧୁ କର  
କୃଷ୍ଣଚନ୍ଦ୍ର ପାତ୍ର  
ଡକ୍ଟର ସତ୍ୟେଶ ତ୍ରିପାଠୀ  
ଡକ୍ଟର ଡି.ଭି.ଗିରି  
କିଶଳୟ ଶତପଥୀ  
ଭେଙ୍କଟେଶ୍ୱର ପଟ୍ଟନାୟକ  
ସୁଶାନ୍ତ ଦାଶ

### ମୁଦ୍ରଣ :

ଗୋପିନାଥ ଅଫସେଟ୍  
ରସୁଲଗଡ଼ ଶିଳ୍ପାଞ୍ଚଳ, ଭୁବନେଶ୍ୱର  
ଫୋ-୯୪୩୭୩୫୫୨୯୪



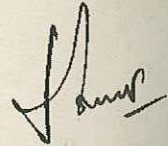
ମୁଖ୍ୟ ସଂପାଦକଙ୍କ କଲମରୁ... 

କର୍ମହି ଜୀବନ । କଠିନ ପରିଶ୍ରମ ହିଁ ଜୀବନର ସର୍ବଶେଷ ବ୍ରତ । ଏଥିରେ ବ୍ରତୀ ହୋଇ ଭାରତର ପ୍ରତ୍ୟେକ ଶ୍ରମିକ ନିଜ କର୍ମରେ ଅଗ୍ରସର ହେଉଥିବା ବେଳେ ସେମାନଙ୍କ, ଆଇନଗତ ଅଧିକାରର ସୁରକ୍ଷା, ସମାଜିକ ସୁରକ୍ଷା, ସ୍ୱାସ୍ଥ୍ୟ ସୁରକ୍ଷା ତଥା ସର୍ବୋପରି ସେମାନଙ୍କର ଉତ୍ତରୋତ୍ତର ଉନ୍ନତି ଓ କଲ୍ୟାଣ ସକାଶେ ସରକାର ସବୁବେଳେ ଚେଷ୍ଟାରତ । ଏହି ପରିପ୍ରେକ୍ଷାରେ ରାଜ୍ୟ ସରକାର ବିଭିନ୍ନ ଶ୍ରମ ଆଇନର କାର୍ଯ୍ୟକାରୀତା, ଶ୍ରମ ଆଇନ ଗୁଡ଼ିକରେ ଆବଶ୍ୟକୀୟ ପରିବର୍ତ୍ତନ ସକାଶେ ପଦକ୍ଷେପ ମାନ ନେଇ ଆସୁଛନ୍ତି । ରାଜ୍ୟ ଶ୍ରମ ବିଭାଗର ଅଧିକାରୀ ମାନଙ୍କ ନିଷ୍ଠାପୂର୍ଣ୍ଣ ଉଦ୍ୟମ ଓ ଶ୍ରମ ସଂଗଠନ ମାନଙ୍କ ସାଂଗଠନିକ କାର୍ଯ୍ୟ ଫଳରେ ଶ୍ରମିକ ଗୋଷ୍ଠୀ ନିଜର ସ୍ୱାର୍ଥରକ୍ଷା କରିବା ସହିତ ବିଭିନ୍ନ କଲ୍ୟାଣ ମୂଳକ ଯୋଜନାରେ ସାମିଲ ହୋଇ ପାରୁଛନ୍ତି ।

ଏହି ପରିପ୍ରେକ୍ଷାରେ ଶ୍ରମ ବିଭାଗ ତରଫରୁ ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଓଡ଼ିଶା ଏହି ତ୍ରେମାସିକ ପତ୍ରିକା “ ଶ୍ରମ ଦର୍ପଣ ” ପ୍ରକାଶନ କରି ଶ୍ରମିକ ମାନଙ୍କ ବିଭିନ୍ନ ଆଇନଗତ ଅଧିକାର, କଲ୍ୟାଣ ମୂଳକ ଯୋଜନା, ସର୍ବୋଚ୍ଚ ଓ ଉଚ୍ଚ ଅଦାଲତଙ୍କ ନିର୍ଦ୍ଦେଶନାମା ଇତ୍ୟାଦି ବିଷୟରେ ଦୃଷ୍ଟିକୁ ଆଣିବା ସହିତ, ଶ୍ରମ ସାହିତ୍ୟ ଅର୍ଥଭୁକ୍ତ ଶ୍ରମିକ ମାନଙ୍କ ବିଷୟରେ ଗଢ଼ ପ୍ରବନ୍ଧ ଓ କବିତା, ପ୍ରକାଶନ କରି ଆସୁଅଛି ।

ଏହି ପତ୍ରିକାଟିକୁ ସରସ ସୁନ୍ଦର କରିବା ପାଇଁ ବିଭାଗୀୟ ପ୍ରମୁଖ ସଚିବ ଶ୍ରୀଯୁକ୍ତ ଜି. ଶ୍ରୀନିବାସ, ଆଇ.ଏ.ଏସ୍ ଓ ଶ୍ରମ କମିଶନର ଶାଳିନୀ ପଣ୍ଡିତ ଆଇ.ଏ.ଏସ୍. କ୍ ପ୍ରେରଣା ଓ ଉତ୍ସାହ ନିଶ୍ଚିତ ଭାବରେ ପ୍ରଶଂସନୀୟ ।

ଏହି ପତ୍ରିକାଟିରେ ପ୍ରକାଶିତ ସମସ୍ତ ବିଷୟ ବସ୍ତୁକୁ ତୁଟି ରହିତ କରିବା ସକାଶେ ଯଥା ସମ୍ଭବ ଉଦ୍ୟମ କରାଯାଇଛି । ତାହା ସତ୍ତ୍ୱେ ଯଦି କୌଣସି ତ୍ରୁଟି ରହିଯାଇଥାଏ ତାହା ଅନିଚ୍ଛା କୃତ । ପତ୍ରିକାଟିର ଉତ୍ତରୋତ୍ତର ଉନ୍ନତି କାମନା କରୁଛି ।

  
(ସୁଧାକର ବୁର୍ଗା)



**Dr. S. C. Jamir**  
Governor, Odisha



सत्यमेव जयते

**RAJBHAVAN**  
Bhubaneswar-751008

**MESSAGE**

I am glad to know that the State Labour Institute, Bhubaneswar is bringing out the second edition of quarterly bulletin "Shrama Darpan" shortly.

It is heartening that the bulletin aims at focusing on various labour-related issues. There are currently rapid transformations in the world of work, which in turn provide multiple opportunities and challenges. It highlights enhancing skills and capabilities to respond to the challenges of change. I am sure State Labour institute, Bhubaneswar will continue to get focused on dissemination of latest information on research, policy, and labour jurisprudence.

I wish the publication all success.

**(S. C. Jamir)**



**ନବୀନ ପଟ୍ଟନାୟକ**

ମୁଖ୍ୟମନ୍ତ୍ରୀ, ଓଡ଼ିଶା



ଓଡ଼ିଶା ସରକାର

ଭୁବନେଶ୍ୱର

ତା.୧୧.୦୨.୨୦୧୫

**ବାର୍ତ୍ତା**

ରାଜ୍ୟ ଶ୍ରମ ପ୍ରତିଷ୍ଠାନ, ଭୁବନେଶ୍ୱର ପକ୍ଷରୁ ଶ୍ରମ ଦର୍ପଣ ପୁସ୍ତିକାର ଦ୍ୱିତୀୟ ସଂସ୍କରଣ ପ୍ରକାଶିତ ହେଉଥିବା ଜାଣି ମୁଁ ବହୁତ ଖୁସି ।

ରାଜ୍ୟର ବିକାଶରେ ଶ୍ରମିକ ମାନଙ୍କର ଭୂମିକା ସବୁଠାରୁ ଗରୁତ୍ୱପୂର୍ଣ୍ଣ । ସେମାନଙ୍କ କଲ୍ୟାଣ ପାଇଁ ସବୁସ୍ତରରୁ ଉଦ୍ୟମ ହେବା ଆବଶ୍ୟକ । ମୁଁ ଆଶା କରୁଛି, ଶ୍ରମ ଦର୍ପଣ ପୁସ୍ତିକାଟି ବହୁ ଉପାଦେୟ ତଥ୍ୟରେ ପରିପୂର୍ଣ୍ଣ ହୋଇ ପାଠକ ମାନଙ୍କ ପାଇଁ ଉପଯୋଗୀ ସାବ୍ୟସ୍ତ ହେବ ।

ମୁଁ ଏହି ପ୍ରକାଶନର ସଫଳତା କାମନା କରୁଛି ।

**ନବୀନ ପଟ୍ଟନାୟକ**  
(ନବୀନ ପଟ୍ଟନାୟକ)



**SHRI PRAFULLA KUMAR MALLIK**  
Minister of State (IND. Charge)  
Steel & Mines, Labour & Employees'  
State Insurance, Odisha

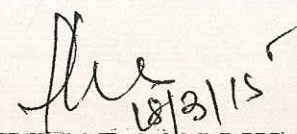
Bhubaneswar  
Date : 18.03.2015

### MESSAGE

It gives me immense pleasure to know that State Labour Institute, Bhubaneswar is going to publish a Bulletin titled "Shrama Darpana" in which different activities relating to Labour laws, success stories, schemes beneficial for the labourers etc. will be published.

On this occasion, I thank all the members & office bearers who are associated with publication of this periodical and hope that Shrama Darpana will be helpful to aware the labourers about their genuine right.

I wish every success of the publication of the Shrama Darpana.

  
(PRAFULLA KUMAR MALLIK)



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## ଶ୍ରମ ବିଭାଗ ଦର୍ପଣ :

### Powers & Duties of Officers & Employees under Labour Directorate

[Section - 4(I) (b) (II)]

(Source : RTI Manual of Department of Labour & ESI Govt. of Odisha)

#### 1. Designation Labour Commissioner

##### Powers

##### Administrative

He enjoys the powers of Head of Office as well as Heads of Dept. He also discharges power of Executive Authority for the whole of the State. Besides, he also executes the Administrative Power as defined under Rule-2(XV-L)of O.G.F.R. Vol. I

##### Financial

He is the Controlling Officer for the whole of the state in respect of Labor Directorate. He executes the Financial Power as per Rule 2(IX-a) of OGFR Vol. I and Powers delegated under delegation of Financial Powers Rules.

##### Statutory

He is the Registrar of Trade Unions under the Trade Unions Act 1926. He is the State Implementation and Evaluation Officer. He is the specified Authority under Industrial Disputes Act 1947. He is an appropriate Authority under I.D. Act. 1947.

He acts as a Certifying Officer under Industrial Establishment (Standing Orders) Act 1946.

##### Others

##### Duties

He approves grant of Registration Certificate as well as cancellation of Registration Certificate in respect of any Registered Trade Union.

He takes action for verification of membership of trade unions for the purpose of recognition under Rule for verification of membership & Recognition of Trade Unions through secret ballot in industry, 1994 and passes orders for verification & Recognition of Trade Union by the employer.

He receives application for granting of permission relating to Lay-off, Retrenchment of employees in respect of industrial establishments employing 100 workmen

He files certificate case for realization of money due and computed by the Labor Court in respect of a workman/ employee.

He approves the draft standing order in respect of Industries coming under the coverage of the Act.



## 2. Designation **Joint Labour Commissioner**

**Powers** **Administrative** He executes the Administrative Commissioner powers to the extent delegated to him by the Labour Commissioner, Odisha.

### **Financial**

### **Statutory**

He acts as the Commissioner under W.C. Act for the whole State.

He acts as a Certifying Officer under Industrial Establishment (Standing Orders) Act, 1946.

He acts as the Assessing authority under building and other constructions workers welfare (Cess Act).

### **Others**

**Duties** He takes steps in deciding the claim applications filed by dependents of the deceased workmen and application of injured workmen who sustains employment injury arising out of and in course of employment.

He approves the Draft standing orders in respect of industries coming under the coverage of the Act.

## 3. Designation **Deputy Labour commissioner Division Offices**

### **Powers**

### **Administrative**

He enjoys the powers of Head of Office. He also discharges powers of Executive Authority for the Division under his jurisdiction. Besides he also executes Administrative function as defined under Rule-2 (XV-a) of OGFR Vol.1.

He approves Draft prosecution reports submitted by sub-ordinate offices under his jurisdiction against the erring employers under C.L. (R&A) Act, 1970 & B.&C.W. (Condition of Employment) Act, 1966 and M.T.W. Act, 1961.

### **Financial**

He executes the Financial Powers as per Rule-2 (IX-a) of OGFR Vol.1 and powers delegated under delegation of Financial Powers Rules.

### **Statutory**

He acts as the Commissioner under W.C. Act, 1923 within his area of jurisdiction.

He acts as the Appellate Authority under P.G. Act 1972 in respect of his area of jurisdiction.

He acts as the Authority under P.W. Act, 1936.

He acts as the Certifying Officer under I.E. (S.O.) Act 1946 in respect of his area of jurisdiction.

He acts as the Addl. Registrar of trade unions under trade unions Act, 1926.

**Others****Duties**

He hears and decides the accidental claim applications received from the dependants of deceased workman and workman sustaining employment injury arising out of and in course of employment.

He decides the Appeals made on the judgment delivered by the controlling Authority under P.G. Act.

He hears and decides the claim applications under the P.W. Act, 1936.

He approves the Draft Standing Orders in respect of industrial establishment employing 50 or more workmen.

He verifies the particulars of application of the unions and takes necessary steps for Registration and also cancellation of Registration Certificates of Trade Unions.

**4. Designation Assistant Labour Commissioner****Powers****Administrative**

He executes the administrative powers as defined under Rule- 2 (XV- a) of OGFR Vol. I

He approves the draft prosecution report submitted by sub ordinate offices under his control against the erring employers under Minimum Wages act 1948, O.S. & C.E. act 1956 and P.W. act 1936.

**Financial**

He executes the financial power as per Rule-2 (IX- a) of OGFR Vol. I and powers delegated under delegation of Financial powers Rules.

**Statutory**

He acts as the Commissioner under W.C. Act within his area of jurisdiction. He acts as the controlling authority under P.G. Act within his area of jurisdiction. He also acts as the Authority under M.W, Act 1948 within his area of jurisdiction.

He also acts as the assessing officer under Building & other construction workers welfare cess acts, 1996

**Others****Duties**

He hears and decides the accidental claim cases.

He hears and decides the P.G. cases filed by the workmen.

He hears and decides the daim cases under M.W. Act filed before him within his area of jurisdiction.

**5. Designation District Labour Officer****Powers****Administrative**

He discharges powers of Executive authority for the district under his jurisdiction. Besides he also executes administrative functions as defined under Rule- 2 of OGFR Vol.1



<b>Financial</b>	He executes financial powers as per Rule-2 (IX- a) of OGFR Vol. I and powers delegated under delegation of financial powers rules.
<b>Statutory</b>	<p>He acts as an authority under equal Remuneration Act, 1976 within his area of jurisdiction.</p> <p>He is the registering officer under C.L. (R&amp;A) Act 1970, ISMW (RE&amp;CS) Act 1979, B&amp;CW Act, M.T.W. Act and O.S. &amp; C.E. Act and B&amp;OCW (R.E. &amp; C.S.) act, 1996. He also acts as licensing officer under C.L (R&amp;A) Act &amp; ISMW Act.</p> <p>He also acts as the conciliation Officer under I.D. Act-1947 within his area of jurisdiction.</p> <p>He also acts as the inspector under all the Labour enactments within area of jurisdiction.</p> <p>He also acts as the Cess collector under B &amp; OCW Welfare Cess Act</p>

**Others****Duties**

He hears and decides claim application received by him within his area of jurisdiction. He issues registration certificates and licenses within his area of jurisdiction.

He intervenes in any existing or apprehended industrial disputes and try to promote a settlement between the parties.

He inspects different coverable establishments under his jurisdiction and ensures enforcement of the provisions of the Labour legislations.

**6. Designation Assistant Labour Officer****Powers****Administrative**

He discharges of executive instructions within his area of jurisdiction. Besides he also executes administrative functions as defined under Rule- 2 (XV- a) of OGFR Vol. I

**Financial**

He executes financial powers as per Rule- 2 (IX- a) of OGFR Vol. I and powers delegated under Delegation of Financial power rules.

**Statutory**

He acts as the conciliation Officer under I.D. Act 1947 within his area of jurisdiction.

He acts as an Inspector under all the Labour Legislations within his area of jurisdiction and B&OCW (RE&CS) Act, 1996.

**Others****Duties**

He intervenes in any existing or apprehended industrial disputes and try to promote a settlement between the parties.

He inspects different establishments within his area of jurisdiction and ensures enforcement of provisions of the Act.

**7. Designation Rural Labour Inspector****Powers****Administrative****Financial****Statutory**

He acts as an inspector under minimum wages Act 1948, PW Act 1936, ISMW Act, 1979 and Equal Remuneration Act, 1976.

**Others****Duties**

He inspects the establishment under his jurisdiction and ensures enforcement of the provisions of the Acts.

Sl. No.	Name of the Office	Office Address
1	2	3
1	Labour Commissioner, Odisha	Kharavel Nagar, Unit-III, Bhubaneswar
2	Deputy Labour Commissioner, Cuttack	Old Secretariat Building, Cuttack
3.	Deputy Labour Commissioner, Rourkela	At/Po-Uditnagar, Rourkela, Dist - Sudargarh
4.	Deputy Labour Commissioner, Sambalpur	Sambalpur
5.	Deputy Labour Commissioner, Jeypore	Jeypore, Dist - Koraput
6.	Assistant Labour Commissioner, Angul	Angul
7.	Assistant Labour Commissioner, Balasore	Balasore
8.	Assistant Labour Commissioner, Berhampur	Aska Road, Berhampur, Dist - Ganjam
9.	Assistant Labour Commissioner, Bhawanipatna (Kalahandi)	At/Po - Bhawanipatna, Dist - Kalahandi
10.	Assistant Labour Commissioner, Jajpur	At/Po - Jajpur Road, Dist - Jajpur
11.	District Labour Officer, Mayurbhanj	At/Po - Baripada, Dist - Mayurbhanj
12.	District Labour Officer, Bolangir	At/po/Dist - Bolangir
13.	District Labour Officer, Bargarh	At/Po/Dist - Bargarh
14.	District Labour Officer, Bhadrak	At/Po/Dist - Bhadrak
15.	District Labour Officer, Cuttack	At/Po. - Khapuria, Dist - Cuttack
16.	District Labour Officer, Dhenkanal	At/Po/Dist - Dhenkanal
17.	District Labour Officer, Jharsuguda	At/Po/Dist - Jarsuguda
18.	District Labour Officer, Jagatsinghpur	At/Po/Dist - Jagatsinghpur
19.	District Labour Officer, Keonjhar	At/Po/Dist - Keonjhar
20.	District Labour Officer, Kendrapara	At/Po/Dist - Kendrapara
21.	District Labour Officer, Malkangiri	At/Po/Dist - Malkangiri
22.	District Labour Officer, Nayagarh	At/Po/Dist - Nayagarh



23.	District Labour Officer, Nawarangpur	At/Po/Dist - Phulbani
24.	District Labour Officer, Phulbani	At/Po/Dist - Nawarangapur
25.	District Labour Officer, Gajapati	At/Po - Paalakhemundi, Dist - Gajapati
26.	District Labour Officer, Puri	At/Po/Dist - Puri
27.	District Labour Officer, Rayagada	At/Po/Dist - Rayagda
28.	District Labour Officer, Chhatrapur	At/Po - Chhatrapur, Dist - Ganjam
29.	District Labour Officer, Nuapada	At/Po - Khariar Road, Dist - Nuapada
30.	District Labour Officer, Talcher	At/po - Talcher, Dist - Angul
31.	District Labour Officer, Boudh	At/Po/Dist - Boudh
32.	District Labour Officer, Deogarh	At/Po/Dist - Deogarh
33.	District Labour Officer, Subarnapur	At/Po/Dist - Subarnapur
34.	District Labour Officer, Khurda	At/Po- Bhubaneswar, Dist - Khurda
35.	Asst. Labour Officer, Bhanjanagar	At/Po - Bhanjanagar, Dist - Ganjam
36.	Asst. Labour Officer, Choudwar	At - Multipurpose Labour Welfare Centre, Po - Charbatia, Dist - Cuttack
37.	Asst. Labour Officer, Champua	At/Po- Champua, Dist - Keonjhar
38.	Asst. Labour Officer, Balugaon	At/Po - Balugaon, Dist - Khurda
39.	Asst. Labour Officer, Koraput	At/Po/Dist - Koraput
40.	Asst. Labour Officer, Khurda	At/Po/Dist - Khurda
41.	Asst. Labour Officer, Nilagiri	At/Po/Dist - Balasore
42.	Asst. Labour Officer, Rairangpur	At/Po - Rairangpur, Dist - Mayurbhanj
43.	Asst. Labour Officer, Sundargarh	At/Po/Dist - Sundargarh
44.	Asst. Labour Officer, Karanjia	At/Po/- Karanjia, Dist - Mayurbhanj
45.	Asst. Labour Officer, Udala	At/Po - Udala, Dist - Mayurbhanj
46.	Asst. Labour Officer, Aska	At/Po- Aska, Dist Ganjam
47.	Asst. Labour Officer, Gunupur	At/Po - Gunupur, Dist - Rayagada
48.	Asst. Labour Officer,, Dharmgarh	At/Po - Dharmgarh, Dist - Kalahandi
49.	Asst. Labour Officer, Bonai	At/Po- Bonai, Dist - Sundargarh

Informations available in this manual was last updated on 13th May 2010 as available in the website.



## Administrative Powers of Field Functionaries of the Labour Directorate Odisha, BBSR

**Order No. 25M(1)8/2009/10841/Dated, Bhubaneswar, the 07.09.2013**

In supersession of all previous orders issued on this behalf and in exercise of powers conferred on me under delegation of powers against item No.14 of Appendix-I read with Rule,5 of Orissa Service Code, I do hereby delegated the powers to the following officers to the extent indicated in the schedule below.

### Schedule

Item No.	Nature of power to be exercised as authorized/delegated and reference to the relevant rule.	Designation of the officers in whose favour the authorisation/delegation is made.	Extent of power to be exercised under the authorisation/delegation.
1	2	3	4
1.	Power to sanction leave other than special disability leave, study leave and leave on medical certificate on being declared finally invalid for return to duty. (Rule,130, 176, 177 and 179 and appendix-I of the service code)	Dist. Labour Officer independent	May grant leave upto 30 days to Group-D employees working in his office as well as the Asst. Labour Officer offices under his jurisdiction.
		Asst. Labour Commissioner incharge of zonal office.	May grant leave upto 60 days to Group-D employees and upto 30 days to Group-C employees excluding Asst. Labour Officer and Rural Labour Inspectors.
		Dy. Labour Commissioner in charge of Divisional office	Shall have full power to grant leave to Group-D employees working under the Division and power to grant leave upto 60 days to Group-C employees excluding Asst. Labour Officer and Rural Labour Inspectors working under the Division.
		Dy. Labour Commissioner, Hqrs.	Shall have full power to grant leave to all Rural Labour Inspectors & Asst. Labour Officers working under the Labour Directorate and to grant leave to Group-C employees working under the field offices and to grant leave upto 60 days to all Group-B officers and to the lowest rung of Group-A Officers in Hqrs. office as well as in field office.
		Establishment Officer-I	Shall have full power to grant leave to Group-C & Group-D employees working in Headquarters office.
2.	Power to sanction annual increment Rule,77 of Orissa Service Code.	Dist. Labour Officer, independent	May grant annual increment to Group-D & Group-C employees working in his office as well as the Asst. Labour Officer Offices under his jurisdiction excluding Asst. Labour Officers & Rural Labour Inspectors.



	Asst. Labour Commissioner incharge Zonal office	May grant annual increment to Group-D & Group-C employees in his office including Rural Labour Inspectors & Asst. Labour Officers working under his zone.
	Dy. Labour Commissioner incharge of Division office	May grant annual increment to Group-D, Group-C & Group-B employees working in his Division office and grant annual increment to all Group-B & to the lowest rung of Group-A officers working under the Division.
	Dy. Labour Commissioner, Hqrs.	May grant annual increment to all the Group-B employees and to the lowest rung of Group-A officers working in Hqrs. Offices.
	Establishment Officer-I	May grant annual increment to all the Group C & D employees of Hqrs. Office.

  
 06/09/13  
 Labour Commissioner, Odisha.

Memo No. 10842(49) Dated, Bhubaneswar, the 07.09.2013

Copy forwarded to the Dy. Labour Commissioners, Hqrs. / All independent Deputy Labour Commissioners / All independent Asst. Labour Commissioners / All independent Dist. Labour Officers / All independent Asst. Labour Officers for information and necessary action.

  
 06/09/13  
 Labour Commissioner, Odisha.

Memo No. 10843 /Dated, Bhubaneswar, the 07.09.2013

Copy forwarded to the Under Secretary to Govt. of Odisha, Labour & ESI Deptt., Bhubaneswar for information.

  
 06/09/13  
 Labour Commissioner, Odisha.

Memo No. 10844(20) Dated, Bhubaneswar, the 07.09.2013

Copy forwarded to all officers of Head Quarters office for information.

  
 06/09/13  
 Labour Commissioner, Odisha.



## BRIEF NOTE ON ESI DIRECTORATE;

The ESI Scheme was implemented in Odisha in January, 1960 with six dispensaries at Brajrajnagar, Rajgangpur, Choudwar, Barang, Rajabagicha and Khapuria covering a total number of 23000 Industrial workers. Full medical care was introduced with effect from 01/09/1976. Now the ESI Scheme provides full medical care to 3,29,400 IP's & their family members thorough a net work of 05 ESI Hospitals and 45 ESI Dispensaries.

### The Achievements during the year, 2013-14

#### 1. Extension of ESI Scheme in new area:-

During the current Financial year, 2013-14, ESI Scheme has been extended to new areas at Kaniha in the district of Angul to provide medical services to 2988 workers and their families.

Similarly, it is targetted to extend ESI Scheme at Khuntuni in the district of Cuttack & Chhendipada in the district of Angul during this Financial year to provide health care facilities to the beneficiaries.

#### 2. Extension of ESI Scheme to peripheral areas of existing ESI Dispensaries:-

In order to extend the benefit of ESI Scheme, Government have approved for extension of ESI Scheme in the geographical area of ESI Dispensary, Barbil in the district of Keonjhar, ESI Dispensary, Khurda in the district of Khurda, ESI Dispensary, Bhagatpur in ,the district of Cuttack & Jajpur, ESI Dispensary, Kuarmunda in the district of Sundargarh, ESI Dispensary, Randia in the district of Bhadrak, ESI Dispensary, Dhanmandal in the district of Jajpur, ESI Dispensary, Jeykaypur in the district of Rayagada and ESI Dispensary, Chhanpur, Balasore & Balgopalpur in the district of Balasore to provide health care facilities to the beneficiaries.

#### 3. Delegation of Financial Powers for sanction of RCM claims to IP's:-

For smooth disposal of reimbursement claims of IP's Government have been pleased to increase the Financial Powers for sanction of reimbursement of bills relating to purchase of medicines speciality treatment and investigations of Joint Director's/Superintendents of Hospitals from Rs.5,000/- to Rs.25,000/- and that of the IMO I/c of Dispensaries from Rs.2,000/- to Rs,10,000/- respectively.

#### 4. Hospital Development committees:-

Hospital Development committees have been set up in four ESI Hospitals under the chairmanship of respective Superintendents and comprising of Employers and Employees Representatives. All the repair and maintenance work of ESI buildings and equipments are being taken up under the supervision of Hospital Development committee.

## STATE LABOUR INSTITUTE, BHUBANESWAR AND ITS ACHIVEMENTS

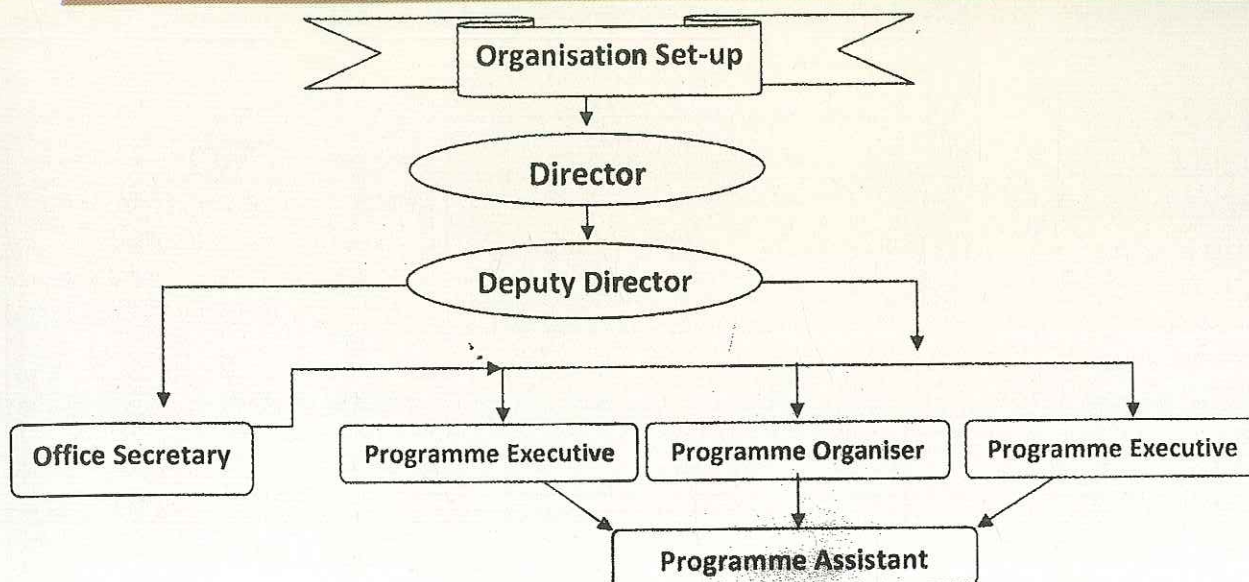


### 01. Formation :

State Labour Institute, Bhubaneswar is a State Government sponsored autonomous body registered under the Societies Registration Act, 1860. It is a premier Institute in the Country created vide Labour & ESI Department, Government of Odisha Resolution No. 4331 LE dated 14.04.1993, started functioning from 1<sup>st</sup> May, 1993. Biju Pattanayak, the founder of modern Odisha established the State Labour Institute, Bhubaneswar with the triple objectives of research, training and publications on labour / HRD related issues from 1<sup>st</sup> May, 1993.

### 02. Organisation /Administration Structure :

The administration of the Institute has been vested with the General Council headed by the Minister, Labour & ESI Department, Government of Odisha as Chairman, Secretary to Government, Labour & ESI Department as Vice-Chairman, Director of the Institute, Labour Commissioner, Director of Employment and Director of Factories & Boilers as Members Ex-Officio and 12 other members drawn in equal numbers, from the trade unions, employer organizations and academicians to be nominated by the State Government once in every three years. At present, State Labour Institute is functioning only with 6 nos. of employees. The organizational set up comprises of Hon'ble Minister, Labour & ESI at the apex followed by the Principal Secretary to Govt, Labour & ESI Department as the Vice-chairman. A Director being the head of the Institute works with six employees & looks after the administration & execution of different schemes/projects of the Institute. Next to Director is the Deputy Director followed by 5 other employees namely Office Secretary, Programme Organizer, 2 Programme Executives and Programme Assistant. The Administrative Structure of SLI is indicated below :



**03. Major achievements accomplished by State Labour Institute during the financial year 2013-14:**

**TRAININGS & WORKSHOPS**

- (a) Refresher Course of Dy. Labour Commissioners & Asst. Labour Commissioners
- (b) Refresher Course of District Labour Officers & Asst. Labour Officers
- (c) Refresher Course of Rural Labour Inspectors
- (d) Induction Training for the newly recruited Rural Labour Instructors.
- (e) Computer Training for the Officers & Staff of Labour Directorate in 5 batches.
- (f) Training Programme for the PRI members on ISMW in 30 districts.
- (g) Training Programme for the Inspectors declared under C.L(P&R) Act in 32 Labour Districts,
- (h) Training for the Women Self Help Groups at Subarnapur.
- (i) Training Programme for the CDPOs & ICDS Supervisors at Subarnapur to conduct Migrant Labour Survey.
- (j) Training Programme for the CDPOs & ICDS Supervisors at Koraput to conduct Migrant Labour Survey.
- (k) Training Programme for the CDPOs & ICDS Supervisors at Gajapati to conduct Migrant Labour Survey.
- (l) Training Programme for the CDPOs & ICDS Supervisors at Berhampur to conduct Migrant Labour Survey.
- (m) Training Programme for the CDPOs & ICDS Supervisors at Chhatrapur to conduct Migrant Labour Survey.
- (n) Training Programme for the CDPOs & ICDS Supervisors at Bhanjanagar to conduct Migrant Labour Survey.
- (o) Training Programme for the Master Trainers on Joyful Teaching Methods.
- (p) Training-cum-Workshop on ISMW for the District/Block level officers at Nuapada.

**04. RESEARCH / SURVEYS / STUDY**

- (a) Field Survey on Migrant Labour of Gajapati District.
- (b) Field Survey on Migrant Labour of Ganjam District.
- (c) Field Survey on Migrant Labour of Koraput District.
- (d) Field Survey on Migrant Labour of Subarnapur District.

**05. PUBLICATIONS**

- (a) 4<sup>th</sup> Edition of Shishu Sampad, Annual Bulletin on Child Labour.
- (b) 2<sup>nd</sup>, 3<sup>rd</sup> & 4<sup>th</sup> Edition of Shrama Darpan, Quarterly Bulletin on Labour Laws.
- (c) 1<sup>st</sup> Edition of Prabasi Shramik, Half Yearly Bulletin on Inter State Migrant Workmen



## ଶ୍ରମ ଆଇନ ଦର୍ପଣ : THE CHILD LABOUR

(PROHIBITION AND REGULATION)

ACT, 1986 : AT A GLANCE

<p><b>Object of the Act</b> To regulate the conditions of the work of the children in certain employment</p>	<p><b>The Important clarifications</b></p> <ul style="list-style-type: none"> <li>● Child' means a person who has not completed his 14 years of age.</li> <li>● 'Establishment' Includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.</li> </ul>	<p><b>Prohibition of employment of Children in Certain Occupations and processes</b></p> <p>No child to be employed in occupation set forth in Part A of the Schedule or any workshop wherein any of the processes set-forth in Part B of the Schedule is carried on. <b>Sec. 3</b></p>								
<p><b>Hours and period of work</b></p> <p>Not to exceed three hours Interval for rest - one hour Spread over not more than six hours inclusive of interval and the time spent for waiting. <b>Sec.7</b></p>	<p><b>Not permitted to work</b></p> <ul style="list-style-type: none"> <li>● Between 7 pm to 8am.</li> <li>● Overtime working.</li> </ul> <p>If such a child is working in another establishment. <b>Sec.7.</b></p>	<p><b>Weekly holidays</b></p> <p>One whole day, not to be altered more than once in three months. <b>Sec. 8</b></p>								
<p><b>Notice to Inspector</b></p> <p>Furnishing details of</p> <ul style="list-style-type: none"> <li>● Name and situation of establishment.</li> <li>● Name of the person in actual management of the establishment.</li> <li>● Address for communication.</li> <li>● Nature of the occupation. <b>Sec.9</b></li> </ul>	<p><b>Dispute as to age</b></p> <p>In the absence of certificate of age, can be referred for decision of prescribed medical authority. <b>Sec.10</b></p>	<p><b>Maintenance &amp; Production of register by occupier</b></p> <ul style="list-style-type: none"> <li>● The name and date of birth of every child so employed or permitted to work.</li> <li>● Hours and period of work of any such child and the intervals of rest to which he is entitled.</li> <li>● The nature of work of any such child.</li> <li>● Such other particulars as may be prescribed. <b>Sec. 11</b></li> </ul>								
<p><b>Display of Notice</b></p> <p>To contain abstract of section 3 pertaining to prohibition of employment of children and the provisions for penalties. <b>Sec.12</b></p>	<p><b>Health and Safety</b></p> <p>To be notified by appropriate government in accordance with guidelines given in section 13 of the Act. <b>Sec.13</b></p>									
<table border="1"> <thead> <tr> <th>Offence</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>for violation of section 3</td> <td>Imprisonment for not less than 3 months which may extend to one year, or fine not less than 10,000/- which may extend to Rs. 20,000/- or both.</td> </tr> <tr> <td>Repetition of violation</td> <td>Imprisonment for a term not less than six months which may extend to two years.</td> </tr> <tr> <td>For failure to : ● Give notice as required by section 9 ● maintain a register as required by section 11 or make any false entry in any such registers; or ● display a notice containing an abstract of section 3 and this section as required by section 12, or ● Comply with or contravene any other provisions of this Act or the Rules made thereunder.</td> <td>Shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both. <b>Sec - 14</b></td> </tr> </tbody> </table>		Offence	Punishment	for violation of section 3	Imprisonment for not less than 3 months which may extend to one year, or fine not less than 10,000/- which may extend to Rs. 20,000/- or both.	Repetition of violation	Imprisonment for a term not less than six months which may extend to two years.	For failure to : ● Give notice as required by section 9 ● maintain a register as required by section 11 or make any false entry in any such registers; or ● display a notice containing an abstract of section 3 and this section as required by section 12, or ● Comply with or contravene any other provisions of this Act or the Rules made thereunder.	Shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both. <b>Sec - 14</b>	
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### Landmark Judgement

The Supreme Court in M.C. Mehta V. State of Tamil Nadu, 1996 SCC 756 has directed of the discontinuance of the employment of child labour and ordered payment of Compensation of Rs. 20,000 per child. The court has also laid down certain directions in relation to working hours in non-hazardous jobs and providing for education by the employer and the State.



# CONTRACT LABOUR

(REGULATION & ABOLITION)

ACT, 1970 : AT A GLANCE

<p><b>Object of the Act</b></p> <p>To regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.</p>	<p><b>Applicability</b></p> <p>Every establishment in which 20 or more work men are employed or were employed on any day of the preceding 12 months as contract labour. Every contractor who employs or who employed on any day of the preceding twelve months 20 or more workmen.</p> <p style="text-align: right;"><b>Sec. 1</b></p>	<p><b>Registration of Establishment</b></p> <p>Principal employer employing 20 or more workers through the contractor or the contractor (s) on deposit of required fee in Form 1.</p> <p style="text-align: right;"><b>Sec. 7</b></p>
<p><b>Prohibition of Employment of Contract Labour</b></p> <p>Only by the appropriate Government through issue of notification after consultation with the Board (and not Courts) can order the prohibition of employment of contract labour.</p> <p style="text-align: right;"><b>Sec-10</b></p>	<p><b>Revocation of Registration</b></p> <p>When obtained by misrepresentation or suppression of material facts etc. after opportunity to the principal employer.</p> <p style="text-align: right;"><b>Sec-9</b></p>	<p><b>Licensing of Contractor</b></p> <p>Engaging 20 or more than 20 workers and on deposit of required fee in Form IV. Valid for specified period.</p> <p style="text-align: right;"><b>Sec-12, Rule 21</b></p>
<p><b>Revocation or Suspension &amp; Amendment of Licences</b></p> <p>When obtained by misrepresentation or suppression of material facts. Failure of the contractor to comply with the conditions or contravention of Act or the Rules.</p> <p style="text-align: right;"><b>Sec-14</b></p>	<p><b>Welfare measures to be taken by the Contractor</b></p> <p>Contract labour either one hundred or more employed by a contractor for one or more canteens shall be provided and maintained. First Aid facilities. Number of res-rooms as required under the Act. Drinking water, latrines and washing facilities.</p> <p style="text-align: right;"><b>Sec-16 &amp; 17</b></p>	
<p><b>Laws, Agreement or Standing Orders inconsistent with the Act-Not Permissible</b></p> <p>Unless the privileges in the contract between the parties are more favourable than the prescribed in the Act, such contract will be invalid and the workers will continue to get more favourable benefits.</p> <p style="text-align: right;"><b>Sec-30</b></p>	<p><b>Liability of Principal Employer</b></p> <p>To ensure provision for canteen, rest-rooms, sufficient supply of drinking water, latrines and urinals. Washing facilities. Principal employer entitled to recover from the contractor for providing such amenities or to make deductions from amount payable.</p> <p style="text-align: right;"><b>Sec.20</b></p>	<p><b>Responsibility of Contractor for Payment of Wages</b></p> <p>To pay timely and to ensure the disbursement of wages in the presence of the authorised representative of the principal employer. Rate of wages not less than the rates as fixed or prevailing in such employment as fixed by agreement.</p> <p style="text-align: right;"><b>Sec.21, Rules 25</b></p>
<p><b>Registers of Contractors</b></p> <p><b>Principal employer</b> To maintain a register or contractors in respect of every establishment in Form XII. <b>Rule - 74</b></p> <p><b>Contractor</b> To maintain register of workers for each registered establishment in Form XIII. To issue an employment card to each worker in Form XIV. To issue service certificate to every workman on his termination in Form XV. <b>Rules 75, 76 and 77</b></p>	<p><b>Muster Roll, Wages Register, Deduction Register and Overtime Register by Contractor</b></p> <p>Every Contractor shall Maintain Muster Roll and a Register of Wages in Form XVI and Form XVII respectively when combined. Register or wage-cum-Muster Roll in Form XVII where the wage period is a fortnight or less. Maintain a Register of deductions for damage or loss. Register or Fines and Register of Advances in Form XX, Form XXI and Form XXII respectively. Maintain a Register of Overtime in Form XXIII. To issue wage slips in Form XIX, to the workmen at least a day prior to the disbursement of Wages. Obtain the signature or Thumb impression of the worker concerned against the the entries relating to him on the Register of Wages or Muster Roll-Cum Wages Register. When covered by payment of Wages Act, register and records to be maintained under these rules - Muster Roll   Register of Wages,   Register of Deductions,   Register of Overtime,   Register of Fines,   Register of Advances,   Wage Slip. <b>Rule - 79</b></p> <p>To display an abstract of the Act and Rules in English and Hindi and in the language spoken by the majority of Workers in such form as may be approved by appropriate authority. <b>Rule - 80</b></p> <p>To display notices showing rates of wages, hours of work, wage period, dates of payment, names and addresses of the inspector and to send copy to the inspector and any change forthwith. <b>Rule - 81</b></p>	
<p><b>Returns</b></p> <p>Contractor to send half yearly return in Form XXIV in duplicate within 30 days Principal employer to send annual return in Form XXV in duplicate before 15th Feb. following the end of the concerned year. <b>Rule 82</b></p>		
<p><b>PENALTIES</b></p>		
<p><b>Section</b></p> <p>Sec. 22</p> <p>Sec. 23</p>	<p><b>Offence</b></p> <p>Obstruction</p> <p>Violation</p>	<p><b>Punishment</b></p> <p>For obstructing the inspector of failing to produce registers etc.-3 months "imprisonment or fine upto Rs. 500, or both.</p> <p>for Violation of the provision of Act or the Rules. Imprisonment of 3 months or fine upto Rs. 1000. On continuing contravention, additional fine upto Rs. 100 per day.</p>



# EQUAL REMUNERATION ACT, 1976

## AT A GLANCE

### Object of the Act

To provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women, in the matter of employment and for connected or incidental matters.

### Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after this Act. Sec. 3

### No discrimination to be made while recruiting men and women workers

No discrimination on promotion, training or transfer except where employment of women is restricted.

These provisions not applicable when priority is to be given to scheduled castes or scheduled tribes, ex-servicemen or retrenched employees.

Sec-5

### Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature

No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex for performing the same work or work of a similar nature.

No employer shall reduce the rate of remuneration.

Where the rates or remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are different only on the ground of sex, then the higher or the highest rate at which remuneration to be paid.

Sec-4

### Maintaining of register

Upto date for all workers employed in Form D at the place where the workers are employed.

Sec-8, Rule 6

Sec - 10

## PENALTIES

- When any employer
- omits or fails to maintain any register or other document in relation to workers.
- omits or fails to produce any register, muster-roll or other document.
- omits or refuses to give any evidence or prevents his agent, servant, etc. from giving evidence, or
- omits or refuses to give any information.

If any employer

- makes any recruitment in contravention to the provisions of the Act, or
- makes any payment of remuneration at unequal rates to men and women workers, for the same work or work of a similar nature, or
- makes any discrimination between men and women workers in contravention of the provisions of the Act, or
- omits or fails to carry out any direction made by the appropriate government under sub-section (5) of section 6.
- On omission or failure to produce any register or record.

Simple imprisonment upto one month or fine upto Rs. 10,000 or both.

Fine not less than Rs. 10,000 which may extend to Rs. 20,000 or imprisonment not less than 3 months which may extend upto one year for 1st offence and upto two years for second and subsequent offences.

Fine upto Rs. 500.



# MOTOR TRANSPORT WORKERS ACT, 1961

## AT A GLANCE

<p><b>Object of the Act</b> To provide for the welfare of motor transport workers and to regulate the conditions of their work. Sec.1</p>	<p><b>Running time</b> In relation to a working day means the time from the moment a transport vehicle start ceases to function at the end of the working day, excluding any time during which the running of the transport vehicles is interrupted for a period exceeding such duration as may be prescribed during which period the persons who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work. Sec-2(1)</p>	
<p><b>Applicability of the Act</b> to every motor transport undertaking employing five or more motor transport workers or by a notification issued by the State Government. Sec.1</p>	<p><b>Spread-over</b> Not more than 12 hours in a day. Sec-16</p>	<p><b>Canteens</b> Where there are 100 or more workers. Sec- B</p>
<p><b>Registration of motor transport undertaking</b> On an application for the registration of a Motor Transport Undertaking to be prescribed authority. Sec-3</p>	<p><b>Medical Certificate</b> To be readily available at operating centers and halting points Sec-11</p>	<p><b>Rest room(s)</b> Where in such workers are to halt at night. Sec-9</p>
<p><b>Split duty</b> Not more than two spells. Sec-17</p>	<p><b>Hours of work for adolescents</b> Not more than 6 hours a day including rest for 1/2 hour. Not to be work between 10 P.M. and 6 A.m Sec-14</p>	<p><b>First aid facilities</b> To be readily Accessible during working hours a first aid box equipped with prescribed contents. Sec-12</p>
<p><b>Hours of work</b> Not more than 8 hours in any day and 48 hours in a week. To be permitted to work upto 10 hours and 54 hours in a week. In case of break down etc. the limitation can be prescribed. Sec-13</p>	<p><b>Compensatory day of rest</b> Within that particular month. Sec-20</p>	<p><b>Uniforms</b> For drivers, conductors and checkers. Sec-10</p>
<p><b>Adolescents employed as motor transport workers to carry tokens and certificate of fitness</b> Sec-22</p>	<p><b>Certificate of fitness for the adolescent</b> By certifying Surgeon. Sec-23</p>	<p><b>Daily intervals for rest</b> After 5 hours working for at least 1/2 hour for an adult worker and to be allowed rest of at least 9 consecutive hours between the termination of duty on any day and the commencement of duty on the following day. Sec-15</p>
<p><b>Weekly rest</b> A day of rest in every period of 7th day. Sec-19</p>	<p><b>Prohibition of employment of children</b> Sec-21</p>	<p><b>Notice of hours of work</b> To be displayed and correctly maintained by the employers. Sec-18</p>
<p><b>Annual leave with wages</b> Besides holidays and on working for 240 days- One day for every 20 days of work performed by an adult worker during previous calendar year. For adolescent one day for every 15 day's duty performed during the calendar year. Sec-27</p>	<p><b>Medical examination</b> At the instance of the inspector any worker can be medically examined. Sec-24</p>	<p><b>Payment of wages</b> As per the provisions of the Payment of Wages Act, 1948- Extra wages for overtime twice his ordinary rates of wages. Sec-26</p>

Sections	Offence	Punishment
Sec-29	Obstructing the inspectors Refusing to produce any register or other documents to the inspector.	Imprisonment upto 3 months or fine upto Rs.500 or both Imprisonment upto 3months or fine upto Rs.500
Sec-30	Use of false certificate of fitness.	Imprisonment upto one month or fine upto Rs. 50 or both.
Sec-31	Contravention of provisions regarding employment of motor transport workers contravention	imprisonment upto 3months or fine upto Rs. 500 or both on continuing contravention Rs. 75 per day for such
Sec-32	Withfully disobeying any direction lawfully given by any person or authority under the Act.	Imprisonment upto 3months or fine upto Rs. 500or with both
Sec-33	Enhanced penalties after previous conviction	Imprisonment upto six months or fine upto Rs. 1000 or with both



# TRADE UNIONS ACT, 1926

## AT A GLANCE

### OBJECT

To provide for the registration of Trade Union and in certain respects to define the law relating to registered Trade Unions.

### REGISTRATION OF TRADE UNION

Any 7 or more members of a trade union may, by subscribing their names to the rules of the trade union and its compliance.

There should be at least 10%, or 100 of the work men, whichever is less, engaged or employed in the establishment or industry with which it is connected.

It has to have, on the date of making application, not less than 7 persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected. (4)

### APPLICATION FOR REGISTRATION

On prescribed form with and following details:

Names, occupations and Address of its head office; and Name, ages, addresses and occupations of its office bearers. (5)

### MINIMUM REQUIREMENTS FOR MEMBERSHIP OF TRADE UNION

Not less than 10%, or 100 of the workmen, whichever is less, subject to a minimum of 7, engaged or employed in an establishment etc. (9A)

### CANCELLATION OF REGISTRATION

If the certificate has been obtained by fraud or mistake or its has ceased to exist or has wilfully contravened any provision of this Act.

If it ceases to have the requisite number of members (10)

### CRIMINAL CONSPIRACY IN TRADE DISPUTES

No office-bearer or member of a registered trade union shall be liable to punishment under sub-sec(2) of conspiracy u/s 120B of IPC in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union. (17)

### DISQUALIFICATION OF OFFICE -BEARERS OF TRADE UNION

If one has not attained the age of 18 years

Conviction for an offence involving moral turpitude.

Not applicable when 5 years have elapsed. (21-A)

### RETURNS

Annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st December. (28)

### Penal provision

For making false entry in or any omission in general statement required for sending returns : Fine upto Rs. 500. On continuing default, additional fault, Rs. 5 for each week (not exceeding Rs. 50) (31)

For making false entry in the form:

Fine upto 500. (31)

Supplying false information regarding Trade Union : fine upto Rs. 200. (32)



# SALES PROMOTION EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1976 AT A GLANCE

## OBJECT

To regulate certain conditions of service of sales promotion employees in certain establishments.

## APPLICABILITY

Whole of India with effect from 6.3.1976.

## APPLICABILITY OF OTHER ACTS

Employees' Compensation Act, 1923/2010

Industrial Disputes Act, 1947

Minimum Wages Act, 1948

Maternity Benefit Act, 1961

Payment of Bonus Act, 1965

Payment of Gratuity Act, 1972

## APPOINTMENT LETTER

To be issued in Form-A, within three months, from the commencement of the Act and in other case on appointment. [5(22)]:

## LEAVE

- Earned leave and cash compensation on earned leave not availed of.
- On full wages for not less than 1/11th of the period spent on duty.
- Leave on medical certificate.
- On one-half of the wages for not less than 1/18th of the period of service.
- Cashable on voluntary relinquishment or termination other than by way of Punishments. [4]
- Maximum limit upto which earned leave can be accumulated : 180 days of which the employee can avail himself 90 days at a time.
- Encashment of leave : 120 days. Rule 14.
- Holidays intervening during the period of leave Except casual leave granted or day of weekly rest, other holidays shall be part of leave, Rule 12.
- Affixing of holidays to leave : Prefixing

or suffixing of any leave not permissible, Rule 11

- Application for leave : When other than casual leave, not less than one month before commencement of leave except for urgent or unforeseen circumstances. Rule 9
- Medical leave : On production of medical certificate. Rule 15.
- Casual leave : 15 days in a calendar year. Rule 20
- Extraordinary leave : At the discretion of the employer. Rule 17
- Quarantine leave : Upto 30 days on the recommendations of authorised medical attendant or Public Health Officer. Rule 16
- Recording of reason for refusal or postponement of leave. Rule 10

## HOLIDAYS

- Compulsory 10 in a calendar year. Rule 4
- Compensatory : To be availed within 30 days of the day when he was required to work. Rule 5
- Wages for holidays : To be entitled for wages on all holidays as if he was on duty. Rule 6
- Wages for weekly day of rest : Entitled to wages on weekly days of rest as if he was on duty. Rule 7

## MAINTENANCE OF REGISTER

- Form B : Register of sales promotion employees
- Form C : Service Books for every employee.
- Form D : Register of Service books.
- Form E : Leave account of each employee Sec. 7, Rule 23.

## PENAL PROVISION

On contravention of provisions relating to 'Leave', issue of Appt. Letter or Maintenance of Registers : Fine upto Rs. 1000.



# MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:-

## THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No. 14 of 2013)

[22, April, 2013]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental there to.

Whereas sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

And whereas the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

And Where as it is expedient to make provisions for giving effect to the said convention for protection of women against sexual harassment at workplace.

Be it enacted Parliament in the Sixty-fourth year of the Republic of India as follows :

### CHAPTER 1

#### PRELIMINARY

Short title	1.(/) This Act may be called the Sexual Harassment of Women at Workplace (Prevention,
extent and	Prohibition and Redressal) Act, 2013.
Commencement	(2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint,
Definitions	2. In this Act, unless the context otherwise requires, (a) "aggrieved woman" means—



- (i) In relation to a workplace, a woman, of any age whether employed or not, who alleges; In have been subjected to any act of sexual harassment by the respondent;
- (ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;
- (b) "appropriate Government" means -
- (i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly
- (A) by the Central Government or the Union territory administration, the Central Government;
- (B) by the State Government, the State Government;
- (ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State-Government.
- (c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (i) of section 7;
- (d) "District Officer" means an officer notified under section 5;
- (e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;
- (f) "employee" means a person employed at a workplace for any work on regular, temporary, adhoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;
- (g) "employer" means-
- (i) in relation to any department, organisation, undertaking, -establishment, enterprise, institution, office, branch or unit of the appropriate Government or local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;
- (ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.
- Explanation.*— For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of policies for such organisation;
- (iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;



- (h) "Internal Committee" means an Internal Complaints Committee constituted under section 4;
- (i) "Local Committee" means the Local Complaints Committee constituted under section 6;
- (j) "Member" means a Member of the Internal Committee or the local Committee, as the case may be;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Presiding Officer" means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;
- (m) "respondent" means a person against whom the aggrieved woman has made a complaint under section 9;
- (n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—
- (i) physical contact and advances; or
  - (ii) a demand or request for sexual favours; or
  - (iii) making sexually coloured remarks; or
  - (iv) showing pornography; or
  - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- (O) "workplace" includes
- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
  - (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
  - (iii) hospitals or nursing homes;
  - (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or noli used for training, sports or other activities relating thereto;
  - (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
  - (vi) a dwelling place or a house;
- (j) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in Introduction or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.



Prevention of sexual harassment

3. (1) No woman shall be subjected to sexual harassment at any workplace,  
(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: -  
(i) implied or explicit promise of preferential treatment in her employment; or  
(ii) implied or explicit threat of detrimental treatment in her employment; or  
(iii) implied or explicit threat about her present or future employment status; or  
(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or  
(v) humiliating treatment likely to affect her health or safety.

## CHAPTER II

### CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution of Internal Complaints Committee

4. (1) Every employer of a workplace shall, by an order in writing, constitute Committee to be known as the "Internal Complaints Committee".

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

- (2) The Internal Committee shall consist of the following members to be nominated by the employer, namely: -

- (a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- (b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;  
(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment'

Provided that at least one-half of the total Members so nominated shall be women.

- (3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

- (4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

- (5) Where the Presiding Officer or any Member of the Internal Committee,

- (a) contravenes the provisions of section 16; or



(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

Such Presiding Officer or Member, as, the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

### CHAPTER III

### CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act, Notification of District Officer
6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself. Constitution complaints
- (2) The District Officer shall designate one nodal officer in every block, taluka and Tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.
- (3) The jurisdiction of the Complaints Committee shall extend to the areas of the district where it is constituted.
7. (1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely: Composition,
- (a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;
- (b) one Member to be nominated from amongst the women working in block, taluka or tahsil or ward or municipality in the district;
- (c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;



- (d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.
- (2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer
- (3) Where the Chairperson or any Member of the local Complaints Committee
- (a) contravenes the provisions of section 16; or
- (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest.
- such Chairperson or Member, as the case may be, shall be removed from Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.
- (4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.
- 8.(1) The Central Government may, alter due appropriation made by Parliament by law in (his behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.
- (2) The State Government may set up an agency- and transfer the grants made under sub-section (1) to that agency.
- (3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.
- (4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

#### CHAPTHRIV

#### COMPLAINT

9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented The woman from filling complaint within the said period.



(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating, an inquiry under section 11 and at the request of the aggrieved woman take steps to settle matter between her and the respondent through conciliation.

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived as under sub-section (1), the Internal Committee or the Local Committee as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the internal Committee or the Local Committee, as the case may be.

11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.



## CHAPTER V INQUIRY INTO COMPLAINT

12. (f) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to
- transfer the aggrieved woman or the respondent to any other workplace; or
  - grant leave to the aggrieved woman up to a period of three months, or
  - grant such other relief to the aggrieved woman as may be prescribed.
- (2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.
- (3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (f), the employer shall implement the recommendations made under sub-section (f) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.
13. (f) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report shall be made available to the concerned parties.
- (2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.
- (3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be
- To take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;
  - to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:
- Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct the respondent to pay such sum to the aggrieved woman:
- Provided further that in case the respondent fails to pay the sum referred to in clause (ii) the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.
- (4) The employer or the District Officer shall act upon the recommendation within ten days of its receipt by him.
14. (f) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer



or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section.

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended

- (2) Where the internal or the local committee or the Local Committee, as the case may be, arrives non conclusion that during the inquiry- any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.
15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee or the Local Committee, as the case may be, shall have regard to -
- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
  - (b) the loss in the career opportunity due to the incident of sexual harassment;
  - (c) medical expenses incurred by the victim for physical or psychiatric treatment;
  - (d) the income and financial status of the respondent;
  - (e) feasibility of such payment in lump sum or in instalments.
16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:
- Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.
17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.
18. (1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions, of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
- (2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations



**CHAPTER VI**  
**DUTIES OF EMPLOYER**

19. Every employer shall -

- (a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace-
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of Section 4.
- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be,
- (f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;
- (h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.

**CHAPTER VII**  
**DUTIES AND POWERS OF DISTRICT OFFICERS**

20. The District Officer shall, -

- (a) monitor the timely submission of reports furnished by the Local Committee;
- (b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

**CHAPTER VIII**  
**MISCELLANEOUS**

21. (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.
- (2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.
22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.



23. the appropriate Government shall monitor the implementation of this Act and maintain dilla on the number of cases filed and diisposed of in respect of all cases of sexual harassment at workplace.
24. The appropriate Government may, subject to the availability of financial and other resources,
- develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace.
  - Formulate orientation and training programmes for the members of the local complaints Committee.
25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace- to do so. by order in writing,
- call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;
  - authorise any officer to make inspection of the records and workplace in.-relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.
- (2) livery employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject rmitter of such inspection,
- 26, (1) Where the employer fails to -
- constitute an internal Commiltee under sub-section (f) of section 4,
  - Take action under sections 13, II and 22; and
  - contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,
- he shall be punishable with fine which may extend to fifty thousand rupees.
- (2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to -
- twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:  
Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;
  - cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Govcmmem or local authority required for carrying on his business or activity.
- 27, (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.
- No court interior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
  - lively offence under this Act shall be non-cognizable,
28. The provisions; of this Act shall be in addition to and not in microgation of the provisions of any other law for the time being in force.
- 29 (1)The Central Government may, by notification in the Official Gazette make rules for carrying out theprovisions of this Act.



- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- the fees or allowances to be paid to the Members under sub-section (1) of section 4;
  - nomination of members under clause (c) of sub-section (1) of section 7;
  - the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;
  - the person who may make complaint under sub-section sub-section (2) of section 9;
  - the manner of inquiry under sub-section (1) of section 11;
  - the power of making an inquiry under clause (e) of sub-sections (2) of section 11
  - the relief to be recommended under clause (c) of sub-section (1) of section 12;
  - the manner of action to be taken under clause (1) of sub-section (3) of section 13;
  - the manner of action to be taken under sub-sections (1) and (2) of section 14;
  - the manner of action to be taken under section 17;
  - the manner of appeal under sub-section (1) of section 18;
  - the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and
  - the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.
- (3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- (4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.
30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:  
Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**P.K..MAL.HOTRA,**  
Secy. to the Govt. of India



# MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st December, 2008/Pausa 10, 1930 (Saka)

The following Act of Parliament received the assent of the President on the 30th December, 2008 and is hereby published for general information :-

## THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

No. 33 OF 2008

[30th December, 2008]

An Act to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:-

### CHAPTER - 1 PRELIMINARY

1. (1) This Act may be called the Unorganised Workers Social Security short title, Act, 2008.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

#### Definitions

2. In this Act, unless the context otherwise requires,-
  - (a) "employer" means a person or an association of persons, who has engaged or employed an unorganised worker either directly or otherwise for remuneration;
  - (b) "home-based worker" means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer provides the equipment, materials or other inputs;
  - (c) "identity card" means a card, document or certificate issued to an unorganised worker by the District Administration under sub-section (3) of section 10;
  - (d) "National Board" means the National Social Security Board for unorganised workers constituted under sub-section (3) of section 5;
  - (e) "notification" means a notification published in the Official Gazette;
  - (f) "organised sector" means an enterprise which is not an unorganised sector;
  - (g) "prescribed worker" means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be;
  - (h) "registered worker" means an unorganised worker registered under sub-section (3) of section 10;
  - (i) "Schedule" means the Schedule annexed to the Act;
  - (j) "State Board" means the (name of the State) State Social Security Board for unorganised workers constituted under sub-section (1) of section 6;
  - (k) "self-employed worker" means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;



- (l) "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;
- (m) "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to this Act; and
- (n) "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or worker, or workers employed by households including domestic workers, with & monthly age of an amount as may be notified by the Central Government and State Government, as the case may be.

## CHAPTER II SOCIAL SECURITY BENEFITS

Framing of  
scheme

3. (1) Central Government shall formulate and notify, from time to time, suitable Welfare schemes for unorganised workers on matters relating to
- life and disability cover,
  - health and maternity benefits;
  - old age protection; and
  - any other benefit as may be determined by the Central Government.
- (2) The schemes included in the Schedule 1 to this Act shall be deemed to be the welfare schemes under sub-section (1).
- (3) The Central Government may, by notification, amend the Schedules annexed to this Act.
- (4) The State Government may formulate and notify, from time to time suitable welfare schemes for unorganised workers, including schemes relating to -
- provident fund;
  - employment injury benefit;
  - housing
  - educational schemes for children;
  - skill upgradation of workers;
  - funeral assistance; and
  - old age homes
4. (1) Any scheme notified by the Central Government may be-
- wholly funded by the Central Government; or
  - party funded by the Central Government and partly funded by the State Government; or
  - partly funded by the Central Government, partly funded by the State Government and partly funded through contributions from the beneficiaries of the scheme or the employers as may be prescribed in the scheme the Central Government.
- (2) Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to,
- scope of the scheme;
  - beneficiaries of the scheme;



- (iii) resources of the scheme;
- (iv) agency or agencies that will implement the scheme;
- (v) redressal of grievances; and
- (vi) any other relevant matter.

### CHAPTER III

#### NATIONAL SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

5. (1) The Central Government shall, notification, constitute a National Board of to be known as the National Social Security Board of exercise the powers conferred on, and to perform the funtions Assigned to it under this Act.

- (2) The National Board shall consist of the following members, namely;-
  - (a) union Minister for labour and Employments-Chairperson, ex officio;
  - (b) the Director General (Labour Welfare)-Members Security, ex officio; and
  - (c) thirty-four members to be nominated by the Central Government, out of whom-
    - (i) seven representing unorganised sector workers;
    - (ii) seven representing employers of unorganised sector;
    - (iii) even representing eminent persons from civil society;
    - (iv) two representing members from Lok Sabha and one from Rajya Sabha;
    - (v) five representing Central Government Ministries and Departments concerned; and
    - (vi) five representing State Governments.
- (3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law administration.
- (4) The number of persons to be nominated members from amongst persons specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge on their function by, and the manner of filling vacancies among the members of, the National Board shall be such as amy be prescribed:  
Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.
- (5) The term of the National Board shall be three years.
- (6) The National Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meeting the meetings as may be prescribed.
- (7) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.
- (8) The National Board shall perform the following functions, namely:-
  - (a) recommend to the Central Government suitable schemes for different sections of unorganised workers;
  - (b) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;
  - (c) monitor such social welfare schemes for unorganised workers as are administered by the Central Government;
  - (d) review the progress of registration and issue of identity cards to the unorganised workers;
  - (e) review the record keeping functions performed at the State level;
  - (f) review the expenditure from the funds under various schemes; and
  - (g) undertake such other functions as are assigned to it by the Central Government from time to time.



## CHAPTER IV

## STATE SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS

6. (1) Every State Government shall, by notification, constitute a State Board to be known as (name of the State) State Social Security Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.
- (2) The State Board shall consist of the following members, namely:-
- (a) Minister of Labour and Employment of the concerned State-Chairperson, ex officio;
  - (b) the Principal Secretary of Secretary (Labour)-Member-Secretary, ex officio; and
  - (c) twenty-eight members to be nominated by the State Government, out of whom-
    - (i) seven representing the unorganised workers;
    - (ii) seven representing employers of unorganised workers;
    - (iii) two representing members of Legislative Assembly of the concerned State;
    - (iv) five representing eminent persons from civil society; and
    - (v) seven representing State government Departments concerned.
- (3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.
- (4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Board shall be such as may be prescribed:  
Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Woman.
- (5) The term of the State Board shall be three years.
- (6) The State Board shall meet atleast once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.
- (7) The members may receive such allowances as may be prescribed for attending the meetings of the State Board.
- (8) The State Board shall perform the following functions, namely:-
- (a) recommend the State Government in formulating suitable schemes for different sections of the unorganised sector workers;
  - (b) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;
  - (c) monitor such social welfare schemes for unorganised workers as are administered by the State Government;
  - (d) review the record keeping functions performed at the District level;
  - (e) review the progress of registration and issue of cards to unorganised sector workers;
  - (f) review the expenditure from the funds under various schemes; and
  - (g) undertake such other functions as are assigned to it by the State Government from time to time.
7. (1) Any scheme notified by the State Government may be-
- (i) wholly funded by the State Government; or
  - (ii) partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government.



- (2) The State Government may seek financial such financial assistance from the Central Government for the scheme for the purpose of schemes for such period and on such terms and conditions as it may deem fit.
8. The record keeping functions for the purpose of this Act shall be performed by the District Administration:  
Provided that the state government may direct that the record keeping function shall be performed by -  
(a) the District Panchayat in rural areas; and  
(b) the Urban Local Bodies in urban areas,
9. The State Government may set up such workers' facilitation centres as may be considered necessary from time to time to perform the following functions, namely:-  
(a) disseminate information on available social security schemes for the unorganised workers;  
(b) facilitate the filling, processing and forwarding of application forms for registration of unorganised workers;  
(c) assist unorganised worker to obtain registration from the District Administration;  
(d) facilitate the enrollment of the registered unorganised workers in social security schemes.

### CHAPTER V REGISTRATION

10. (1) Every unorganised worker shall be eligible for registration subject to the fulfillment of the following conditions, namely:-  
(a) he or she shall have completed fourteen years of age; and  
(b) a self-declaration by him or her confirming that he or she is an unorganised worker.
- (2) Every eligible unorganised worker shall make an application in the prescribed form to the District Administration for registration.
- (3) Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.
- (4) If a scheme requires a registered unorganised worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.
- (5) Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.

### CHAPTER VI

11. The Central Government may give directions to-  
(i) the National Board; or  
(ii) the Government of a State or the State Board of that State, in respect of matters relating to the implementation of the provisions of this Act.
12. No proceedings of the National Board or any State be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Board or, as the case may be, the State Board.
13. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.  
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-  
(a) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (i) of section;



- (b) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub-section (4) of section 5;
  - (c) the rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (6) of section 5;
  - (d) the allowances for attending the meeting of the National Board under sub-section (7) of section 5;
  - (e) the form of making an application for registration under sub-section (2) of section 10; and
  - (f) any other matter which is required to be, or may be, prescribed.
14. (1) The State Government may, by notification, make rules to carry out the provisions of this Act,
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-
    - (a) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under sub-section (4) of section 6;
    - (b) the rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (6) of section 6;
    - (c) the allowances for attending the meetings of the State Board under sub-section (7) of section 6;
    - (d) the contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 7;
    - (e) the form in which the application for registration shall be made under sub-section (2) of section 10; and
    - (f) any other matter which is required to be, or may be, prescribed.
15. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- (2) Every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature.
16. Nothing contained in this Act shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganised workers than those provided for them by or under this Act.
17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**SCHEDULE I**

[See sections 2(i) and (3)]

**SOCIAL SECURITY SCHEMES FOR THE UNORGANISED WORKERS****S. No. Name of the Scheme**

1. Indira Gandhi National Old Age Pension Scheme.
2. National Family Benefit Scheme.
3. Janani Suraksha yojana.
4. Handloom Weavers' Comprehensive Welfare Scheme.
5. Handicraft Artisans' Comprehensive Welfare Scheme.
6. Pension to Master craft persons.
7. National Scheme for Welfare of Fishermen and Training and Extension.
8. Janshree Bima Yojana.
9. Aam admi Bima Yojana.
10. Rashtriya Swasthya Bima Yojana.

**SCHEDULE II**

[See section 2 (m)]

**S. No. Name of the Act**

1. The Workmen's Compensation Act, 1923 (8 of 1923).
2. The Industrial Disputes Act, 1947 (14 of 1947).
3. The Employees' State Insurance Act, 1948 (34 of 1948).
4. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)
5. the Maternity Benefit Act, 1961 (53 of 1961).
6. The Payment of Gratuity Act, 1972 (39 of 1972).

T. K. VISWANATHAN,  
Secy. to the Govt. of India

**Government of Orissa**  
**Labour & Employment Department**

**NOTIFICATION**

Bhubaneswar dated the March, 2010

No. SS-II-SC-05/09 /LE, In exercise of the powers comiferred by section 14 of the Unorganized Workers' Social Security Act, 2008 (33 of 2008). the State Government do hereby makes following rules, namely:-

1. Short title - (1) These rules may be called the Orissa Unorganized Workers' Social Security Rules, 2010.  
(2) They shall come into force on the date of their publication in the Orissa Gazette.
2. Definitions - (1) in these rules, unless the context otherwise requires.  
(a) "Act" means the Unorganized Workers' Social Security Act 2008 (33 of 2008)  
(c) "Chairperson" means the chairperson of the State Board;  
(d) "section" means a section of the Act. (2) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.
3. Term of Board and Office Members - (1) Every member other than an ex-officio member, shall hold office of a period of three years from the date of his nomination.



Provided the members of the State Board shall be deemed to have vacated their office as such of expiration of the period of the State Board specified in sub-section (5) of section 6.

(2) A member nominated under sub-clause (iii) of clause (c) of sub-section (2) of section 6 shall cease to be a member of the State Board if he/she ceases to be member of Orissa Legislative Assembly by virtue of which he/she was so nominated.

(3) A member nominated under sub-clause (i) and (ii) of clause (c) of sub-section (2) of section 6 shall cease to be a member of the State Board if he/she ceases to represent the category of interest from which he/she was so nominated;

(4) Out of twelve persons to be nominated under sub-clause (i) and (iv) of clause (c) of sub-section (2) of section 6 one person each from the Scheduled Caste, the Scheduled Tribe, the Minorities and Women shall be nominated as member.

(5) A member shall be eligible for re-nomination.

4. Resignation. - (1) A member of the State Board, not being an ex officio member, may resign from his office by a writing under his hand addressed to the Chairperson and the member so resigning shall be deemed to have vacated his office as member with effect from the date his resignation is accepted by the Chairperson or on the thirty days from the date of receipt of resignation, whichever is earlier;

5. Change of Address. - If member changes his address, he shall bring it to the notice his new address to the Member Secretary of the Board about his new address who shall thereupon enter his new address in the official records;

Provided that if a member fails to bring it to the notice of the member Secretary his new address, the address in the official records shall for all purpose be deemed to be the members' correct address.

6. Manner of filling vacancies - When the office of a member becomes vacant by reason of death, resignation or Otherwise the Chairperson shall submit a report to the State Government and on receipt of such report, the State Government may, by notification, fill up the vacancy and the persons so nominated shall hold office for the remainder of the term of office of the member in whose place he is nominated.

7. Allowances of member - (1) The traveling allowance of an official member of the Board shall be governed by the rules authority paying his salary.

(2) Other members of the Board shall be paid traveling allowance for attending the meetings of the Board at such rates as are admissible to Group- 'A' Officer of the State Government and daily allowances shall be calculated at the maximum rate admissible to Group- 'A' Officer of the State Government.

8. Function of the Board - Every matter which the State Board is required to take into consideration shall be considered at a meeting of the State board, or if the chairperson so directs, by sending the necessary papers to every member for opinion and the matter shall be disposed of in accordance with the decision of the majority.

Provided that where there is no opinion of majority on a matter and the members of the Board are equality divided, the Chairperson shall have a second or a casting vote.

Explanation - The expression "Chairperson" for the purpose of the above proviso shall include a member nominated or chosen sub-rule (2) of rule 9 to preside over a meeting.

9. Meeting - (1) The Board shall meet at such places and at such times as may be decided by the Chairperson and it shall meet at least once in four months.

(2) The Chairperson shall preside over every meeting of the State Board in which he is present and in his absence of such nomination by the Chairperson, the members of the Board present in such meeting may choose from amongst themselves a member to preside over the meeting.



## ଶ୍ରମ ସିଦ୍ଧାନ୍ତ ଦର୍ପଣ :

(SUPREME COURT)

**SURINDER SINGH NIJJAR and H.L. GOKHALE, JJ**

Civil Appeal No. 6634 of 2012

September 13, 2012

Between

RAMESH AHLUWALIA

and

STATE OF PUNJAB and others

Constitution of India, 1950—Article 226—Writ petition—Maintainability- Specific plea taken by the appellant that respondent school was performing public functions by providing education to young children—Even a purely private body where state has no control over its internal affairs—Would be amenable to jurisdiction of the High Court under Article 226 for issuance of a writ of mandamus—It such private body is performing public functions normally expected to be performed by the State authorities. [Para 12] Constitution of India, 1950—Article 226—Writ petition—Clearly involving disputed questions of fact—Appropriate that the matter should be decided by an appropriate Tribunal/Court. [Para 16]

Disciplinary Proceeding—Principal appeared before the Inquiry Officer as management witness—Charges proved and appellant dismissed from service—He submitted appeal before the disciplinary committee—Principal participated in deliberations as a member of the committee—Having supported case of the management—Not appropriate for the Principal to participate in the proceedings of the Disciplinary Committee—Actual and demonstrable fair play must be hall mark of proceedings and decisions of administrative and quasi-judicial Tribunals—Impugned order vitiated Quashed and set aside. [Para 19]

### JUDGMENT

SURINDER SINGH NIJJAR and H.L. GOKHALE, JJ.—Leave granted

2. We have heard the learned Counsel for the parties at length and also (perused the entire records.
3. The appellant Ramesh Ahluwalia was working as an Administrative Officer in the DAV Public School, Lawrence Road/ Amritsar. He has been serving in that institution since 1st April, 1983. At the relevant time, the appellant was working as an Administrative Officer, to which post he was promoted by order dated 1st Aug 2005,



Stapper, that one lady official Smt. Jaswinder Kaur made a complaint to the Principal of the School on 28 Nov. 2006 about the alleged misconduct of the appellant on 17.11.2006. On the basis of the aforesaid misconduct, the appellant was issued a warning letter by the Principal Smt, Neera Sharma on 9th December, 2006. On 21st December, 2006, Smt. Jaswinder Kaur made another written complaint addressed to the Manager,

4. The appellant complains that without granting any opportunity of being heard, on 1st February, 2007 he was downgraded and transferred to another school to work as an Assistant. This order was also passed by Principal Smt. Neera Sharma. Again, on 8th February, 2007, Smt. Jaswinder Kaur submitted a further affidavit regarding her complaint. Therefore, a Memorandum/ Charge-sheet dated 17th March, 2007 was served upon the appellant under Bye-law 47 of the Central Board of Secondary Education Affiliation Bye-Laws. After obtaining the explanation of the appellant, the Manager of the Managing Committee of the school, being the Disciplinary Authority, appointed an Inquiry Officer and a regular inquiry was held against the appellant.

5- We may notice here that the Principal Smt. Neera Sharma appeared before the Inquiry Officer as Management Witness No. 2. Ultimately, the charges were said to have been proved against the appellant. Subsequently, the Inquiry Report was served on the appellant and he was given an opportunity to make a representation against the same. The appellant submitted his representation detailing his various contentions. Upon consideration of the entire matter, it appears that the Disciplinary Authority passed an order on 8th January, 2008 directing the appellant to be removed from service.

6. Against the aforesaid order of removal, the Appellant submitted an appeal before the Disciplinary Committee under Bye-Law 49 of the CBSE Affiliation Bye-Laws. Bye-Law 49 of the said Bye- Laws provides as under:

"49, Disciplinary Committee

- (1) In case the employee wishes to appeal against the order of the Disciplinary Authority, the appeal shall be referred to a Disciplinary Committee. The Disciplinary Committee shall consist of the following:
  - (a) The Chairman of the School Managing Committee or in his absence any member of the Committee, nominated by him.
  - (b) The Manager of the school, and where the disciplinary proceedings is against him/her any other person of the Committee nominated by the Chairman.
  - (c) A nominee of the Board appropriate authority. He/she shall act as an adviser.
  - (d) The Head of the school, except where the disciplinary proceeding is against him/her, the Head of any other school nominated by the CBSE or Director of Education in case the Act so provides.
  - (e) One teacher who is a member of SMC of the school nominated by the Chairman of the Committee.
- (2) The Disciplinary Committee shall carefully examine the findings of the inquiry officer reasons for imposing penalty recorded by the Disciplinary Authority and the representation by the employee and pass orders as it may deem fit."

7. A perusal of the aforesaid Bye-Law clearly shows that an order of the Disciplinary Authority can be challenged before the Disciplinary Committee by way of filing an appeal. The constitution of the Disciplinary Committee includes, amongst others, Head of the school. In accordance with the aforesaid Bye-law, the appellant duly submitted an appeal but the same was rejected by the Disciplinary Committee on 18th/ 19th of December, 2008.



8. Aggrieved by the aforesaid decision, the appellant challenged the order of the Disciplinary Committee before the High Court by filing CWP No. 11691/2009. The aforesaid writ petition has been dismissed by the learned Single Judge in limine, but by passing a speaking order. Relying on the judgment of this Court in Zee Telefilms Ltd. and another v. Union of India and others, the appellant had submitted that he was entitled to invoke the extraordinary jurisdiction of the High Court under Article 226 of the Constitution of India as the respondent-school was performing public functions by providing education to young children. The aforesaid submission of the Appellant has been rejected by the learned Single Judge with the following observations:

"After hearing Counsel, for the appellant, I do not find any force in the contention raised by him. The respondent-school, being an unaided and a private school being managed by a Society, is not an instrumentality of the State, in my opinion, the appellant has the efficacious remedy to challenge the impugned orders before the Civil Court. In the instant case, while challenging the impugned orders, the appellant has raised certain disputed questions of facts. Thus, in the facts and circumstances of the case, I am not inclined to entertain this petition and the same is accordingly, dismissed with liberty to the appellant to avail his.- alternative remedy." I am not inclined to entertain this petition and the same is accordingly, dismissed with liberty to the appellant to avail his alternative remedy."

9. Against the order passed by the learned Single Judge, the appellant filed Letters Patent Appeal No. 368 of 2010 before the Division Bench of the High Court. The Division Bench, vide its order dated 25th October, 2010, dismissed the LPA filed by the Appellant by observing that there is no infirmity in the order passed by the learned Single Judge. Hence, the present special leave petition by the appellant.
10. Mr. Parikh, i learned Counsel appearing on behalf of the appellant submitted that the judgment of the learned Single Judge as also of the Division Bench of the High Court are contrary to the law laid down by this Court in a catena of judgments.

He has made a reference to the judgments of this Court in *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust and others v. V.R. Rudani and others*,<sup>2</sup> *Unni Krishnan J.P. and others v. State of Andhra Pradesh and others*,<sup>3</sup> and *Zee Telefilms Ltd. and another v. Union of India and others*\* and submitted that even though the respondent ochool would not fall within the definition of "State" or other authority/instrumentality of the State under Article 12 of the Constitution of India, yet the writ petition would be maintainable as the Managing Committee of the School is running schools throughout India and thus performing very important public functions.

11. On the other hand, Mr. S.S. Ray, learned Counsel appearing on behalf of respondent Nos. 2-4 submitted that n6 writ petition would be maintainable against the respondent-institution. In support of his submission, learned Counsel has placed reliance in the case of *Pradeep Kumar Biszvas v. Indian Institute of Chemical Biology and others*,<sup>5</sup> particularly making reference to paragraph 40 of the aforesaid judgment. Paragraph 40 of the aforesaid judgment is extracted hereunder:

"The picture that ultimately emerges is that the tests formulated in *Ajay Hasia* are not a rigid set of principles so that if a body falls within any one of them it must, ex-hypothesi, be considered to be a State within the meaning of Article 12. The question in each case would be whether in the light of the cumulative facts as



established, the body is financially, functionally and administratively dominated by or under the control of the Government. Such control must be particular to the body in question and must be pervasive. If this is found then the body is a State within Article 12. On the other hand, when the control is merely regulatory whether under statute or otherwise, it would not serve to make the body a State."

12. We have considered the submissions made by the learned Counsel for the parties. In our opinion, in view of the judgment rendered by this Court in the case of *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust (supra)*, there can be no doubt that even a purely private body, where the State has no control over its internal affairs, would be amenable to the jurisdiction of the High Court under Article 226 of the Constitution, for issuance of a writ of mandamus. Provided, of course, the private body is performing public functions which are normally expected to be performed by the State Authorities. In the aforesaid case, this Court was also considering a situation where the services of a Lecturer had been terminated who was working in the college run by the *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav Smarak Trust*. In those circumstances, this Court has clearly observed as under:

"20. The term "authority" used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights. The words "any person or authority" used in Article 226 are, therefore, not to be confined only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of positive obligation owed by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation exists mandamus cannot be denied.

22. Here again we may point out that mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. Commenting on the development of this law, Professor de Smith states: "To be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract." We share this view. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available "to reach injustice wherever it is found". Technicalities should not come in the way of granting that relief under Article 226. We, therefore, reject the contention urged for the appellants on the maintainability of the writ petition."

13. The aforesaid observations have been repeated and reiterated in numerous judgments of this Court including the judgment in *Unni Krishnan and Zee Telefilms Ltd. (supra)*, brought to our notice by the learned Counsel for the appellant Mr. Parikh,

14. In view of the law laid down in the aforementioned judgments of this Court, the judgment of the learned Single Judge as also the Division Bench of the High Court cannot be sustained on the proposition that the writ petition would not be maintainable merely because the respondent-institution is a purely unaided



private educational institution. The appellant had specifically taken the plea that the respondents perform public functions, i.e. providing education to children in their institutions throughout India. We must, however, notice that the learned Single Judge has dismissed the writ petition also on the ground that it involves disputed questions of fact. Mr. Ray, learned Counsel appearing on behalf of the respondents has submitted that the appellant actually has not been able to contradict any of the proven facts. According to the learned Counsel, the remedy of the appellant is to file a civil suit, if so advised. Therefore, the writ petition has been rightly dismissed by the High Court.

15. Mr. Parikh, learned Counsel for the appellant, however, submits that civil suit would not be an alternative efficacious remedy in the facts of this case. In support of this submission, he brought to our notice certain observations made by a Constitution Bench of this Court in T.M.A. Rai Foundation and others v. State of Karnataka and others? Learned Counsel pointed out that, in the aforesaid case, this Court had directed that the Appellate Tribunal should be set up in each district of each State to hear appeals over the decisions taken by the Disciplinary Bodies of even purely private educational institutions. It was emphasised that speedy resolution of the disputes between the teachers and the management is in the interest of all, i.e. students, management as well as the concerned teachers. It appears that at the time when the appeal of the appellant was heard, such a Tribunal had not been set up in the State of Punjab. The appeal filed before the Disciplinary Committee was also not referred to the District Judge by the Disciplinary Committee.
16. We are of the considered opinion that since the writ petition clearly involves disputed questions of fact, it is appropriate that the matter should be decided by an appropriate Tribunal/Court.
17. At this stage, we are informed that the State of Punjab has set up a Tribunal, namely, Punjab School Education Tribunal, Mohali, which is empowered to entertain appeals even where orders have been passed by unaided private educational institutions. In that view of the matter, the remedy of appeal is clearly available to the appellant. It would, therefore, be appropriate for the appellant to avail the remedy of appeal before the aforementioned Education Tribunal.
18. Mr. Parikh, learned Counsel for the appellant has pointed out that the appellant's appeal having already been decided under the Bye-Law 49, the observations made by the aforesaid Disciplinary Committee may not influence the proceedings before the Appellate Authority. In our opinion, such an eventuality will not arise.
19. In the petition before the High Court as well as the appeal before this Court, the appellant has submitted that the entire disciplinary proceedings are vitiated due to the participation of the Principal, who was biased against the appellant. In our opinion, the order passed by the Disciplinary Committee cannot be sustained on the short ground that Smt Neera Sharma was a member of the aforesaid Disciplinary Committee. In our opinion, she was clearly disqualified from participating in any deliberations of the Disciplinary Committee as she had appeared as Management Witness No. 2. It is well settled principle of law that no person can be a Judge in his own cause. Having supported the case of the management, it was not appropriate for Smt. Neera Sharma to participate in the proceedings of the Disciplinary Committee. Given the background of the allegations made by the appellant at all stages of the enquiry not only against the principal, but also



the Manager of the School, it was necessary for her to disassociate from the proceedings, to nullify any plea of apprehended bias. Furthermore, when the appeal was being decided by the Disciplinary Committee with regard to the legality or otherwise of the order passed by the Disciplinary Authority, the decision of the Disciplinary Committee not only had to be fair but it also had to appear, to be fair. This is in conformity with the principle that justice must not only be done, but must also appear to be done. Actual and demonstrable fair play must be the hallmark of the proceedings and the decisions of the administrative and quasi-Judicial Tribunals. In particular, when the decisions taken by these bodies are likely to cause adverse civil consequences to the persons against whom such decisions are taken. For the aforesaid reasons, the order dated 18th/19th December, 2008 passed by the Disciplinary Committee is hereby quashed and set aside.

20. At this stage, learned Counsel appearing on behalf of the respondents submits that, in fact, the appeal filed by the appellant ought to be remitted back to the Disciplinary Committee which would not include Smt. Neera Sharma as a member of the said committee.
21. Having noticed the entire fact situation above and the time which have elapsed since the order of removal was passed, we are of the opinion that it would be inappropriate at this stage to relegate the appellant back to the Disciplinary Committee. In the interest of justice, we permit the appellant to challenge the order of the Disciplinary Authority dated 8th January, 2008 before Punjab School Education Tribunal, Mohali. The appeal shall be filed by the appellant within thirty days from today. Since the order of the Disciplinary Authority was passed on 8th January, 2008, the appeal may well be beyond limitation period.
22. Keeping in view the peculiar facts and circumstances of this case, we direct that the appeal filed by the appellant shall be decided by the aforesaid Education Tribunal on merits and the same shall not be rejected on the ground of limitation. If the appeal is filed by the appellant within the period stipulated above, the Education Tribunal shall take final decision thereon within a period of three months.
23. It is made clear that the Education Tribunal shall decide the appeal on the assumption that no opinion has been expressed by this Court on the merits of the controversy raised by the parties.
24. With the aforementioned observations and direction, the impugned judgments passed by the learned Single Judge as also the Division Bench of the High Court are set aside and the appeal is disposed of.

Source : Indiankanoon.org



(SUPREME COURT)

R.M. LODHA and SUDHANSU JYOTIMUKHOPADHAYA,

JJ. Civil Appeal No. 8415 of 2009

January 31, 2013

Between

ASSTT. ENGINEER RAJASTHAN DEV. CORP. and another

and

GITAM SINGH

Industrial Disputes Act, 1947—Section 25-F—Reinstatement with continuity in service and 25 percent back wages to daily wager—Respondent engaged as daily wager worked for 240 days—Termination of his service by an oral order—Held to be violative of section 25-F of the I.D. Act—In cases of wrongful dismissal, dismissed employee not entitled to reinstatement in all situations—Consequential relief would depend on host of factors—Where length of service is not long—Award of reinstatement should not follow—Rather compensation should be directed to be paid—Distinction has to be drawn between daily wager and employee holding regular post—Judicial discretion exercised by the Labour Court suffers from serious infirmity—Single Judge and Division Bench erred to uphold the view taken by the Labour Court—Impugned order set aside—Compensation of Rs. 50,000/-directed to be paid to the respondent to meet the ends of justice, [Paras 26 and 311]

A Counsel for the Appellants : Ms. Shobha, Atul Chaubey and Ashok Singh. (Counsel for the Respondent : Sushil Kumar Jain, Puneet Jain, Naushad Ahmad Khan and Nakibru Rahman (for Aftab Aii Khan).

**JUDGMENT**

R.M. LODHA, J.—The short question that arises for consideration in this appeal, by special leave, is where the workman had worked for only eight months as daily wager and his termination has been held to be in contravention of section 25-F of the Industrial Disputes Act, 1947 (for short, 'ID Act'), whether the direction to the employer for reinstatement with continuity of service and 25 per cent back wages is legally sustainable.

2. We were not disposed to undertake the detailed exercise but the same has become necessary in view of very vehement contention of Mr. Sushil Kumar Jain, learned Counsel for the respondent (workman), that reinstatement must follow where termination of a workman has been found to be in breach of section 25-F of ID Act. He heavily relied upon three decisions of this Court in *L. Robert D'Souza v. Executive Engineer, Southern Railway* and another, *Harjinder Singh v. Punjab State Warehousing Corporation* and *Devinder Singh v. Municipal Council, Sanaur*.

3. On behalf of the appellant, Ms. Shobha, learned Counsel, challenged the finding of the Labour Court that the respondent had worked for 240 days continuously in the year preceding the date of termination. Alternatively, she submitted that the award of reinstatement with continuity of service and 25 per cent back wages in the facts of the case was unjustified as the respondent was only a daily wager; he worked for a very short period from 1.3.1991 to 31.10.1991 and for last more than 20 years he is not in the service due to interim orders. Relying upon the decisions of this Court in *Haryana State Electronics Development Corporation Ltd. v. Mamni*,<sup>4</sup> *Mahboob Deepak v. Nagar Panchayat, Gajraula* and another,<sup>5</sup> *Jagbir Singh v. Haryana State Agriculture Marketing Board* and Another,<sup>6</sup> *Senior Superintendent Telegraph (Traffic), Bhofil v. Santosh Kumar Seal and others*,<sup>7</sup> and *In-charge Officer and another v. Siiankar Shetty*,<sup>8</sup> she submitted that respondent was at best entitled to some compensation for unlawful termination.



4. It is not in dispute that respondent was engaged as a daily wager. The Labour Court, Bharatpur, in its award dated 28.6-2001 has recorded the findings that the respondent had worked as technician (Mistri) under the appellant for 240 days for the period from 1.3.1991 to 31.10.1991 and the termination of his service by an oral order on 31.10.1991 was violative of section 25-F of the ID Act. We are not inclined to disturb the findings recorded by the Labour Court; we take them to be correct. The question, as noted above, is whether direction for reinstatement of respondent with continuity in service along with 25 per cent of back wages in view of the above findings is just and proper.

5. More than five decades back, this Court in *Assam Oil Company Limited, Neiv Delhi v. Its Workmen*,<sup>9</sup> observed that the normal rule in cases of wrongful dismissal was reinstatement but there could be cases where it would not be expedient to follow this normal rule and to direct reinstatement. Having regard to the facts of that case, this Court set aside the order of reinstatement although dismissal of the employee was found to be wrongful and awarded compensation.

6. In *M/s. Hindustan Steels Ltd., Rourkela v. A.K. Roy and others*, this Court noted that there have been cases where reinstatement has not been considered as either desirable or expedient.

7. In *M/S. Ruby"General Insurance Co. Ltd. v. Shri P.P. Chopra*,<sup>2</sup> this Court reiterated what was stated in *Assam Oil Company Limited (supra)*. In paragraph 6 (pgs. 655-656) of the Report, this Court said:

"6. The normal rule is that in cases of invalid orders of dismissal industrial adjudication would direct reinstatement of a dismissed employee. Nevertheless, there would be cases where it would not be expedient to adopt such a course. Where, for instance, the office of the employer was comparatively a small one and the dismissed employee held the position of the secretary, a position of confidence and trust, and the employer had lost confidence in the concerned employee, reinstatement was held to be not fair to either party"

8. This Court in *The Management of Panitole Tea. Estate v. The Workmen*,<sup>3</sup> while dealing with the judicial discretion of the Labour Court or the Tribunal under ID Act in directing appropriate relief on setting aside the wrongful dismissal of a workman, stated in paragraph 5 (pgs. 746-747) as follows:

"... The question whether on setting aside the wrongful dismissal of a workman he should be reinstated or directed to be paid compensation is a matter within the judicial discretion of the Labour Court or the Tribunal, dealing with the industrial dispute, the general rule in the absence of any special circumstances being of reinstatement. In exercising this discretion, fairplay towards the employee on the one hand and interest of the employer, including considerations of discipline in the establishment, on the other, require to be duly safeguarded. This is necessary in the interest both of security of tenure of the employee and of smooth and harmonious working of the establishment. Legitimate interests of both of them have to be kept in view if the order is expected to promote the desired objective of industrial peace and maximum possible production. The past record of the employer, the nature of the alleged conduct for which action was taken against him, the grounds on which the order of the employer is set aside, the nature of the duties performed by the employee concerned and the nature of the industrial establishment are some of the broad relevant factors which require to be taken into consideration. The factors just stated are merely illustrative and it is not possible to exhaustively enumerate them. Each case has to be decided on its own facts and no hard and fast rule can be laid down to cover generally all conceivable contingencies..."

9. In *M/s. Tulsidas Paul v. The Second Labour Court, W.B. and others*\* this Court relied upon *M/s. Hindustan Steels Ltd. (supra)*, and held as under:

"9. In *Hindustan Steels Ltd. v. Roy*,<sup>5</sup> we recently held, after considering the previous case-law, that though the normal rule, in cases where dismissal



or removal from service is found to be unjustified, is reinstatement, Industrial Tribunals have the discretion to award compensation in unusual or exceptional circumstances where the Tribunal considers, on consideration of the conflicting claims of the employer on the one hand . and of the workmen on the other, reinstatement inexpedient or not desirable. We also held that no -hard and fast rule as to which circumstances would constitute an exception to the general rule can be laid down as the Tribunal in each case must, in a spirit of fairness and justice and in keeping with the objectives of industrial adjudication, decide whether it should, in the interest of justice,' depart from the general rule."

10. In *L. Robert D'Souza*,<sup>1</sup> this Court in paragraph 27 (p. 664) held as under :

"27. ....Therefore, assuming that he was a daily-rated -. worker, once he has rendered continuous uninterrupted service for a period of one year or more, within the meaning of section 25-F of the Act and his service is terminated for any reason whatsoever and the case does not fall in any of the excepted categories, notwithstanding the fact that Rule 2505 would be attracted, it would have to be read subject to the provisions of the Act. Accordingly the termination of service in this case would constitute retrenchment and for not complying with pre:conditions to valid retrenchment, the order of termination would be illegal and invalid."

11. What has been held by this Court in *L. Robert D'Souza* (supra), is that section 25-F of the ID Act is applicable to a daily-rated worker. We do not think that there is any dispute on this proposition.

12. In *Manager, Reserve Bank of India, Bangalore v. S. Mani and others*,<sup>2</sup> this Court in paragraph 57 of the Report held as under:

"57. Mr. Phadke, as noticed hereinbefore, has referred to a large number of decisions for demonstrating that this Court had directed reinstatement even if the workmen concerned were daily-wagers or were employed intermittently. No proposition of law was laid down in the aforementioned judgments. The said judgments of this Court, moreover, do not lay down any principle having universal application so that the Tribunals, or for that matter the High Court, or this Court, may feel compelled to direct reinstatement with continuity of service and back wages. The Tribunal has some discretion in this matter. Grant of relief must depend on the fact situation obtaining in a particular case. The industrial adjudicator cannot be held to be bound to grant some relief only because it will be lawful to do so."

13. In *Nagar Mahapalika (Now Municipal Corpn.) v. State of U.P. and others*,<sup>3</sup> this Court, while dealing with the non-compliance with the provisions of section 6-N (which is *pari materia* to section 25-F) of U.P. Industrial Disputes Act held that the grant of relief of reinstatement with full back wages and continuity of service in favour of retrenched workmen would not automatically follow or as a matter of course. Instead, this Court modified the award of reinstatement with compensation of Rs. 30,000/- per workman.

14. In *Municipal Council, Sujapur v. Surinder Kumar\** this Court after having accepted the finding that there was violation of section 25-F of the ID Act, set aside the award of reinstatement with back wages and directed the workman to be paid monetary compensation in the sum of Rs.50,000/-.

15. In *Mamni* (supra), this Court modified the award of reinstatement passed by the Labour Court, though the termination of the workman was in violation of section 25-F of the ID Act, by directing that the workman should be compensated by payment of a sum of Rs.25,000/-.

16. In *Regional Manager, SBI v. Mahatma Mishra*, this Court observed that it was one thing to say that services of a workman were terminated in violation of mandatory provisions of law but it was another thing to say that relief of reinstatement in service with full back wages would be granted automatically.



17. In Haryana Urban Development Authority v. Om Pal, this Court in paragraphs 7 and 8 (p. 745) of the Report held as under :

"7. Moreover, it is also now well settled that despite a wide discretionary power conferred upon the Industrial Courts under section 11-A of the 1947 Act, the relief of reinstatement with full back wages should not be granted automatically only because it would be lawful to do so. Grant of relief would depend on the fact situation obtaining in each case. It will depend upon several factors, one of which would be as to whether the recruitment was effected in terms of the statutory provisions operating in the field, if any.

8. The respondent worked for a very short period. He only worked, as noticed hereinbefore, in 1994-95. The Industrial Tribunal-cum-Labour Court, therefore, in our opinion committed an illegality, while passing an award in the year 2003, directing the reinstatement of the respondent with full back wages. Although we are of the opinion that the respondent was not entitled to any relief, whatsoever, we direct the appellant to pay him a sum of Rs.25,000."

18. In Uttaranchal Forest Development Corporation v. M.C. Joshi,<sup>3</sup> the Court was concerned with a daily wager who had worked with Uttaranchal Forest Development Corporation from 1.8.1989 to 24.11.1991 and whose services were held to be terminated in violation of section 6-N of the U.P. Industrial Disputes Act. The Labour Court had directed the reinstatement of the workman with 50 per cent back wages from the date the industrial dispute was raised. Setting aside the order of reinstatement and back wages, this Court awarded compensation in a sum of Rs.75,000/- in favour of the workman keeping in view the nature and period of service rendered by the workman and the fact that industrial dispute was raised after six years.

19. In Madhya Pradesh Administration v. Tribhuban\* this Court upheld the order of the Industrial Court passed in its jurisdiction under section 11-A of the ID Act awarding compensation and set aside the judgment of the Single Judge and the Division Bench that ordered the reinstatement of the workman with full back wages. The Court in paragraph 12 of the Report held as under:

"10- In this case, the Industrial Court exercised its discretionary jurisdiction under section 11-A of the Industrial Disputes Act. It merely directed the amount of compensation to which the respondent was entitled had the provisions of section 25-F been complied with should be sufficient to meet the ends of justice. We are not suggesting that the High Court could not interfere with the said order, but the discretionary jurisdiction exercised by the Industrial Court, in our opinion, should have been taken into consideration for determination of the question as to what relief should be granted in the peculiar facts and circumstances of this case, Each case is required to be dealt within the fact situation obtaining therein."

20. In Mahboob Deepak (supra), this Court stated that an order of retrenchment passed in violation of section 6-N of the U.P. Industrial Disputes Act may be set aside but an order of reinstatement should not however be automatically passed. The Court observed in paragraphs 11 and 12 (p. 578) of the Report as follows:—

"11. The High Court, on the other hand, did not consider the effect of non-compliance with the provisions of section 6-N of the U.P. Industrial Disputes Act, 1947. The appellant was entitled to compensation, notice and notice pay.

12. It is now well settled by a catena of decisions of this Court that in a situation of this nature instead and in place of directing reinstatement with full back wages, the workmen should be granted adequate monetary compensation. [See M.P. Admn. v. T.ribhuban (supra)]."



21. In Telecom District Manager and others v. Keshab Deb, this Court said that even if the provisions of section 25-F of the I;D. Act had not been complied with, the workman was only entitled to just compensation.

22. In Talwara Co-operative Credit and Service Society Limited v. Sushil Kitmar, this Court in paragraph 11 of the Report held as under:

"11. Grant of a relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic. The Industrial Courts while exercising their power under section 11-A of the Industrial Disputes Act, 1947 are required to strike a balance in a situation of this nature. For the said purpose, certain relevant factors, as for example, nature of service, the mode and manner of recruitment viz. whether the appointment had been made in accordance with the statutory rules so far as, a public sector undertaking is concerned, etc., should be taken into consideration."

23. In Jagbir Singh (supra), this Court, speaking through one of us (R.M. Lodha, J.) while dealing with the question of consequential relief arising from the facts quite similar to the present case, ordered compensation of Rs.50,000/- to be paid by the employer to the workman instead of reinstatement. In paragraph 14 (p. 335) of the Report, this Court held as under :

"14. It would be, thus, seen that by a catena of decisions in recent time, this Court has clearly laid down that an order of retrenchment passed in violation of section 25-F although may be set aside but an award of reinstatement should not, however, be automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded. This Court has distinguished between a daily wager who does not hold a post and a permanent employee."

24. In Uttar Pradesh State Electricity Board v. Iaxmi Kant Gupta\* this Court stated, "... now there is no such principle that for an illegal termination of service the normal rule is reinstatement with back wages, and instead the Labour Court can award compensation".

25. In Santosh Kumar Seal (supra), while dealing with a case of workmen who were engaged as daily wagers about 25 years back and had hardly worked for two or three years, this Court speaking through one of us (R.M, Lodha, J.) held that reinstatement with back wages could not be said to be justified and instead monetary compensation would subserve the ends of justice. It was held that compensation of Rs.40,000/- to each of the workmen would meet the ends of justice.

26. From the long line of cases indicated above, it can be said without any fear of contradiction that this Court has not held as an absolute proposition that in cases of wrongful dismissal, the dismissed employee is entitled to reinstatement in all situations. It has always been the view of this Court that there could be circumstance (s) in a case which may make it inexpedient to order reinstatement. Therefore, the normal rule that dismissed employee is entitled to reinstatement in cases of wrongful dismissal has been held to be not without exception. Insofar as wrongful termination of daily-rated workers is concerned, this Court has laid down that consequential relief would depend on host of factors, namely, manner and method of appointment, nature of employment and length of service. Where the length of engagement as daily wager has not been long, award of reinstatement should not follow and rather compensation should be directed to be paid. A distinction has been drawn between a daily wager and an employee holding the regular post for the purposes of consequential relief.

27. We shall now consider two decisions of this Court in Harjinder Singh (supra) and Devinder Singh (supra) upon which heavy reliance has been placed by the learned Counsel for the respondent. In Harjinder Singh (supra), this Court did interfere with the order of the High Court which awarded compensation to the



workman by modifying- the award of reinstatement passed by the Labour Court. However, on close scrutiny of facts it transpires that that was a case where a workman was initially employed by Punjab State Warehousing Corporation as work-charge motor mate but after few months he was appointed as work munshi in the regular pay-scale for three months. His service was extended from time to time and later on by one month's notice given by the Managing Director of the Corporation his service was brought to end on 5.7.1988. The workman challenged the implementation of the notice in a writ petition and by an interim order the High Court stayed the implementation of that notice but later on the writ petition was withdrawn with liberty to the workman to avail his remedy under the ID Act. After two months, the Managing Director of the Corporation issued notice dated 26.11.1992 for retrenchment of the workman along with few others by giving them one month's pay and allowances in lieu of notice as per the requirement of section 25-F(a) of the ID Act. On industrial dispute being raised, the Labour Court found that there was compliance of section 25-F but it was found that the termination was violative of section 25-G of the ID Act and, accordingly, Labour Court passed an-award for reinstatement of the workman with 50 per cent back wages. The Single Judge of that High Court did not approve the award of reinstatement on the premise that the initial appointment of the workman was not in consonance with the, statutory regulations and Articles 14 and 16 of the Constitution and accordingly, substituted the award of reinstatement with 50 per cent back wages by directing that the workman shall be paid a sum of ₹ 87,582/- by way of compensation. It is this order of the Single Judge that was set aside by this Court and order of the Labour Court restored. We are afraid the facts in Harjinder Singh (supra) are quite distinct. That was not a case of a daily-rated worker. It was held that Single Judge was wrong in entertaining an unfounded plea that workman was employed in violation of Articles 14 and 16, Harjinder Singh (supra) turned on its. own facts and is not applicable to the facts of the present case at all;

28. In Devinder Singh (supra), the workman was engaged by Municipal Council, Sanaur on 1.8.1994 for doing the work of clerical nature. He continued in service till 29.9.1996. His service was discontinued with effect from 30.9.1996 in violation of section 25-F of ID Act. On industrial dispute being referred for adjudication, the Labour Court held that the workman had worked for more than 240 days in a calendar year preceding the termination of his service and his service was terminated without complying with the provisions of section 25-F. Accordingly, Labour Court passed an award for reinstatement of the workman but without back wages. Upon challenge being laid to the award of the Labour Court, the Division Bench set aside the order of the Labour Court by holding that Labour Court should not have ordered reinstatement of the workman because his appointment was contrary to the Recruitment Rules and Articles 14 and 16 of the Constitution. In the appeal before this Court from the order of the Division Bench, this Court held that the High Court had neither found any jurisdictional infirmity in the award of the Labour Court nor it came to the conclusion that the award was vitiated by an error of law apparent on the face of the record and notwithstanding these the High Court set aside the direction given by the Labour Court for reinstatement of the workman by assuming that his initial appointment was contrary to law. The approach of the High Court was found to be erroneous by this Court. This Court, accordingly, set aside the order of the High Court and restored the award of the Labour Court. In Devinder Singh (supra), the Court had not dealt with the question about the consequential relief to be granted to the workman whose termination was held to be illegal being in violation of section 25-F.

29. In our view, Harjinder Singh (supra), and Devinder Singh (supra) do not lay down the proposition that in all cases of wrongful termination, reinstatement must follow. This Court-found in those cases that judicial discretion exercised by the Labour Court was disturbed by the High Court on wrong assumption that the initial



employment of the employee was illegal. As noted above, with regard to the wrongful termination of a daily wager, who had worked for a short period, this Court in long line of cases has held that the award of reinstatement cannot be said to be proper relief and rather award of compensation in such cases would be in consonance with the demand of justice. Before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors, including the mode and manner of appointment, nature of employment, length of service, the ground on which the termination has been set aside and the delay in raising the industrial dispute before grant of relief in an industrial dispute.

30. We may also refer to a recent decision of this Court in *Bharat Sanchar Nigam Limited v. Man Singh*.<sup>1</sup> That was a case where the workmen, who were daily wagers during the year 1984-85, were terminated without following section 25-F. The industrial dispute was raised after five years and although the Labour Court had awarded reinstatement of the workmen which was not interfered by the High Court, this Court set aside the award of reinstatement and ordered payment of compensation. In paragraphs 4 and 5 (pg.559) of the Report this Court held as under:

"4. This Court in a catena of decisions has clearly laid down that although an order of retrenchment passed in violation of section 25-F of the Industrial Disputes Act may be set aside but an award of reinstatement should not be passed. This Court has distinguished between a daily wager who does not hold a post and a permanent employee.

5. In view of the aforementioned legal position and the fact that the respondent workmen were engaged as "daily wagers" and they had merely worked for more than 240 days, in our considered view, relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the ends of justice."

31. In light of the above legal position and having regard to the facts of the present case, namely, the workman was engaged as daily wager on 1.3.1991 and he worked hardly for eight months from 1.3.1991 to 31.10.1991, in our view, the Labour Court failed to exercise its judicial discretion appropriately. The judicial discretion exercised by the Labour Court suffers from serious infirmity. The Single Judge as well as the Division Bench of the High Court also erred in not considering the above aspect at all. The award dated 28.6.2001 directing reinstatement of the respondent with continuity of service and 25% back wages in the facts and circumstances of the case cannot be sustained and has to be set aside and is set aside. In our view, compensation of Rs.50,000/- by the appellant to the respondent shall meet the ends of justice. We order accordingly. Such payment shall be made to the respondent within six weeks from today failing which the same will carry interest @ 9 per cent per annum.

32. The appeal is partly allowed to the above extent with no order as to costs.

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(ODISHA HIGH COURT)  
B.N.MAHAFATRA, J.  
W.P.(C) No.6890 of 2012  
March 15,2013

Between INDIAN RED CROSS SOCIETY, ODISHA  
and  
BANKANIDHI MISHRA

Payment of Gratuity Act, 1972—Sections 1(3)(b) and 5—Indian Red Cross Society, Odisha (Recruitment and Conditions of Service) Rules, 2001—Rule 28(a)—Gratuity—Award of Gratuity by controlling authority to an employee- respondent of society—Petitioner society is not exempted under section 5 of Act—As per section 1(3)(b), it is covered under the Act—Society by Rules cannot limit the amount of gratuity to ? 50,000/—Hence there is no illegality or any infirmity in the order impugned passed by controlling authority—No interference required with.

The petitioner-Indian Red Cross Society, Odisha Branch comes within the meaning of 'establishment' and the provisions of the Act, 1972 is applicable to it.

No rule can be framed by the employer and made applicable to the employees which is less favourable in comparison to what an employee gets under the Act, 1972.

The statutory entitlement available to an employee cannot be curtailed by the petitioner by framing any Rules of its own. Hence, there is no infirmity and illegality in the impugned order passed • under Annexure-2 warranting interference of this Court.

Counsel for the Petitioner : Ms. Santanu K. Sarangi, B.K. Behera and A.K.Nayak.

Counsel for the Opp. Party : Manoj Kumar Mishra, P.K. Das, O.K. Pattnaik. M.K. Rajguru, B.K. Mishra, J.K. Mohapatra, D. Tripathy, T. Mishra and D.P. Das.

### JUDGMENT

**B.N. MAHAPATRA, J.**—This writ petition has been filed with a prayer for quashing the order dated 29.11.2010 (Annexure-2) passed by the Controlling Authority under Payment of Gratuity Act-cum-Asst. Labour Commissioner, Cuttack in P.G. Case No. 23 of 2009 allowing the claim of opposite party in pan and directing the Honorary Secretary, Indian Red Cross Society, Odisha State Branch, Bhubaneswar to deposit ? 3,00,000/- before the said Court along with 10% interest per annum within 30 days from receipt of the order for onward disbursement to the applicant as per section 7(3) of the Payment of Gratuity Act 1972 (for short, "Act, 1972") and also the execution proceeding initiated under Annexure-3 dated 30.12.2011.

Petitioner's case in a nut-shell is that the petitioner-society was constituted by an Act of Parliament, 1920 and it is neither a registered society under the Societies Registration Act, 1860 nor a Co-operative Society. Opposite party is a doctor employed in Blood Bank. On 31.10,1977, the opposite party entered into service as Medical Officer. He was appointed as Director, Central Red Cross, Blood Bank, Cuttack on 31.05.2006. He retired from service on attaining the age of superannuation on 31.05.2007. He was paid ? 50,000/- towards retiral benefit gratuity etc. as per Clause 28 (a) of the Service Rules, 2001. Petitioner's claim is that his last drawn salary was Rs. 21,545/- per month and considering his length of service of 28 years he is entitled to get a sum of Rs. 3,48,034/- against payment of ? 50,000/- towards gratuity. Since his representation with regard to higher gratuity was not considered by the authorities, he moved the Controlling Authority- cum-Asst Labour Commissioner, Cuttack in P.G. Case No. 23 of 2009 under the Act, 1972 and the Controlling Authority passed the impugned order allowing the claim of the petitioner by granting Rs. 3,50,000/- towards gratuity.! Hence, the writ petition.



2. Mr. S.K. Sarangi, learned Counsel appearing for the petitioner submitted! that the petitioner does not come under the Act, 1972 since it is not a factory,, mine, oil field, plantation, port and railway company as provided under section' l(3)(a) of the Act, 1972. It is not a shop or establishment as defined under section l(3)(b) of the Act, 19-72. It is also not an establishment/establishments as notified by the Central Government under section l(3)(c) of the Act, 1972. Referring to sections 2(8) and 2(19) of the Odisha Shops and Commercial Establishments Act 1956, it was submitted that "establishment" means a shop or a commercial establishment and "shop" means any premises where any trade or business is carried on or where services are rendered to customers respectively. The I petitioner-society has already paid a sum of ? 50,000/- towards full and final settlement of gratuity as per Rule 28(a) of the Indian Red Cross Society, Odisha State Branch (Recruitment & Conditions of Service) Rules, 2001 (for short, "Rules, 2001") framed by the petitioner-society which came into effect from 5.11.2001. The term 'employee' has been defined under section 2(e) of the Act, 1972. The term 'employer' has also been defined under section 2(f) of the Act, 1972. It is further submitted that the applicant was a Director (Chief Executive under Class-I Officer) of Central Red Cross Society, Blood Bank and does not come within the ambit of "employee" under the Act. He retired on 31.05.2007. His services were governed by the Rules, 2001 framed by the petitioner-Indian Red Cross Society. The provisions of the Act, 1972 are not attracted. The Controlling Authority is not justified to bring the petitioner under the fold of section l(3)(c) of the Act, 1972. Blood is a necessary ingredient of the medical treatment upon which the life and death of a patient depends. The tests conducted in the Blood Bank are in the nature of excluding some diseases which are carried by blood and unless such tests are conducted, donors' blood can neither be accepted nor the contaminated blood can be issued. Therefore, the activities of blood test can neither be termed as test in order to earn profit nor the same is commercial in nature. Apart from the voluntary donors, blood is collected from willing donors on payment of certain amount. The same is generated through sale of Blood to different patients. In addition to this, donors are also given food after donating blood and those expenses are met out of the sale of Blood. Thus, the finding of learned Controlling Authority is erroneous and not sustainable in law. Getting exemption under section 5 of the Act, 1972 from the Central Government is not at all necessary in view of self contained Rules of the petitioner which prescribes the limit of gratuity. The entire finding of the Controlling Authority is based on surmises and relied on extraneous matter. Therefore, the same is not sustainable in law. The certificate proceeding initiated pursuant to the order of the learned Controlling Authority vide Certificate Case No. 551 of 2011, which is pending in the Court of Special Certificate Officer, Bhubaneswar to enforce the said order is also not equally sustainable in law. Concluding his argument, Mr. Sarangi prays to allow the writ petition in the interest of justice and equity.

3. Per contra, Mr. M.K. Mishra, learned Senior Advocate appearing for opposite party submitted that the present writ petition is not maintainable as there is statutory alternative remedy available to the petitioner. The impugned order has been passed on 29.11.2010. The period of limitation for appeal under section 7(7) of the Act, 1972 is 60 days. The order having not been challenged before the appropriate forum within the period of limitation it has attained finality. The petitioner has also participated in the certificate proceedings bearing Certificate Case No. 551 of 2011 filed by opposite party which is pending in the Court of Special Certificate Officer, Bhubaneswar. The petitioner cannot challenge the certificate proceedings having accepted the order and not preferred any appeal against the same. The petitioner's action in challenging the order by way of the present writ petition after one and a half years suffers from the well established principles of waivers, acquiescence and estoppels. Applicability of the Rules for exempting the petitioner from the Act is dependent upon two essential conditions as envisaged under section 5 of the Act, 1972. The first requirement under section 5 of the Act, 1972 is that the establishment must obtain exemption from the appropriate Government and there must be a notification to that effect. The second requirement is that the gratuity payable under the Rules should not be less favourable than the benefit conferred under the statute. The Rules, 2001 framed by the petitioner are deficient on both



counts. It is also not the case of the petitioner that the establishment is exempted under section 5 of the said Act. Since the society is not exempted under section 5 of the Act, 1972 the Act has full application to the petitioner-society. Section 4 of the Act, 1972 enumerates that an employee is entitled to get his gratuity subject to maximum of Rs. 3,50,000/- . The said benefit cannot be taken away by limiting the entitlement to Rs. 50,000/- only. No rule can be framed and made applicable to the employees which is less favourable in comparison to what one is entitled under the statute. Statutory entitlement cannot be curtailed by any rules framed by the employer.

In support of his contention, Mr. Mishra places strong reliance upon the decisions of the Hon'ble Supreme Court in the cases of Municipal Corporation of Delhi v. Dharam Prakash Sharma and another, 1 Allahabad Bank v. All India Allahabad Bank Retired Employees Association and judgment of this Court in the case of Paradeep Port Trust v. A. Controlling Authority and others.

4. Mr. Mishra, further submitted that definitions under section 1(3)(b) and (c) are wide enough to include all establishments in which more than 10 employees are employed. Undisputedly, more than 40 employees are employed in the petitioner's establishment. Section 1(3)(b) of the Act, 1972 includes all shops and establishments. Section 2(8) of the Orissa Shops and Commercial Establishments Act, 1956 defines "establishment" as shop or a commercial establishment. Section 2(19) of the Act defines "shop" as any premises where any trade or business is carried on or where service are rendered to customers. The definition provided under sections 2(8) and 2(19) of the Orissa Shops and Commercial Establishments Act, 1956 are wide enough to include all premises where any transaction is carried on. Opposite party comes within the definition of "employee" under section 2(e) of the Act, 1972. Rule 3(b) of the Rules, 2001 defines "employee" as all persons employed by the society. The petitioner is involved in commercial activities. It sells blood, conducts different types of medical/pathological tests/examinations where testing fees and service charges are collected from the customers. When the opposite party retired in the year 2007, over ? 3 crores of fixed deposit was available with the petitioner establishment.

Placing reliance upon the judgment of Gujarat High Court in the case of *Indian Red Cross Society v. Vidyaben H. Vyas*\* it is submitted that the Indian Red Cross Society is a shop or establishment under the Act, 1972 and is liable to pay gratuity.

5. It is further submitted that some of the petitioner's employees preferred appeal under section 4 of the Act, 1972 claiming gratuity. Order was passed for payment of gratuity. The petitioner in those cases had complied with the orders and paid gratuity under the Act, 1972. The opposite party is now old and physically disabled. After retirement, he is suffering by running from pillar to post and is being denied of his statutory post-retiral dues. No pension is provided by the petitioner to opposite party. The opposite party is solely dependent on the gratuity amount for his living. Concluding his argument, Mr. Mishra, learned Counsel for the opposite party prayed for dismissal of the present writ petition.

6. On the rival legal and factual contentions advanced by the parties, the following questions fall for consideration by this Court:

- (i) Whether the Indian Red Cross Society is an establishment as per definition in any law operating in the State?
- (ii) Whether the provision of Payment of Gratuity Act, 1972 is applicable to the employees of Indian Red Cross Society?
- (iii) Whether the entitlement of an employee under the Payment of Gratuity Act, 1972 can be curtailed by Rules, 2001 framed by the petitioner-Indian Red Cross Society?
- (iv) What order ?

7. Since question Nos. (i) and (ii) are interlinked, they are dealt with together.

8. In the present writ petition, the petitioner is Indian Red Cross Society. On 31.10.1977, opposite party entered into service as Medical Officer. He was appointed as Director, Central Red Cross Society, Blood Bank, Cuttack on 31.5.2006. He retired from service on attaining the age of superannuation w.e.f. 31.5.2007. He has served more than 28 years of continuous service. His last drawn salary was Rs. 21,545/- per month. As per the Rules, 2001



framed by the petitioner-society, opposite party was paid gratuity amount of Rs. 50,000/- as against the claim of Rs. 3,48,034/-. In the impugned order at paragraph 14, the Controlling Authority taking into consideration the evidence available on record has stated that the organization is also involved in some commercial activities. It sells blood, conducts different types of Medical/Pathological tests/examination where testing fees and service charges are collected from the customers. Accordingly, it is held that petitioner establishment is coming within the meaning of section 1 (3)(b) of the Act, 1972.

Case of petitioner is that it is a Society which is purely a non profit making voluntary organization, as such, it is not a factory mine etc. as defined under section 1(3)(a) of the Act, 1972. Further contention of the petitioner is that it is not an establishment as defined under section 1(3)(b) of the said Act nor it is an establishment as provided under section 1(3)(c) of the said Act. It is further submitted that the petitioner-Society has its own set up rules namely, Rules, 2001. In terms of Rule 28(a) of the said Rules, 2001, all the employees are entitled to get maximum amount of ? 50,000.00 towards retiral benefits.

9. At this juncture, it is necessary to know what is the meaning of "gratuity".

The term "Gratuity" as observed by the Hon'ble Supreme Court in its etymological sense, means a gift, especially for services rendered or return for favours received. (See Delhi Cloth and General Mitts Co. Ltd. v. Its Workmen and others). The general principle underlying the gratuity scheme is that by their length of service, workmen are entitled to claim a certain amount as a retiral benefit. (See Indian Hume Pipes Co. Ltd. v. Its Workmen and another). Gratuity has to be considered to be an amount paid connected with any consideration and not resting upon it, and has to be considered something given freely or without recompense. It does not have foundation on any legal liability, but upon a bounty stemming from appreciation and graciousness. Long service carries with its expectation of an appreciation from the employer and a gracious financial assistance to tide over post retiral difficulties. (See Administrator, Shree Jagannath Temple, Puri v. Jagannath Padhi and others.)

10. To deal with the issue involved in the present case, it is necessary to extract sub-sections (3) (a), (b) and (c) of section 1, sub-sections (1) and (2) of section 4 and sub-sections (7) and (8) of section 7 of the Act, 1972.

"Section 1 xx xx xx

(3) It shall apply to

- (a) every factory, mine, oil field, plantation, port and railway company;
- (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State in which ten or more persons are employed, or were employed, on any day of the preceding in this behalf;
- (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf."

10 xx . xx xx

"Section 4 xx xx xx

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, —

- (a) on his superannuation, or
- (b) on his retirement or resignation, or
- (c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominee or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of



such minor in such bank or other<sup>^</sup> financial institution as may be prescribed, until such minor attains majority, if no nomination has been made, to his heirs.

Explanation.—For the purpose of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

4(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year, the employer shall pay the gratuity at the rate of seven days' wages for each season.

Explanation.—In the case of a monthly-rated employee, the fifteen days wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen".

XX XX XX

"7(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the Controlling Authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4) or deposits with the appellate authority such amount.

7(8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the Controlling Authority."

11. The term "establishment" has not been defined under the Act, 1972. Section 1(3)(b) of the said Act makes it clear that it applies to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months.

12. In the case of State of Punjab v. The Labour Court, Jullundur, the Hon'ble Supreme Court while interpreting section 1(3) of the Act, 1972 has observed that section 1(3)(b) of the said Act applies to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State.

Thus, the Hon'ble Supreme Court held that the establishment having a wide meaning which includes commercial establishments as well as non-commercial establishments and no limited meaning can be given to the word 'establishment' which has been referred to in section 1(3)(b) of the Act, 1972,

13. This Court in the case of Administrator, Shree Jagannath Temple, Puri (supra), has held as under:

"4. According to the Compact Edition of the Oxford English Dictionary, Volume I, Page 897 (Reprinted 1972), "establishment" means a public institution; a school; factory; a house of business etc. In 1851, D. Wilson in Preh Ann (1863) II. Iv. i. 192 referred to "the religious establishment founded at loan". "Establishment" also has



been defined to be the ecclesiastical system established by law. As observed by the Allahabad High Court in *Municipal Board v. Appellate Authority and Addl. L.C.,2* to which reference was made by this Court in *Executive Officer, Puri Municipality's case (supra)*, the definition of establishment is very wide, and keeping in view the objective of the Act, it was held that the same is applicable to the retired persons of municipalities. Keeping in view the laudatory objects of the Act, and the same being a part of the social justice, this Court observed that the legislation was to be applied liberally and a wider meaning was to be given."

14. In the case of *The Executive Officer, Puri Municipality (in all) v. Rama Naik and others*, 1 this Court has held that the Act, 1972 is not restricted to only commercial establishments, but to establishments within the meaning of any law for the time being in force in relation to establishments in a State.

15. The Gujarat High Court in the case of *Vidyaben H. Vyas (supra)*, has held as under:

"11. Similar question has been raised before the Punjab and Haryana High Court to effect that whether Indian Red Cross Society is an 'Industry' or not within the meaning of section 2(j) of the Industrial Disputes Act, 1947. Punjab and Haryana High Court has taken the decision in case of *Indian Red Cross v. Additional Labour Court, Chandigarh and others*. '2' The relevant discussion made in paragraph 6 is quoted as under:

"As already observed, the said case dealt with the State Activities and not with the activities of the institutions which are statutory or companies. In the present case, the society is a corporate body like a registered company. In *Bangalore Water Supply's case 1978 (52) F.J.R. 197*, it has been held by the Supreme Court that the term 'industry' as defined in section 2(j) of the Act has a wide import. According to the Supreme Court in the said case, whether there is : (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss, e.g., making, on a large scale, Prasad or food) prima facie, there is an 'industry' in that enterprise. If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking. Applying the said tests, it was held that (i) professions, (ii) clubs, (iii) educational institutions, co-operatives, (iv) research institutes, (v) charitable projects, and (vi) other kindred adventures, if they fulfil the triple test listed above, cannot be exempted from the scope of section 2(j). In view of this authoritative pronouncement, it could not be successfully argued that the society is not an industry within the meaning of section 2(j) of the Act.

12. While considering section 1(3)(b) of the Payment of Gratuity Act, whether the word 'commercial' which has been used in the said provision; it only covered the 'commercial' establishments or 'non-commercial establishment' or 'charitable institutions' or not, the said question has been examined by the Madras High Court in the case of *Management of Good Samaritan Rural Development Project v. T.A. Ramaiah and others*,<sup>3</sup> wherein, the Madras High Court has held the Hospital to be an 'establishment' to which Payment of Gratuity Act applies. The relevant discussion made in paragraph 9 is quoted as under:

"A careful perusal of the order passed by the appellate authority would reveal that it had not only traced the facts and circumstances encircling the whole case, but also would go through each and every ground of appeal and based on such facts and the position of law, would analyze the controlling authority's order and decision and the manner in which it has been arrived at and would take up two points for its consideration, viz., (i) whether the Payment of Gratuity Act will not apply to the appellant hospital? and (ii) whether, in any event, the reasonable amount of gratuity would be Rs. 6,473 on the basis of basic pay of Rs. 1850 and dearness allowance of Rs. 279 per month? Taking up the issue one by one and applying the facts with the position of law as it is prescribed under section 1(3)(b) of the Payment of Gratuity-Act and remarking that the establishment is covered by the Minimum Wages Act, 1948, and since the hospital is an 'establishment' within the meaning of section 1(3)(b) of the Payment of Gratuity Act, 1972, and remarking that there is no distinction made between both these Acts, pertaining to the meaning of 'establishment' and further there is no classification made under the law between an institution which is run on commercial basis and a majority



- institution which is run on the charitable basis so far as the applicability of the Act is concerned. Therefore, for the first point framed, the appellate authority would arrive at the conclusion holding that the eye hospital run by the management falls within the meaning of section 1(3)(b) of the Payment of Gratuity Act, 1972."
16. The object of the Act, 1972 is to achieve social justice. Therefore, a liberal interpretation and wider meaning has to be given while interpreting the word 'establishment'.
  17. In view of the above, the petitioner-Indian Red Cross Society, Orissa Branch comes within the meaning of 'establishment' and the provisions of the Act, 1972 is applicable to it. Accordingly, questions Nos. (i) and (ii) are answered.
  18. Question No. (iii) is as to whether the entitlement of an employee under the Act, 1972 can be curtailed by Rules, 2001 framed by the petitioner-Indian Red Cross Society.
  19. No rule can be framed by the employer and made applicable to the employees which is less favourable in comparison to what an employee gets under the Act, 1972.
  20. The Hon'ble Supreme Court in the case of Municipal Corpn. of Delhi v. Dharam Prakash Sharma,<sup>1</sup> has held as under:—
    - "2. The short question that arises for consideration is whether an employee of the MCD would be entitled to payment of gratuity under the Payment of Gratuity Act when the MCD itself has adopted the provisions of the CCS (Pension) Rules, 1972 (hereinafter referred to as "the Pension Rules")/ whereunder there is a provision both for payment of pension as well as of gratuity. The contention of the learned Counsel appearing for the appellant in this Court is that the payment of pension and gratuity under the Pension Rules is a package by itself and once that package is made applicable to the employees of the MCD, the provisions of payment of gratuity under the Payment of Gratuity Act cannot be held applicable. We have examined carefully the provisions of the Pension Rules as well as the provisions of the Payment of Gratuity Act. The Payment of Gratuity Act being a special provision for payment of gratuity, unless there is any provision therein which excludes its applicability to an employee who is otherwise governed by the provisions of the Pension Rules, it is not possible for us to hold that the respondent is not entitled to the gratuity under the Payment of Gratuity Act. The only provision which was pointed out is the definition of "employee" in section 2(e) which excludes the employees of the Central Government and State Governments receiving pension and gratuity under the Pension Rules but not an employee of the MCD. The MCD employee, therefore, would be entitled to the payment of gratuity under the Payment of Gratuity Act. The mere fact that the gratuity is provided for under the Pension Rules will not disentitle him to get the payment of gratuity under the Payment of Gratuity Act. In view of the overriding provisions contained in section 14 of the Payment of Gratuity Act, the provision for gratuity under the Pension Rules will have no effect. Possibly for this reason, section 5 of the Payment of Gratuity Act has conferred authority on the appropriate Government to exempt any establishment from the operation of the provisions of the Act, if in its opinion the employees of such establishment are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act. Admittedly MCD has not taken any steps to invoke the power of the Central Government under section 5 of the Payment of Gratuity Act. In the aforesaid premises, we are of the considered opinion that the employees of the MCD would be entitled to the payment of gratuity under the Payment of Gratuity Act notwithstanding the fact that the provisions of the Pension Rules have been made applicable to them for the purpose of determining the pension. Needless to mention that the employees cannot claim gratuity available under the Pension Rules."
  21. The Hon'ble Supreme Court in the case of All India Allahabad Bank Retired Employees Association (supra), has held as under:



- "21. Learned Counsel for the appellant relying upon the decision of this Court in *Bank of India and others P.O. Swarnakar and others*, contended that once the employees have exercised their option to avail pension made available to them under the Old Pension Scheme, and having drawn the benefits thereunder cannot be permitted to resile from their stand. In that case a group of employees of the State Bank of India accepted the amount of ex-gratia under the scheme known as 'the Employees Voluntary Retirement Scheme' and thereafter made an attempt to resile from.. 'the very Scheme itself. It is under those circumstances this Court observed that "those who accepted the ex-gratia payment or any other benefit under the Scheme, in our considered opinion, could not have resiled therefrom." In the present case the real question that arises for our consideration is whether the employees having exercised their option to avail the benefits under the pension scheme are estopped from claiming the benefit under the provisions of the Act? The appellant being an establishment is under the statutory obligation to pay gratuity as provided for under section 4 of the Act which is required to be read along with section 14 of the Act which says that the provisions of the Act shall have effect notwithstanding anything inconsistent therein contained in any enactment or in any instrument or contract having effect by virtue of any enactment other than this Act. The provisions of the Act prevail over: all other enactment or instrument or contract so far as the payment of gratuity is concerned. The right to receive gratuity under the provisions of the Act cannot be defeated by any instrument or contract."
22. The Hon'ble Supreme Court in the case of *Bakshish Singh v. M/s. Darshan Engineering Works and others*, 1 has held as under:—
- "27. It would thus be apparent both from its object as well as its provisions that the Act was placed on the statute book as a welfare measure to improve the service conditions of the employees. The provisions of the statute were applied uniformly throughout the country to all establishments covered by it. They applied to all employees drawing a monthly salary up to a particular limit in factories, shops and establishments etc. whether the employees were engaged to do any skilled, semiskilled, unskilled, manual, supervisory, technical or clerical work. The provisions of the Act were thus meant for laying down gratuity as one of the minimal service conditions available to all employees covered by the Act. There is no provision in the Act for exempting any factory, shop etc. from the purview of the Act covered by it except those where, as pointed out above, the employees are in receipt of gratuity or pensionary benefits which are no less favourable than the benefit conferred under the Act. The payment of gratuity under the Act is thus obligatory being one of the minimum conditions of service. The non-compliance of the provisions of the Act is made an offence punishable with imprisonment or fine. It is settled law that the establishments which have no capacity to give to their workmen the minimum conditions of service prescribed by the Statute have no right to exist [vide *Bijay Cotton Mills Ltd. v. State of Ajmer*, *Crown Aluminium Works v. Workmen and U. Unichoyi v. State of Kerala*]."
23. For the reasons stated above, this Court is of the view that the statutory entitlement available to an employee cannot be curtailed by the petitioner by framing any Rules of its own. Hence, there is no infirmity and illegality in the impugned order passed under Annexure-2 warranting interference of this Court. Consequently, there is also no illegality in the consequential order passed under Annexure- 3.
24. In the result, the writ petition is dismissed. No order as to costs.

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(SUPREME COURT)

Dr. B.S. CHAUHAN and J.S. KHEHAR, JJ.

CA. No. 9087 of 2012

December 14, 2012

Between

Y.K.SINGLA

and

PUNJAB NATIONAL BANK and others

Payment of Gratuity Act 1972—Section 7(3-A) and 7(3-A) proviso—Punjab National Bank (Employees) Pension Regulations, 1995—Regulation 46—Interest—On gratuity—Appellant's gratuity withheld due to pendency of criminal proceedings—He was acquitted in the criminal case—He cannot be denied interest under proviso to section 7(3-A) of Act—On account of delayed payment of gratuity—Even if debarred by regulation. [Para 17]

Since one of the two salient ingredients of the proviso under sub-section (3-A) of section 7 of the Gratuity Act is clearly not satisfied in the present case, we are of the view, that the appellant cannot be denied interest under the proviso to section 7(3-A) of the Gratuity Act. Accordingly, the appellant has to be awarded interest under section 7(3-A) of the Gratuity Act. Therefore, if the provisions of the Gratuity Act are applicable to the appellant, he would most definitely be entitled to interest under sub-section (3-A) of section 7 of the Gratuity Act, on account of delayed payment of gratuity.

Payment of Gratuity Act, 1972—Sections 7(3-A), 4 and 14—Punjab National Bank (Employees) Pension Regulations, 1995—Regulation 46—Gratuity Act—By virtue of section 14 of Gratuity Act, granted superior status, vis-a-vis, any other enactment (instrument or contract) inconsistent therewith—Therefore, in so far as the entitlement of an employee to gratuity is concerned, provisions of Gratuity Act are vested superiority over all other enactments/provisions—However an employee has right to make a choice to receive better terms of gratuity. [Paras 19 and 20]

A perusal of section 14 leaves no room for any doubt, that a superior status has been vested in the provisions of the Gratuity Act, vis-a-vis, any other enactment (including any other instrument or contract) inconsistent therewith. Therefore, insofar as the entitlement of an employee to gratuity is concerned, it is apparent that in cases where gratuity of an employee is not regulated under the provisions of the Gratuity Act, the legislature having vested superiority to the provisions of the Gratuity Act over all other provisions/enactments (including any instrument or contract having the force of law), the provisions of the Gratuity Act cannot be ignored. The term "instrument" and the phrase "instrument or contract having the force of law" shall most definitely be deemed to include the 1995 Regulations, which regulate the payment of gratuity to the appellant.

First and foremost, we have concluded on the basis of section 4 of the Gratuity Act, that an employee has the right to make a choice of being governed by some alternative provision/instrument/other than the Gratuity Act, for drawing the benefit of gratuity. If an employee makes such a choice, he is provided with a statutory protection, namely, that the concerned employee would be entitled to receive better terms of gratuity under the said provision/instrument, in comparison to his entitlement under the Gratuity Act. This protection has been provided through section 4 (5) of the Gratuity Act.

Furthermore, from the mandate of section 14 of the Gratuity Act, it is imperative to further conclude, that the provisions of the Gratuity Act would have overriding effect, with reference to any inconsistency therewith in any other provision or instrument. Thus viewed, even if the provisions of the 1995, Regulations, had debarred payment of interest on account of delayed payment of gratuity, the same would have been inconsequential.



Counsel for the Appellant : Sudhir Chandra Agarwala, Jitender Vohra and Rameshwar Prasad Goyal.  
Counsel for the Respondents : Yashraj Singh Deora, Rajesh Kumar, Anupama Dhurve, Prashant Narang and Sarv Mitter for Mitter & Mitter Co.

**JUDGMENT**  
**JAGDISH SINGH KHEHAR, J.—Leave granted.**

The appellant was inducted into the service of the Punjab National Bank (hereinafter referred to as, the PNB) in the clerical cadre on 19.2.1958. He was successively promoted against the posts of Special Assistant and Accountant with effect from 23.8.1972 and 26.12.1974. He also gained further promotions to the cadres of Manager-B Grade and thereafter, Manager-A Grade with effect from 24.11.1977 and 18.12.1982 respectively. He finally came to be promoted to the post of Chief Manager with effect from 1.10.1986. Whilst holding the post of Chief Manager, the appellant retired from service, on attaining the age of superannuation on 31.10.1996.

2. During 1981-82, when the appellant was posted as Manager at the Sector 19, Chandigarh Branch of the PNB, he was accused of having entered into a conspiracy with R.L. Vaid, the then Regional Manager of the PNB, Chandigarh, and Dr. A.K. Sinha, IAS, the then Secretary, Department of Town and Country Planning, Haryana and thereby, of fraudulently having sanctioned a loan of Rs. 2,70,000/- to Mrs. Rama Sinha (wife of Dr. A.K. Sinha, aforementioned). The said loan was granted to Mrs. Rama Sinha, for construction of a building on a plot in Sector 6, Panchkula. The said building, after its construction, was leased to the PNB, at an allegedly exorbitant rent of Rs. 4,985/- per month. The loan amount, was to be adjusted out of the rent account. The PNB was allegedly, not in the need of the said building, because it was already housed in a building in Sector 17, Chandigarh, at a nominal rent of Rs. 1,6507- per month. The building rented from Mrs. Rama Sinha was said to have remained unoccupied from 1.5.1982 to 21.1.1987. This factual position, it was alleged, was sufficient to infer, that the PNB was not in need of the building taken on rent from Mrs. Rama Sinha. Based on the aforesaid factual position, it was felt, that the action of the conspirators caused a pecuniary loss of Rs. 2,70,0007- to the PNB. It was also sought to be assumed, that the aforesaid loan and lease were favours extended to Dr. A.K. Sinha, IAS, through his wife Mrs. Rama Sinha. Based on the aforesaid allegations, the appellant Y.K. Singla, the aforesaid R.L. Vaid and Dr. A.K. Sinha, IAS, were charged under section 120-B of the Indian Penal Code and section 5(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988.

3. The trial in the above matter was conducted by the Special Judge, CBI Court, Chandigarh. On the conclusion of the trial, the Special Judge, CBI Court, Chandigarh arrived at the conclusion, that the prosecution had failed to produce any evidence on the issue of criminal conspiracy. The Trial Court accordingly, acquitted all the three accused of the charges framed against them on 31.10.2009, by holding, that the prosecution had failed to establish the charges beyond a shadow of reasonable doubt.

4. During the subsistence of the aforesaid criminal proceedings, the appellant Y.K. Singla retired from the employment of the PNB, on having attained the age of superannuation, on 31.10.1996. On his retirement, on account of the pendency of the criminal proceedings being conducted against him, gratuity, leave encashment and commutation of permissible portion of pension, were withheld. While withholding the aforesaid monetary benefits, the appellant was informed by the PNB through a communication dated 13.5.2000, that the eventual release of the aforesaid retrial benefits, would depend on the outcome of the pending criminal proceedings.

5. As already noticed above, the appellant was acquitted of the charges framed against him, by the Special Judge, CBI Court, Chandigarh, on 31.10.2009. Based on his aforesaid acquittal, the appellant addressed a letter dated 26.11.2009 to the Executive Director of the PNB seeking release of his gratuity, encashment of privileged leave balance and commutation of permissible portion of pension. Additionally, he claimed interest, from the date the aforesaid retiral benefits became due to him, till the actual payment thereof. It will also be



relevant to mention, that by this time, the appellant was over 73 years old. In its reply dated 5.2.2010, the PNB informed the appellant, that it had released leave encashment of Rs. 1,28,716.24 on that day itself i.e., on 5.2.2010 itself. The appellant was also informed through the aforesaid communication, that a duly sanctioned gratuity proposal had been sent to the Provident Fund and Pension Department of the PNB, for disbursement of gratuity. Thereupon, the appellant actually received the gratuity payable to him, on 12.2.2010.

6. Having received encashment of privileged leave balance, as also, gratuity in February, 2010, the appellant reiterated his claim for interest, on account of delayed payment of the aforesaid amounts, through another letter dated 17.2.2010. In the instant letter, the appellant pointed out, that he had retired on attaining the age of superannuation on 31.10.1996, and as such, the PNB had withheld the aforesaid monetary benefits due to him for a period of more than 13 years up to February, 2010. The appellant's request for interest on the aforesaid delayed payments, was responded to by the PNB through a letter dated 12.3.2010. The appellant was informed, that he was entitled to interest on account of withholding of his retiral benefits, only with effect from the date of culmination of the proceedings pending against him. Having found the appellant entitled to interest with effect from 31-10.2009 i.e., when the Special Judge, CBI Court, Chandigarh acquitted him, the PNB released a sum of Rs. 1,881/- as interest towards delayed payment of leave encashment, and another sum of Rs. 3,336/- as interest on account of having withheld his gratuity. The aforesaid interest, the appellant was informed, had been calculated at the rate of 5.5%.

7. Dissatisfied with the action of the PNB, in not paying interest to him from the date the aforesaid retiral benefits became due (on his retirement on 31.10.1996), till their eventual release (in February, 2010), the appellant filed Civil Writ Petition No. 6469 of 2010 before the High Court of Punjab & Haryana at Chandigarh (hereinafter referred to as, the High Court). The aforesaid Writ Petition came to be allowed on 4.5.2011. While allowing the Writ Petition filed by the appellant, the High Court directed the PNB to pay the appellant, interest at the rate of 8% from the date retiral benefits had become due to the appellant, till the actual payment thereof to him.

8. Dissatisfied with the order dated 4.5.2011, passed by the learned Single Judge of the High Court, the PNB preferred Letters Patent Appeal No. 1950 of 2011. The Letters Patent Appeal filed by the PNB was partly allowed by a Division Bench of the High Court, on 29.11.2011. The Division Bench of the High Court arrived at the conclusion, that the appellant was not entitled to any interest: on delayed payment of Gratuity. The award of interest to the appellant fee withholding the other retiral benefits was, however, not interfered with. The decision (dated 29.11.2011) rendered by the Division Bench of the High Court. has been assailed by the appellant, through the instant appeal.

9. The reasons which prompted the Division Bench of the High Court : deny interest on the withheld amount of gratuity to the appellant, are ascertainable from the paragraph 7 of the impugned order, which is being extracted hereunder:—

"7. On having considered the matter, we are in agreement with the submission made by the learned Counsel appearing for the appellant-Bank insofar as withholding of gratuity is concerned. The language of the relevant Rule i.e. Rule 46 of the 1995 Rules is clear and unambiguous. The mandate of the Rule is such that it operates as a bar insofar as the Bank is concerned, as regards the release of gratuity to an employee against whom the departmental or judicial proceedings were pending on the date such employee attains the age of superannuation. The Rule stipulates that such withheld amount of gratuity would become payable only upon conclusion of the proceedings. Admittedly, judicial proceedings were pending against the respondent on the date of his ..superannuation i.e. 31.10.1996 and concluded only upon his acquittal vide order dated 31.10.2009. The amount viz. gratuity has since been released on 13.2.2010 and interest thereupon has also been paid for the period 31.10.2009 till the date of payment. We, accordingly, hold that respondent No. 1 is not entitled to any interest for the period 31.10.1996 till the conclusion of the trial and his acquittal i.e. 31.10.2009 on the withheld amount of gratuity."



10. It is apparent from a perusal of the reasoning recorded by the High Court, that the High Court relied upon Regulation 46 of the Punjab National Bank (Employees) Pension Regulations, 1995 (hereinafter referred to as, the 1995 Regulations). Regulation 46 is being extracted hereunder: "46. Provisional Pension—

(1) An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, a provisional pension, equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against "final retirement benefits sanctioned to him, upon conclusion of the proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld etc. either permanently or for a specified period.

(2) In such cases the gratuity shall not be paid to such an employee until the conclusion of the proceedings against him. The gratuity shall be paid to him on conclusion of the proceedings subject to the decision of the proceedings. Any recoveries to be made from an employee shall be adjusted against the amount of gratuity payable,"

Having perused Regulation 46(2), we are of the view, that the High Court was fully justified in concluding, that it was open to the PNB not to pay to the appellant gratuity, till the culmination of the proceedings pending against him. It is, therefore, apparent, that non-release of gratuity to the appellant after 31.10.1996 (when the appellant retired from his employment, with the PNB), till his acquittal by the Special Judge, CBI Court, Chandigarh, on 31.10.2009, cannot be faulted.

11. The right to withhold gratuity, is an issue separate and distinct, from the claim of interest, which has been raised by the appellant. The question that arises for consideration is, whether an employee whose gratuity has been withheld under Regulation 46(2) of the 1995 Regulations, would he be entitled to interest on the withheld payment of gratuity, if he is found not to be at fault? According to the simple logic of the appellant, since his gratuity was withheld from 1996 (When he retired from service) till 2010 (when gratuity was eventually released to him), i.e., for a period of 14 years, for no fault of his, he is most definitely entitled to interest on the delayed payment. It is, however, not the simple logic of the appellant, which will determine the controversy in hand. For, logic gave rise to diametrically opposite views, one of which was expressed by the Writ Court, and other by the Letters Patent Bench. We shall therefore endeavour to search for legal answer, to the issue in hand.

12. The 1995, Regulations, are silent on the subject of an employee's rights whose gratuity has been withheld, even in circumstances where it has eventually been concluded, that he was not at fault. This is exactly the situation in the present controversy, inasmuch as, the appellant's retirement benefits including gratuity, were withheld on 31.10.1996 when he retired on attaining the age of superannuation. The aforesaid withholding, was on account of a pending criminal proceeding. The said withholding has appropriately been considered as done, under Regulation 46(2) of the 1995, Regulation. But the appellant was acquitted from the criminal prosecution initiated against him on 31.10.2009. As such, it is inevitable to conclude, that his gratuity was withheld without the appellant being at fault. It is in the aforesaid background, that we shall venture to determine the claim of the appellant for interest, despite the PNB having validly withheld his gratuity under Regulation 46(2) of the 1995, Regulations.

13. Insofar as the issue in hand is concerned, reference needs to be made to certain provisions of the Payment of Gratuity Act, 1972 (hereinafter referred to as, the Gratuity Act). In our considered view, sections 4, 7 and 14 of the Gratuity Act are relevant, section 4 is being extracted hereunder:—

"4. Payment of gratuity —

(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

(a) on his superannuation, or

(b) on his retirement or resignation, or

(c) on his death or disablement due to accident or disease:



Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.

**Explanation**—For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account: Provided further that in the case of an employee who is employed in a seasonal establishment and who is not so employed throughout the year the employer shall pay the gratuity at the rate of seven days' wages for each season.

**Explanation**.—In the case of a monthly rated employee, the fifteen days wages shall be calculated by dividing the monthly rate of wages by twenty-six and multiplying the quotient by fifteen.

(3) The amount of gratuity payable to an employee shall not exceed one lakh rupees.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with employer.

(6) Notwithstanding anything contained in sub-section (1)—

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee may be wholly or partially forfeited

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

It is not a matter of dispute, that the appellant was entitled to gratuity when he retired on attaining the age of superannuation on 31.10.1996. The quantification of the appellant's gratuity by the PNB is not in dispute. As such, sub-sections (1) to (4) of section 4 of the Gratuity Act are clearly not relevant to the present controversy. Only sub-section (5) of section 4 is relevant in so far as the present case is concerned. Likewise, since the appellant has not been found to be at any fault, sub-section (6) of section 4 is also not attracted in this case.

14. Sub-section (5) of section 4 of the Gratuity Act permits an employee to be regulated for purpose of gratuity, under an alternative provision/arrangement (award or agreement or contract), other than the Gratuity Act. In such an eventuality, sub-section (5) aforesaid, assures the concerned employee, "...to receive better terms of gratuity under any award or agreement or contract with employer...." Since the appellant's claim



for gratuity is regulated, under the 5, Regulations, it is evident, that his claim for gratuity is liable to be ermined by ensuring his right to better terms than those contemplated under 1 Gratuity Act. In the instant process of consideration, the aforesaid conclusion, namely, that an employee who receives gratuity under a provision, other than Gratuity Act, would be entitled to better terms of gratuity, will constitute one the foundational basis/ of determination. Having examined section 4 of the Gratuity Act, we may unhesitatingly record, that none of the other sub-sections section 4 of the Gratuity Act, as well as, the other provisions of the Gratuity, have the effect of negating the conclusion drawn hereinabove.

15. For the determination of the present controversy, it is also relevant to into consideration section 7 of the Gratuity Act, which is being extracted 'hereunder:—
- "7. Determination of the amount of gratuity.—(1) A person who is eligible for payment of gratuity under this Act or any person authorized, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.
- (2) As soon as gratuity becomes payable/ the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.
- (3) The Employee shall arrange to pay the amount of gratuity, within thirty days from the date it becomes payable to the person to whom the gratuity is payable.
- (3-A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify: Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.
- (4)(a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.
- (b) Where there is a dispute with regard to any matter specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.
- (c) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the matter or matters in dispute and if, as a result of such inquiry any amount is found to be payable to the employee, the: controlling authority shall direct the employer to pay such amount or, as the case may be, such amount as reduced by the amount already-deposited by the employer.
- (d) The controlling authority shall pay the amount deposited including the excess amount, if any, deposited by the employer, to the person entitled., thereto.
- (e) as soon as may be after a deposit is made under clause (a), the I controlling authority shall pay the amount of the deposit-
- (i) to the applicant where he is the employee; or
- (ii) where the applicant is not the employee, to the nominee or, as the cast may be, the guardian of such nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right d the applicant to receive the amount of gratuity. (5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in 2 Court, while trying a suit, under the Code of Civil Procedure, 1908 (5 cc 1908) in respect of the following matters, namely :-
- (a) enforcing the attendance of any person or examining him on oath;



- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commission for the examination of witnesses.
- (6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code (45 of 1860).
- (7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:  
Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:  
Provided further that no appeal by an employer shall be admitted unless a: the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.
- (8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority."

A perusal of sub-section (2) of section 7 reveals, that it is the onerous responsibility of the employer, to determine the amount of gratuity payable to a retiring employee, sub-section (3) of section 7 enjoins a further responsibility on the employer, to disburse the amount of gratuity payable to an employee, within 30 days from the date it becomes payable. Since the appellant had attained the age of superannuation on 31.10.1996, it is apparent, that gratuity had become payable to him on 31.10.1996. Accordingly, the same ought to have been calculated in terms of sub-section (2) of section 7 of the Gratuity Act, and should have been dispersed to the appellant by 30.11.1996 in terms of sub-section (3) of section 7 of the Gratuity Act.

16. Sub-section (3-A) of section 7 of the Gratuity Act is the most relevant provision for the determination of the present controversy. A perusal of the sub-section (3-A) leaves no room for any doubt, that in case gratuity is not released to an employee within 30 days from the date the same become payable under sub-section (3) of section 7, the employee in question would be entitled to "...simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term loans, as the Government may, by notification specify...." There is, however, one exception to the payment of interest envisaged under sub-section (3) of section 7 of the Gratuity Act. The aforesaid exception is provided for in the proviso under sub-section (3-A) of section 7. A perusal of the said proviso reveals, that no interest would be payable "...if the delay in the payment is due to the fault of the employee, and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground...." The exception contemplated in the proviso under sub-section (3-A) of section 7 of the Gratuity Act, incorporates two ingredients. Where the two ingredients contemplated in the proviso under sub section (3-A) are fulfilled, the concerned employee can be denied interest despite delayed payment of gratuity. Having carefully examined the proviso under sub-section (3-A) of section 7 of the Gratuity Act, we are of the view, that the first ingredient is, that payment of gratuity to the employee was delayed because of some fault of the employee himself. The second ingredient is, that the controlling authority should have approved, such withholding of gratuity (of the concerned employee) on the basis of the alleged fault of the employee himself. None of the other sub-sections of section 7 of the Gratuity Act, would have the effect of negating the conclusion drawn hereinabove.

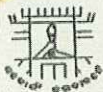
17. Insofar as the present controversy is concerned, the appellant was accused of having entered into a conspiracy with a bank employee superior to him, so as to extend unauthorized benefits to a member of the Indian Administrative Services belonging to the Karyana Cadre. Based on the aforesaid alleged fault of the appellant, the PNB, by an order dated 13.5.2000, informed the appellant, that the release of certain retiral benefits including gratuity was being withheld, because of pending of criminal proceedings against him. The



appellant was also informed, through the aforesaid communication, that release of his retiral benefits including gratuity, would depend on the outcome of the pending criminal proceedings. It is, therefore apparent, that the second ingredient expressed in the proviso under sub-section (3-A) of section 7 of the Gratuity Act was clearly satisfied, when the competent authority approved the action of withholding the appellant's gratuity. The instant conclusion is inevitable, because it is not the case of the appellant, that the communication dated 13.5.2000, by which his gratuity was withheld, had not been issued at the instance of the concerned controlling authority. The only question which, therefore, arises for consideration is, whether the first ingredient (culled out above) for the applicability, of the proviso under sub-section (3-A) of section 7 of the Gratuity Act, can be stated to have been satisfied, in the facts and circumstances of the instant case. If it can be concluded, that the aforesaid ingredient is also satisfied, the appellant would have no right to claim interest, despite delayed release of gratuity. Our determination of the first ingredient is, as follows. We are of the considered view, that consequent upon the acquittal of the appellant by the Special Judge, CBI Court, Chandigarh, it would be erroneous to conclude, that the gratuity payable to the appellant on attaining the age of superannuation i.e., on 31.10.1996, was withheld on account of some fault of the appellant himself. We may hasten to add, if the appellant had been convicted by the Special Judge, CBI Court, Chandigarh, then the first ingredient would also be deemed to have been satisfied. Conversely, because the appellant has been acquitted, he cannot be held to be at fault. Accordingly it emerges, that the "fault" ingredient of the employee himself, for denial of gratuity when it became due, remains unsubstantiated. Since one of the two salient ingredients of the proviso under sub-section (3-A) of section 7 of the Gratuity Act is clearly not satisfied in the present case, we are of the view, that the appellant cannot be denied interest under the proviso to section 7(3-A) of the Gratuity Act. Accordingly, the appellant has to be awarded interest under section 7(3-A) of the Gratuity Act. Therefore, if the provisions of the Gratuity Act are applicable to the appellant, he would most definitely be entitled to interest under sub-section (3-A) of section 7 of the Gratuity Act, on account of delayed payment of gratuity.

18. The most important question which arises for our consideration is, whether the provisions of the Gratuity Act can be extended to the appellant, so as to award him interest under sub-section (3-A) of section 7 of the Gratuity Act. Insofar as the instant aspect of the matter is concerned, it was the vehement contention of the learned Counsel appearing on behalf of the appellant, that the provisions of the Gratuity Act are extendable to the appellant, and as such, he would be entitled to disbursement of interest under section 7(3-A) thereof. The plea at the behest of the PNB, however, was to the contrary. The contention of the learned Counsel representing the PNB was, that the PNB having adopted the 1995, Regulations, the claim of the appellant could only be determined under the provisions of the said Regulations. It was pointed out, that denial of payment of gratuity in the present case, was valid and justified under Regulation 46(2) of the 1995 Regulations. Furthermore, it was pointed out, that the 1995 Regulations, did not make any provision for the award of interest in case of delayed payment of gratuity. Therefore, since gratuity had legitimately been withheld, under the provisions of the 1995, Regulations, and the payment of gratuity to the appellant is not regulated under the Gratuity Act, there was no question of payment of interest to the appellant. It was submitted that the appellant's gratuity had been withheld during the pendency of criminal proceedings initiated against him, his entitlement to gratuity stood extended to such time as the said criminal proceedings were eventually disposed of. Thus viewed, the entitlement to gratuity stood extended to 31.10.2009 (i.e., the date of the disposal of the proceedings pending against him). In this behalf, it was also pointed out, that as soon as the criminal proceedings pending against the appellant, concluded in his favour, the PNB released, all the appellant's retiral benefits, including gratuity. The documents available on the record of the case reveal, that gratuity was released to the appellant on 12.2.2010. As such, the delay in release of gratuity, if at all, was only from 31.10.2009 to 12.2.2010. For the aforesaid delayed payment of gratuity, the appellant was admittedly awarded interest quantified at Rs. 3,336/- (calculated at the rate of 5.5%).

19. In order to determine which of the two provisions (the Gratuity Act or the 1995, Regulations) would be applicable for determining the claim of the appellant, it is also essential to refer to section 14 of the Gratuity Act, which is being extracted hereunder:—



"14. Act to override other enactments, etc.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act."

A perusal of section 14 leaves no room for any doubt, that a superior status has been vested in the provisions of the Gratuity Act, vis-a-vis, any other enactment (including any other instrument or contract) inconsistent therewith. Therefore, insofar as the entitlement of an employee to gratuity is concerned, it is apparent that in cases where gratuity of an employee is not regulated under the provisions of the Gratuity Act, the legislature having vested superiority to the provisions of the Gratuity Act over all other provisions/enactments (including any instrument or contract having the force of law), the provisions of the Gratuity Act cannot be ignored. The term "instrument" and the phrase "instrument or contract having the force of law" shall most definitely be deemed to include the 1995 Regulations, which regulate the payment of gratuity to the appellant.

20. Based on the conclusions drawn hereinabove, we shall endeavour to determine the present controversy. First and foremost, we have concluded on the basis of section 4 of the Gratuity Act, that an employee has the right to make a choice of being governed by some alternative provision /instrument, other than the Gratuity Act, for drawing the benefit of gratuity. If an employee makes such a choice, he is provided with a statutory protection, namely, that the concerned employee would be entitled to receive better terms of gratuity under the said provision/instrument, in comparison to his entitlement under the Gratuity Act. This protection has been provided through section 4 (5) of the Gratuity Act. Furthermore, from the mandate of section 14 of the Gratuity Act, it is imperative to further conclude, that the provisions of the Gratuity Act would have overriding effect, with reference to any inconsistency therewith in any other provision or instrument. Thus viewed, even if the provisions of the 1995, Regulations, had debarred payment of interest on account of delayed payment of gratuity, the same would have been inconsequential. The benefit of interest enuring to an employee, as has been contemplated under section 7(3-A) of the Gratuity Act, cannot be denied to an employee, whose gratuity is regulated by some provision/instrument other than the Gratuity Act. This is so because, the terms of payment of gratuity under the alternative instrument has to ensure better terms, than the ones provided under the Gratuity Act. The effect would be the same, when the concerned provision is silent on the issue. This is so, because the instant situation is not worse than the one discussed above, where there is a provision expressly debarring payment of interest in the manner contemplated under section 7(3-A) of the Gratuity Act. Therefore, even though the 1995, Regulations, are silent on the issue of payment of interest, the appellant would still be entitled to the benefit of section 7(3-A) of the Gratuity Act. If such benefit is not extended to the appellant, the protection contemplated under section 4(5) of the Gratuity Act would stand defeated. Likewise, even the mandate contained in section 14 of the Gratuity Act, deliberated in detail hereinabove, would stand negated. We, therefore, have no hesitation in concluding, that even though the provisions of the 1995, Regulations, are silent on the issue of payment of interest, the least that the appellant would be entitled to, are terms equal to the benefits envisaged under the Gratuity Act. Under the Gratuity Act, the appellant would be entitled to interest, on account of delayed payment of gratuity (as has already been concluded above). We therefore hold, that the appellant herein is entitled to interest on account of delayed payment, in consonance with sub-section (3-A) of section 7 of the Gratuity Act. We, accordingly, direct the PNB to pay to the appellant, interest at "the rate notified by the Central Government for repayment of long term deposits...." In case no such notification has been issued, we are of the view, that the appellant would be entitled to interest, as was awarded to him, by the learned Single Judge of the High Court vide order dated 4.5.2011, i.e. interest at the rate of 8%. The FNB is directed, to pay the aforesaid interest to the appellant within one month of the appellant's furnishing to the PNB a certified copy of the instant order. The appellant shall also be entitled to costs quantified at Rs. 50,000/-, for having had to incur expenses before the Writ Court, before the Division Bench, and finally before this Court. The aforesaid costs shall also be disbursed to the appellant within the time indicated hereinabove.

21. Disposed of in the aforesaid terms.

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# ଶ୍ରମ ସାହିତ୍ୟ ଦର୍ପଣ : ଦ୍ୟାୟ

ଡଃ ପ୍ରଦୀପ କୁମାର ରଥ

ରାଜଗାଙ୍ଗପୁର ବଜାରରେ ଫୁଲମାଳ ପକାଇ ଜଗବନ୍ଧୁ ମାଝି ଆଗରେ ଆଗରେ ଚାଲିଛି । ତା ପଛରେ ଶ୍ରମିକ ଭାଇ ଭଉଣୀଙ୍କ ଲମ୍ବା ଧାଡ଼ି । ଆଗ ଧାଡ଼ିରେ ଶ୍ରମିକ ସଂଗଠନର ନେତୃବୃନ୍ଦ । ସମସ୍ତେ ଆଜି ଏକ ହୋଇଛନ୍ତି । ଜଗବନ୍ଧୁ ୧୧ ବର୍ଷ ଲଢ଼େଇ କରିଛି ଶିଳ୍ପପତି ତାଲମିଆଙ୍କ ସହିତ । ଆଜି ତାର ଜିତ୍ । ୧୧ ବର୍ଷ ତଳେ ତାକୁ ଚାକିରି ହରାଇବାକୁ ହୋଇଥିଲା । କୁଟକ୍ରୀ ସାହୁ ସୁପରଭାଇଜର ପାଇଁ । କେତେ ନେହୁରା ହେଲା, ମ୍ୟାନେଜରଙ୍କୁ ଗୁହାରି କଲା । ଜେନେରାଲ ମ୍ୟାନେଜର ଗୁପ୍ତା ସାହେବଙ୍କୁ ଦେଖା ହେଲା । ଫଳ କିଛି ହେଲାନି । ଏନକ୍ସାରିରେ ଷଡ଼ଯନ୍ତ୍ର କରି ଦୋଷୀ ସାବ୍ୟସ୍ତ କରାଇଲେ । ଚାକିରି ଗଲା ।

ସେଥିପାଇଁ ଦଉଡ଼ି ଯାଇଥିଲା ଶ୍ରମ ଅଫିସକୁ । ଶ୍ରମ ଅଫିସର ନାୟକବାରୁ ଦେବତା ତୁଲ୍ୟ ଲୋକ । ଦୁଇ ପକ୍ଷକୁ ଡାକିଲେ । ମାଲିକର ପ୍ରତିନିଧି ପର୍ସନାଲ ମ୍ୟାନେଜର ପଟ୍ଟନାୟକ ବାବୁଙ୍କୁ ତଦନ୍ତ ଠିକ୍ରେ ହୋଇନାହିଁ । ଏହା ଉପରେ ଚାକିରୀରୁ ବାହାର କରନ୍ତୁ ନାହିଁ । ଜଗବନ୍ଧୁଙ୍କୁ ପୁଣି ଚାକିରୀରେ ନେଇ ଯାଆନ୍ତୁ, କିନ୍ତୁ ସେମାନଙ୍କର ଏକା ଜିଦ୍ ଥରେ ମାଲିକ ପକ୍ଷ ଯାହା ଡିସିସନ୍ ନେଇଛନ୍ତି ସେଥିରୁ ଓହରି ପାରିବୁନି । ଗୁପ୍ତା ସାହେବଙ୍କୁ ମଧ୍ୟ ଡକାଇଲେ । ସେମାନେ କିଛି ଶୁଣିଲେନି । ନାୟକ ସାର, କହିଲେ, “ଜଗବନ୍ଧୁ ! ମୋର ଯାହା ଚେଷ୍ଟା କରିବା ମୁଁ କରିଲି । ବର୍ତ୍ତମାନ ମୁଁ ସରକାରଙ୍କୁ ରିପୋର୍ଟ ଦେଇଦେବି । ସରକାର ଉଚିତ୍ ମନେ କଲେ ତାହା ତ୍ରିବୁ୍ୟନାଳ ପଠାଇ ଦେବେ । ତେବେ ବିଶ୍ୱାସ ରଖିବ ସତ୍ୟର ଜୟ ହେବ ।” ଜଗବନ୍ଧୁ ଆଜି ତାର ପ୍ରତିଶୋଧ ନେଇଛି । ତ୍ରିବୁ୍ୟନାଳ ତାକୁ ନିର୍ଦ୍ଦୋଷ କରିବା ସହ ଚାକିରୀରେ ପୁନଃନିଯୁକ୍ତି ସହ ବକେୟା ପ୍ରାପ୍ୟ ଦେବାକୁ ଆଦେଶ ଦେଇଛି । ପ୍ରତି ଛକରେ ତାକୁ ଶ୍ରମିକମାନେ ଫୁଲମାଳ ଦେଇ ସ୍ୱାଗତ କରୁଛନ୍ତି ।

ଜଗବନ୍ଧୁ ଚାରିଆଡ଼କୁ ଚାହିଁଲା । ଉଚ୍ଛ୍ୱସିତ ସମ୍ବର୍ଦ୍ଧନ । ଜୀବନରେ ଏ ସୌଭାଗ୍ୟ ପାଇବ ବୋଲି ସ୍ୱପ୍ନରେ କଳ୍ପନା କରିପାରି ନଥିଲା । ନିଜକୁ ବହୁତ ଗର୍ବିତ ଲାଗୁଥାଏ । ମନଟା ଭାରି ଖୁସି ଖୁସି ଲାଗୁଥାଏ । ଲମ୍ବା ପ୍ରସେସନରେ ୩ କି.ମି ରାସ୍ତା ଚାଲିଲାଣି । ଆଗକୁ ଦଶହରା ମଇଦାନରେ ସଭାହବ । ସେ ଆଜି ସଭାରେ ତଳେ ବସିବନି । ମଞ୍ଚ ଉପରେ ବସିବ । ସମସ୍ତେ “ଜଗବନ୍ଧୁ ଭାଇ ଜିନ୍ଦାବାଦ୍” “ଶ୍ରମିକ ଏକତା ଜିନ୍ଦାବାଦ୍” “ହକ୍ ପାଇବାକୁ ଲଢ଼େଇ କର” ଶ୍ରମିକ ଭାଇରେ ଲଢ଼େଇ କର ସ୍ଳୋଗାନରେ ରାଜଗାଙ୍ଗପୁର ଆକାଶ କମ୍ପୁଥାଏ ।

କିଏ ଜଗବନ୍ଧୁଙ୍କୁ କୁଣ୍ଡାଇ ପକାଇଛନ୍ତି ତ କିଏ ଗୋଡ଼ ଛୁଇଁ ପ୍ରଶାମ କରୁଛି । ଜଗବନ୍ଧୁ ଆଗକୁ ଆଉ ଧିରେ ଧିରେ ଦେଖି ପାରୁନି । ସକାଳୁ ମିର୍ଚ୍ଚା ତା ସାଙ୍ଗ ଓ ନେତା ଆସି ଡାକି କହିଲା “ଜଗବନ୍ଧୁ କୋର୍ଟରେ ତୋର ଜିତ୍ ହୋଇଛି । ତ୍ରିବୁ୍ୟନାଳ ତତେ ନୌକାରୀ ଦେବାର ଲାଗି ଅର୍ଡର କରିଛେ । ଆଗରୁ ଯେତିକି ଦିନ କାମ ଯାଇଁ କରିପାରିଛୁ ସେତିକି ଦିନର ପିସା ଦେବାକେ ତାଲମିଆକେ ଡାଇରେକ୍ଟନ ଦେଇଛେ । ଚାଲ ଯିବା ପୁରା ସହର କିହି ଆସ୍କା ସବ୍‌କେ ଆମର ଜିତ୍‌ର ଖବର ଦେବା ।” ଜଗବନ୍ଧୁ ହାତ ଗୋଡ଼ ସଜାବ ହୋଇଗଲା । ତା ଦେହର ହଠାତ୍ ଜୀବନ ସଞ୍ଚାର ହୋଇଗଲା । ତା ମୁହଁରୁ ବାହାରି ପଡ଼ିଲା “ଏମତା ହୋଇଛେ ଭଏଲ” ? ଜଗବନ୍ଧୁର ଆଖିଗୁଡ଼ିକ ବଡ଼ ବଡ଼ ହୋଇଗଲା । ସେ ଚାରିଆଡ଼କୁ ଚାହିଁଲା, ଆକାଶଟା ତାକୁ ଭାରି ସଫା ଲାଗୁଥିଲା ।

ଲୋମଲେଇ, ରାଜଗାଙ୍ଗପୁର ପାଖରେ ଛୋଟ ଗାଁଟିରେ ତାର ଘର । ଘଞ୍ଚ ଜଙ୍ଗଲ ଭିତରେ ଗାଁଟି । ଚାରିପଟେ ପାହାଡ଼ । ଅଦୂରରେ ଥିବା ଗ୍ରାମଦେବାଙ୍କ ମୁହଁଟା ତାକୁ ଦିଶୁଥିଲା । ଦେବୀ ପ୍ରସନ୍ନ ଥିଲା ପରି ଲାଗୁଥିଲା । ମିର୍ଚ୍ଚା ବିଖାନ, ପ୍ରଭୁ ଦୟାଳ ତିର୍କି ଓ ସ୍ୱପ୍ନା ମିଞ୍ଜ ତାଙ୍କ ଗାଁର ତା ସହିତ ପଢୁଥିଲେ । ସେହିମାନେ ତାର ସୁଖ ଦୁଃଖର ସାଥୀ । ସମୟ ଅସମୟରେ ସେମାନେ ହିଁ ତା ପାଖରେ ଠିଆ ହେଉଥିଲେ । ସେମାନଙ୍କର ସାହାସ ତାକୁ ଆଜି ଏଇ ସଫଳତା ଆଣି ଦେଇଛି । ମିର୍ଚ୍ଚା ତା ସହ ସବୁ କୋର୍ଟ ଚାରିଖରେ ଯାଇଛି । ଓକିଲ ହୋଇ ଲଢ଼ିଛି । ରାଜଗାଙ୍ଗପୁର ମଧ୍ୟ ଇଂରାଜୀ ସ୍କୁଲରେ ପଢୁଥିଲେ । କିନ୍ତୁ ଜଗବନ୍ଧୁର ପାଠରେ ତୋର ବନ୍ଧା ହେଲା । ମିର୍ଚ୍ଚା କିନ୍ତୁ ରାଷ୍ଟ୍ରୀୟ ବିଦ୍ୟାଳୟରୁ ମ୍ୟାଟ୍ରିକ ପାଶ୍ କରିବା ପରେ କଲେଜରେ I.A ଯାଏ ପଢ଼ିଲା । ତା ପରେ ଆଉ ପଢ଼ି ପାରିନି ଦରଜୀ ମଣିଷ ଟିଏ । ତା ପରଠୁ ଟ୍ରେଡ୍ ଯୁନିୟନ୍ ପାଖରେ ପଶି ଶ୍ରମିକ ଭାଇମାନଙ୍କୁ ଏକାଠି କରିଛି । ଶ୍ରମିକ ସଂଗଠନର ସକ୍ରିୟ ସଭ୍ୟ ଓ କର୍ମକର୍ତ୍ତା ହୋଇ ମାଲିକ ବିରୁଦ୍ଧରେ ତାର ସଂଗ୍ରାମ ଚଳାଇଛି । କେନ୍ଦ୍ରୀୟ ସଂଗଠନ ସହ କି ତାର ସଂପର୍କ ଭଲ । ଜଗବନ୍ଧୁ ପୋଖରୀକୁ ଯାଇ ଗାଧୋଇ ଆସିଲା । ଗୁରୁବାରୀକୁ କହିଲା ଖାଇବାକୁ ଦେବାକୁ,



ଗୁରୁବାରା କହିଲା, “କ୍ଷମେନ୍ଦ୍ର ବସନ୍ତ ଯଦି ମୁଁ ଚଉଲ ଦୁଇଟା ଫୁଟାଇ ଦେବି । ପିଆଜ, ମିର୍ଚ୍ଚା ଅଛେ ଖାଇଦବୁ । କାଲି ରାତିରେ କୋନ୍ ଭଦ୍ ରାନ୍ଧିଥିଲି ଅଳ୍ପ ଟିକିଏ କରିଛେ ତୋର ପେଟ ଯାଇଁ ଭରକା” । “ଯାହା ଅଛେ ଦେଇଦେ ମିର୍ଚ୍ଚା ଡ଼ାକି କରି ଗଲାନ । ଆରୁ ଡେରି ନାଇଁ କରେ” ଅଳ୍ପ କିଛି ଭାତ, ତେରାଣି, ଲଙ୍କା, ଲୁଣ ମନ୍ଦି ଖାଇ ସେ ବାହାରି ପଡ଼ିଲା । ଏଇ ୧୧ ବର୍ଷ ତା ଜୀବନଟା କେତେ ଘାତ, ପ୍ରତିଘାତ ଭିତରେ କଟିଛି ସେହି ଜାଣିଛି । ସକାଳୁ ଉଠି ସେ ରାଜଗାଙ୍ଗପୁରରେ ବୁଲେ । ପାହାଡ଼, ଜଙ୍ଗଲ ଭାଗ ଯାଗାରେ କାମ ନାହିଁ ? ଭାରୁଥିଲା ସେ ଯଦି ରାଉରକେଲା ପଳାଇ ଯାଇଥାନ୍ତା ତାହେଲେ ହୁଏତ ତାକୁ କିଛି କାମ ମିଳି ଯାଇଥାନ୍ତା । ହେଲେ ବୁଢ଼ୀମା ଭିତାମାଟି ଛାଡ଼ି ଯିବାକୁ ରାଜି ହେଲାନି । ତାକୁ ଛାଡ଼ି ସେ କେମିତି ଯିବ ? କେତେବେଳେ ମାଟି କାମ କରେ ତ କେତେବେଳେ ବାହାର ଯାଇ କାମ କରେ । ମାସରେ ୧୦/୧୫ ଦିନ କାମ ମିଳିଯାଏ । ଗୁରୁବାରା ମା’କୁ ପିଲାମାନଙ୍କ ଦାୟିତ୍ଵରେ ରଖି କାମ କରି ରୋଜଗାର କରିବାକୁ, କିନ୍ତୁ କାମ ନାହିଁ । ଘରେ ବୁଢ଼ୀମା ଭଲ ମନ୍ଦ ଟିକିଏ ଖାଇବାକୁ ଚାହେଁ । କିଛି ଉପାୟ ନଥାଏ । ଶେଷରେ ବୁଢ଼ୀମାକୁ ଔଷଧ ଦେଇ ନପାରି ଟିକିସ୍ତା ଅଭାବରେ ଆଖି ବୁଜିଲା । ଦୁଇ ପୁଅ ବଡ଼ ଓ ସାନ ଝିଅଟିଏ । ସମସ୍ତେ ଭଲ ପଢୁଥାଆନ୍ତି । ବଡ଼ପୁଅ ମ୍ୟାଟ୍ରିକ୍ ବହୁତ ଭଲରେ ପାଶ୍ କଲା । ତା ସାଙ୍ଗମାନେ କଲେଜରେ ପଢ଼ିଲେ । ସେ ପଢ଼ାଇ ପାରିଲାନି । ପୁଅକୁ ବୁଝାଇଲା ଏବେ କିଛି କାମ କରନା । ଥରେ କାମ ଭିତରେ ପଶିଗଲେ ଆଉ ପାଠ ପଢ଼ି ପାରିବୁନି । ତୁ ଗାଁ ପିଲାମାନଙ୍କୁ ପାଠ ପଢ଼ାଇ କିଛି ରୋଜଗାର କର । ଆରବର୍ଷ ଯଦି ପରିସ୍ଥିତି ବଦଳିଯାଏ ତାହାହେଲେ ପଢ଼ାଇବି । ଜଗବନ୍ଧୁ ଭାବେ ସେ ସିନା ପଢ଼ିପାରିଲାନି, ହେଲେ ସେ ତା ପିଲାମାନଙ୍କୁ ପାଠ ପଢ଼ାଇବ । ସେମାନେ ବାବୁ, ହାକିମ ହେବେ ।

ଏତେ ବାଟ ଚାଲି ଚାଲି ଜଗବନ୍ଧୁ ଏକଦମ୍ ଥକି ଯାଇଥାଏ । ପେଟରେ ଦାନା ନଥାଏ । ଭୋକରେ ପେଟ ତାର ଆଉଟୁ ପାଉଟୁ ହୋଇ ଯାଉଥାଏ । ମଇଦାନ ଆହୁରି ମଧ୍ୟ ୨ କି:ମି । ତାକୁ ଲାଗିଲା ସେ ଏଇଠି ଟଳି ପଡ଼ିବ । ମିର୍ଚ୍ଚାକୁ ପାଣି ମାଗିଲା । ସେ ଆଉ ଚାଲି ପାରିଲାନି । ରାସ୍ତାକଡ଼ ଋ ଦୋକାନ ପାଖରେ ଲଥକରି ପଡ଼ିଗଲା । ମିର୍ଚ୍ଚା ଅନ୍ୟମାନଙ୍କୁ ମଇଦାନ ଯିବାକୁ ନିର୍ଦ୍ଦେଶ ଦେଇ ପାଉଁରୁଟି କିଣି, ଋ ସହିତ ଜଗବନ୍ଧୁକୁ ଖାଇବାକୁ ଦେଲା । ଟିକିଏ ଭଲ ଲାଗିବା ପରେ ଜଗବନ୍ଧୁ ସହ ସଭାକୁ ଗଲା । ଜଗବନ୍ଧୁ ମିର୍ଚ୍ଚା ଓ ଅନ୍ୟମାନଙ୍କ ସହ ସଭା ମଞ୍ଚରେ ବସିଲା । ଜଗବନ୍ଧୁ ଆରିଆଡ଼କୁ ଚାହୁଁଥାଏ । ବିରାଟ ଜନସମୂହ । ସମସ୍ତଙ୍କ ଭିତରେ ସେଇ ଗୋଟିଏ ପ୍ରଶ୍ନ ଜଗବନ୍ଧୁ କେମିତି ପାରିଲା ? ସମସ୍ତେ ଜଗବନ୍ଧୁର ସାହାସ ଯୈର୍ଯ୍ୟକୁ ପ୍ରଶଂସା କରୁଥାଆନ୍ତି । ଜଗବନ୍ଧୁ କାନରେ ସେଗୁଡ଼ାକ କିଛି ପଶୁ ନଥାଏ । ସେ ଖାଲି ଭାରୁଥାଏ ଆଗାମୀ କାଲି ଆଉ କାମ ପାଇଁ ବୁଲିବାକୁ ହବନି ତ ? ପିଲାମାନଙ୍କୁ କ’ଣ ସତରେ ପଢ଼ାଇ ପାରିବି ? ନେତୃତ୍ଵ ଜଗବନ୍ଧୁକୁ କହିଲେ କିଛି କହିବା ପାଇଁ । ଜଗବନ୍ଧୁ ଭାବିଥିଲା ବହୁତ କିଛି କହିଯିବ । ନିଜ ସୁଖ, ଦୁଃଖ କଥା କହିବ । ମାଲିକର ବିରୁଦ୍ଧରେ ବିଷେଦ୍ଵାର କରିବ । ମାତ୍ର ଠିଆ ହୋଇ ଜନସମୂହକୁ ଦେଖିଦେଲା ପରେ ତା ପାଟିରୁ ଶବ୍ଦଟିଏ ବାହାରିଲା ନାହିଁ । ଜଗବନ୍ଧୁ ହସି ହସି ସମସ୍ତଙ୍କୁ ନମସ୍କାର କରି ବସି ପଡ଼ିଲା ।

ରାତିରେ ଜଗବନ୍ଧୁକୁ ନିଦ ହେଲାନି । ସେ ଗୁରୁବାରାଙ୍କୁ କହୁଥାଏ ଜଗନ୍ନାଥ ଆମର ଦୁଃଖ ବୁଝଲେ । ଇଥର ଅଭାବ୍ ନାହିଁ ରହେ । ଦରମା ଦରମା ପାଇଲେ ତୋର ଲାଗି ଲୁଗା ଦୁଇଟା ଘିନି ଆଣିମି । ବାବୁ, ବୁଝର ଲାଗି ତ୍ରେସ୍ ଘିନିମି । ବଡ଼ ବାବୁକେ କଲେଜରେ ପଢ଼ିଇବି । ଘରର ଛାତର ଖପରୁଲି ମାନେ ଭାଙ୍ଗିଗଲାନ । ପାଏନ ଗଲୁରେ । ତାକେ ପଲ୍ଟାବି । ଏମିତି କେତେ କ’ଣ ସ୍ଵପ୍ନ ଦେଖିବାରେ ଲାଗିଲା । ତାକୁ ଲାଗିଲା ଯେତେ ସବୁ ଅପୂର୍ଣ୍ଣ ଇଚ୍ଛା ଆଜି ସବୁ ପୂର୍ଣ୍ଣ ହୋଇଯିବ । ଭାରୁଥାଏ ସେ ସୁପର ଭାଇଜର ସାହୁର ମୁହଁଟା ଏକଦମ୍ ଛୋଟ ହୋଇଯିବ । ଗୁପ୍ତା ସାହାବ ଜାଣିବେ ସବୁ ଦୋଷ ସେଇ ବଦମାସ ସାହୁର । ଆଗକୁ ସେ ଭାବି ପାରିଲାନି । ଆଖି ପଡ଼ି ଯାଇଥିଲା ।

ସକାଳୁ ଉଠି ନିତ୍ୟକର୍ମ ସାରି ପଖାଳ ବେଲାଏ ଖାଇଦେଇ ମିର୍ଚ୍ଚା ଘରକୁ ଚାଲିଗଲା । ମିର୍ଚ୍ଚା ତା ପାଇଲରୁ ଅର୍ଡ଼ରଟା ବାହାର କରି ଜଗବନ୍ଧୁକୁ ଧରି ପ୍ୟାକ୍ଟକୁ ଗଲା । ଗେଟ୍ ପାଖରେ ଟାଇମ୍ କିପିଙ୍ଗ୍ ତାକୁ ଭିତରକୁ ଛାଡ଼ିଲାନି । ମିର୍ଚ୍ଚା ତାକୁ ଟ୍ରିବ୍ୟୁନାଲ ଅର୍ଡ଼ର ଦେଖାଇ କହିଲା “ଟ୍ରିବ୍ୟୁନାଲ ଅର୍ଡ଼ର କରିଛି ମେନେଜମେଣ୍ଟ୍ ଆମକୁ ଚାକିରୀ ଦେବାକୁ ବାଧ୍ୟ” । ସିକ୍ୟୁରିଟି ସେମାନଙ୍କୁ ବସାଇଲା । ଟାଇମ୍ କିପିଙ୍ଗ୍ ଆଡ଼ମିନିଷ୍ଟ୍ରେସନ ମ୍ୟାନେଜରଙ୍କୁ ଜଗବନ୍ଧୁ କଥା ପଚାରିବାରେ ସେ କହିଲେ “ଟ୍ରିବ୍ୟୁନାଲ ଅର୍ଡ଼ର ବିରୁଦ୍ଧରେ ଆମ କମ୍ପାନୀ ହାଇକୋର୍ଟରେ କେସ୍ ଦାଏର କରିଛି । ହାଇକୋର୍ଟରେ କେସ୍ ଫାଇସଲା ନ ହେବା ପର୍ଯ୍ୟନ୍ତ କାମ କରି ହେବନି । ତେଣୁ ସେମାନେ ଯାହା ପଦକ୍ଷେପ ନେବା କଥା ହାଇକୋର୍ଟରେ ନିଅନ୍ତୁ” ।

ମିର୍ଚ୍ଚା ଓ ଜଗବନ୍ଧୁ ଏ ପ୍ରକାର ପରିସ୍ଥିତିରେ କ’ଣ କରିବାକୁ ହେବ ବୁଝିପାରିଲେନି । ଜଗବନ୍ଧୁ ବଲବଲ ହୋଇ ମିର୍ଚ୍ଚାର ମୁହଁକୁ ଚାହିଁଥାଏ । ମିର୍ଚ୍ଚା କହିଲେ ଚାଲ ଗାଁକୁ ଯିବା । କାଲି ସକାଳେ ଲେବର ଅଫିସ୍ ଯାଇ ସବୁକଥା ବୁଝିବା । ମିର୍ଚ୍ଚା ବୁଝିପାରିଲାନି । କାଲିର ଶୋଭାଯାତ୍ରା ତାର ଏତେବର୍ଷର ସାଧନା ପରେ ଜିତ୍ । ସେତ ବୁଝିଥିଲା ଏଥର ଅର୍ଡ଼ର ହୋଇଗଲା, ସେ ଯାଇ ଚାକିରି କରିବ । ଆଉ ପୁଣି କ’ଣ କେସ୍ ? ଜଗବନ୍ଧୁ ରାସ୍ତାରେ ଚାଲି ପାରୁ ନଥାଏ । ସେ କେସ୍ ପୁଣି କେତେ ଦିନ ଚାଲିବ ? ଗୁରୁବାରାଙ୍କୁ କ’ଣ କହିବ ? ଗୁରୁବାରା



ଗ୍ରାମଦେବୀଙ୍କୁ ଦିଲଟା କୁକୁଡ଼ା ବଳିଦେବ ବୋଲି କହିଛି । ବାକିଆ ଟଙ୍କା ପାଇଲେ ଛେଳି ଗୋଟେ କାଟି ପୁରା ଗାଁରେ ଭୋଜି ଦେବ । ପୁଅକୁ କଲେଜରେ ପଢ଼ାଇବ । ହାକିମ୍ କରାଇବ । ଆଜି ଯେମିତି ସବୁ ଫସର ଫାଟିଗଲା । କଣ ଯେ ଭଗବାନଙ୍କ ଇଚ୍ଛା ସେ ବୁଝି ପାରୁନଥିଲା । ଘରେ ପହଞ୍ଚି ଗୁରୁବାରୀର କୌଣସି ପ୍ରଶ୍ନର ଉତ୍ତର ନଦେଇ ମୁହଁ ମାଡ଼ି ଶୋଇଗଲା । କହିଲା “ମୋତେ ଟିକିଏ ଏକୁଟିଆ ଛାଡ଼ିଦେ । ମାଲିକ ପୁଣି ଉପର କୋର୍ଟରେ କେସ୍ କରିଛି, ମତେ ଟିକିଏ ଭାବିବାକୁ ଦେ” ।

ତା ପର ଦିନ ଲେବର ଅଫିସ ଗଲେ । ନାୟକ ବାବୁ ସେମାନଙ୍କୁ ଦେଖି ବହୁତ ଖୁସି ହେଲେ । କହିଲେ ”ଜଗବନ୍ଧୁ ! ତ୍ରିଭୁବନାଳ ଅର୍ଡର ପାଇ ମୁଁ ଖୁବ୍ ଖୁସି ହୋଇ ଯାଇଥିଲି, କିନ୍ତୁ କାଲି ହାଇକୋର୍ଟରେ କେସ୍ ଦାଖଲ ହୋଇଥିବାର କପି ପାଇବା ପରେ ମୋର ମନ ଖରାପ ହୋଇଯାଇଛି । ଆଉ ତ କିଛି ଉପାୟ ନାହିଁ । ତମକୁ କେସ୍ ଲଢ଼ିବାକୁ ହେବ । ମିର୍ଜାବାବୁ ତମେତେ ଜଗବନ୍ଧୁକୁ ସାହାଯ୍ୟ କରିଛ, ଆଗକୁ ବି ସାହାଯ୍ୟ କର । ହଁ ମୁଁ ହାଇକୋର୍ଟ କେସ୍-ଗୋଟେ ଜେରକୁ କପି ଦେଇଦେଇଛି । ତା ସହିତ ଆଉ ଗୋଟେ ଫର୍ମ ଦେଇଦେଇଛି । ତମେ ସେଇଟା ପୁରଣ କରି ହାଇକୋର୍ଟରେ ଦାଖଲ କରିଲେ ମାସକୁ ମାସ ଦରମା ତମେ ଯାହା ଯେତେବେଳେ ପାଉଥିଲ ସେ ଟଙ୍କା ପାଇଯିବ” । ଜଗବନ୍ଧୁକୁ ଟ ୧୦୦ ଦେଇ କହିଲେ, “ମୋର ତ ଯାହା କରିବାର ଥିଲା କରିଦେଇଛି । ଏଥର ତମେ ଚେଷ୍ଟା କର । ଭଗବାନଙ୍କ ପାଖରେ ତମ ପାଇଁ ପ୍ରାର୍ଥନା କରୁଛି” ।

ମିର୍ଜା ଜଗବନ୍ଧୁକୁ ନେଇ କଟକ ଗଲା । ଜଗବନ୍ଧୁ ବୁଝିଲା ଏଥର ହାଇକୋର୍ଟରେ କେସ୍ ଫାଇସଲା ହେବା ପରେ ମାଲିକ ଚାହିଁଲେ ସୁପ୍ରିମକୋର୍ଟକୁ ଯାଇପାରେ । ତାର ଆଖି ପାଉନଥିଲା । ୧୧ ବର୍ଷର କଷ୍ଟ କଥା ମନେ ପଡ଼ିଗଲେ ତା ଲୋମ ଟାଙ୍କୁରି ଉଠୁଛି । ଭାବିଥିଲା ତାର ଅନ୍ତ ହେଲା । ମା’ର ଟିକିସ୍ତା ଅଭାବରୁ ଆରପାରିକୁ ଗଲା । ପିଲାଟି ଭଲ ପାଠ ପଢ଼ିଲେ ବି ପାଠ ପଢ଼ିପାରୁନି । ନିତିଦିନିଆ ଖାଇବା ଚିକ୍ତା ତା ପାଇଁ ଏକ ପ୍ରଶ୍ନବାଚୀ ହେଉଛି । କଟକରେ ମିର୍ଜା ତାଙ୍କ ପାଟିର ଓକିଲଙ୍କ ସହ କଥାବାର୍ତ୍ତା ହେଲା । ଓକିଲଙ୍କ ସହିତ ଟଙ୍କା ପଇସା ଦିଆନିଆ ହେବା କଥା ଛିଣ୍ଡିଲାରୁ ମାସକୁ ମାସ ଦରମା ପାଇବା ପାଇଁ ଫର୍ମଟା ବି ଦେଇ ହତାସ ମନରେ ବସରେ ବସିଲା । ଜଗବନ୍ଧୁର ମନଟା ବିଦ୍ରୋହି ହୋଇ ଉଠୁଥିଲା । ପଇସା କାହିଁ ଯେ କୋର୍ଟ କଚେରୀ ଯିବ । କେସ୍ ଲଢ଼ିବ ବଡ଼ ଓକିଲ ଧରି କେସ୍‌କୁ ଡେରି କରିବାକୁ ପଇସା ଖର୍ଚ୍ଚ କରିପାରିବ । ହେଲେ ତା ପାଖରେ କ’ଣ ଅଛି ? ଖାଇବାକୁ ତ ପଇସା ନାହିଁ । ନାହିଁ ନାହିଁ ଭିତରେ ସେ ବଞ୍ଚୁଛି ତ ବଞ୍ଚିବା ପାଇଁ ସେ ସଂଗ୍ରାମ କରୁଛି, ସିଏ ପୁଣି ଶିଳ୍ପପତି ତାଲମିଆ ସାଙ୍ଗରେ ଲଢ଼ିବ ? ଏକ ଦୀର୍ଘଶ୍ୱାସରେ ବସର ଝରକା ଦେଇ ବାହାରକୁ ଚାହୁଁଥିଲା ।

ଜଗବନ୍ଧୁ ହିସାବ କରି ଦେଖିଲା ମାତ୍ର ଟ ୨୫୦ ମାସକୁ ସେ କୋର୍ଟରୁ ଟଙ୍କା ପାଇବ ଯେହେତୁ ସେତେବେଳେ ସେ ସେତିକି ଦରମା ପାଉଥିଲା । ଗାଁକୁ ଆସିଲାବେଳକୁ ହାଇଦ୍ରାବାଦ ଇଟାଭାଟିରେ କାମ କରାଇବାକୁ ଏଜେଣ୍ଟ ଗୋଟେ ଆସିଥାଏ । ଦୁଇ ପୁଅ ଯେମିତି ଶୁଣିଲେ କେସ୍ ପୁଣି କଟକ ହାଇକୋର୍ଟରେ ଚାଲିବ, ସେ ଦୁଇଭାଇ ଏଜେଣ୍ଟ ସହିତ ଯୋଗାଯୋଗ କରି ଜଣକା ଆଡ଼ଭାନ୍ ଟ ୨୦୦୦ ନେଇ ଆସିଲେ । ହଜାରେ, ହଜାରେ ଗୁରୁବାରୀକୁ ଦୁଇଭାଇ ଦେଇଦେଇ ସେମାନେ ହାଇଦ୍ରାବାଦ ମୁହାଁଇଲେ । ଜଗବନ୍ଧୁ, ଗୁରୁବାରୀ ଟଙ୍କାଟାକୁ ହାତରେ ଧରି ହାଁ କରି ଯିବା ବାଟକୁ ଚାହିଁ ରହିଥିଲେ ସିନା ନ ଯିବାକୁ ବାରଣ କରିପାରି ନଥିଲେ । ଏବେ ଝିଅର ପାଠ ପଢ଼ାରେ କିଛି ଖର୍ଚ୍ଚ ନାହିଁ । ୮ମ ଶ୍ରେଣୀରେ ପଢ଼ୁଛି । ଦଶମ ଶ୍ରେଣୀଯାଏଁ ଆରାମରେ ପଢ଼ିପାରିବ ।

ଜଗବନ୍ଧୁର ସେଇ ରୁଟିନ ଚାଲିଲା ପ୍ରତିଦିନ କାମ ଖୋଜିବା । ଅବଶ୍ୟ ମାସକୁ ଟ ୨୫୦ ଟଙ୍କା ପାଇଯାଏ । ଆଜିର ବଜାର ଦରରେ ତାର ଅଭାବୀ ଦୁନିଆକୁ ସେ ଟଙ୍କା । ସମୁଦ୍ରକୁ ଶଙ୍ଖେ ପଶା । ମିର୍ଜା ମଝିରେ ମଝିରେ କଟକ ବୁଲି ଆସେ କେବେ କହେ ତାରିଖ ଉଠିନି । ପୁଣି କହେ ତାଙ୍କ ଓକିଲ ତାରିଖ ନୁହଁ । କେସ୍ ଘୁଞ୍ଚୁଛି । ଝିଅର ପାଠ ସରିଗଲା । ଝିଅ ଲଗାଇଲା ନର୍ସିଂ ପଢ଼ିବ ବୋଲି । ଜଗବନ୍ଧୁ ବୁଝିବୁଝି କରି ଜାଣିଲା ଯେ ସେ ପାଠ ପଢ଼ାଇବା ଖର୍ଚ୍ଚ ବହୁତ । ଝିଅକୁ କହିଲା, “ ଗୋଟେ ବର୍ଷ ଅପେକ୍ଷା କର । ତା ପରେ ବହୁତ କିଛି ରାସ୍ତା ଖୋଲିପାରେ” ।

ସମୟ ଗଢ଼ିବାରେ ଝିଅ ସୁଦାମ ବାଗ୍ କୁ ଭଲ ପାଇ ବସିଲା । ସୁଦାମ ବାଗ୍ ପାଖ ଗାଁର ପିଲା । ତାର ପ୍ରଥମ ସ୍ତ୍ରୀ ମ୍ୟାଲେରିଆରେ ମରିଯାଇଥାଏ । କମ୍ପାନୀରେ ଗାଡ଼ି ଚଳାଉଥାଏ । ସୁଦାମ କହିଲା ତୁ ଯଦି ବାହା ହେବାକୁ ରାଜି ଅଛୁ ତାହାହେଲେ ବାପା, ମା’ଙ୍କୁ କହି ବାହାଘରଟା କରିଦେବା । ଝିଅ, ଘରର ଅବସ୍ଥା ଦେଖି ବାପା, ମାଙ୍କୁ କହିପାରେନି । ଯେଉଁଠି ଖାଇବା ସ୍ୱପ୍ନ, ସେଠି ବିବାହ ବିଳାସ ତଥାପି ମାକୁ ଥରେ ଥରେ କହିଲା । ମା କହିଲା ସୁଦାମ ଯଦି ତତେ ରଖିବ ତାହାହେଲେ ତୁ ତା ଘରକୁ ପଳା । ଆମେ କୋଉଠୁ ପିଇସା ଆଣିବୁ ବାହା କରିବାକୁ । ଝିଅ ତା କଥା ଶୁଣି ଦିନେ ସୁଦାମ ଘରକୁ ଚାଲିଗଲା । ଆଉ ଫେରିଲାନି ।

ଜଗବନ୍ଧୁ ଅଧୈର୍ଯ୍ୟ ହୁଏ । ମିର୍ଜା, ପ୍ରଭୁଦୟାଳ, ସ୍ୱପ୍ନା ସମସ୍ତେ ତାକୁ ଧୈର୍ଯ୍ୟ ଧରିବାକୁ କୁହନ୍ତି । କେତେବେଳେ କେମିତି ୫/୧୦ କଣ ମତେ ସାହାଯ୍ୟ କରନ୍ତି । ଜଗବନ୍ଧୁ ଶୂନ୍ୟ ଆକାଶକୁ ଦେଖେ । ଗୁରୁବାରୀ ସାଙ୍ଗରେ କେତେ କ’ଣ କହିଯିବାକୁ ଭାବେ । କିନ୍ତୁ, କିଛି



କହିପାରେନି । ଅନିଶ୍ଚିତ ଭବିଷ୍ୟତ ଉପରେ କେତେ ଆଉ କଷ୍ଟନା କରିବ ? ପୁଅ ଦୁଇଜଣ ହାଇଦ୍ରାବାଦରେ କାମ ସରିବା ପରେ ପୁଣି ତିଭେନ୍ଦ୍ରମ୍ ଚାଲିଗଲେ । କହିଲେ, “ଘରକୁ ଫେରିଲେ ଲାଭ କ’ଣ ? ଏଠି ଖାଇବାକୁ ଗଣ୍ଡେ ମିଳୁଛି । ସେଠି ଖାଇବାକୁ ମିଳିବନି” ।

ଝିଅ, ସେଦିନଠୁ ଘରକୁ ଆସିନି । ଗୁରୁବାରୀ ଝିଅ ପାଇଁ କାନ୍ଦେ । ଦିନେ ଯାଇଥିଲା ତା ଘରକୁ । ସୁଦାମ ନଥିଲା । ଝିଅ ମନାକଲା ଆସିବା ପାଇଁ । ଜୋର୍ ମନା କରିଛନ୍ତି ତମକୁ ଆସିବାକୁ । ତମେ ମାନେ ବାହା କରିଲନି ବୋଲି ତାଙ୍କ ମନ ଦୁଃଖ । କହନ୍ତି, ସେମାନଙ୍କୁ ଘରେ ପୁରାଇବୁନି । ସେମାନେ ଅଭାବୀ ଲୋକ । କେତେ ଆମେ ତାଙ୍କୁ ଦେଇପାରିବା ? ଗୁରୁବାରୀ ମନ ତା ପରଠୁ ମନ କରିନି ଝିଅ ଘରକୁ ଯିବାକୁ । ଜଗବନ୍ଧୁ ଭାବେ ରାତିଗାତ ଦିନେ ପାହିବ । ରାତ୍ରିର ଅନ୍ଧାର ଦିନେ କଟିବ । ସକାଳ ହେବ । ସୂର୍ଯ୍ୟ ଉଜ୍ଜ୍ୱଳ । ସତେ କ’ଣ ତା ଜୀବନରେ ସୂର୍ଯ୍ୟ ଉଜ୍ଜ୍ୱଳ ? ବଞ୍ଚିବାର ରାହା ସେ କ’ଣ କେବେ ପାଇବ ?

ସେଦିନ କାମ ନପାଇ ଫେରିଆସିଲା ଜଗବନ୍ଧୁ । ମନ ମାରି କରିଥାଏ, ହଠାତ୍ ଗୁରୁବାରୀର କ’ଣ ହେଲା କେଜାଣି ବସିଥିଲା ଦୁମ୍ କରିଗଡ଼ିପଡ଼ିଲା । ବେହୋସ ହୋଇଗଲା । ପାଖ ପଡ଼ିଣା ଲୋକଙ୍କୁ ଧରି ରାଜଗାଙ୍ଗପୁର ଡାକ୍ତରଖାନା ନେଇଗଲା । ଡାକ୍ତର କହିଲେ ରୋଗୀ ସିରିଏସ୍ ତାକୁ ରାଉରକେଲା ନେଇଯାଅ । ଘରକୁ ଆସି ଗୌଡ଼ିଆକୁ ଟଙ୍କା ଧାର ମାଗିଲା । ଗୌଡ଼ିଆ ମନା କରିଦେଲା । ମିର୍ଚ୍ଚା ପାଖରେ ପହଞ୍ଚିଲା । ମିର୍ଚ୍ଚା ତାକୁ ଟ୍ୟାକ୍ସି ୧୦୦ ଦେଇ କହିଲା ତାକୁ ନେଇ ଯା ପଛରେ ମୁଁ ଆଉ ଟଙ୍କା ଯୋଗାଡ଼ କରି ପହଞ୍ଚିବି । ଗୁରୁବାରୀ ରାଉରକେଲାରେ ଡାକ୍ତର ଦେଖାଇଲା । ଡାକ୍ତର କହିଲେ ଇଏ ଚିକିତ୍ସା ଏଠି ହୋଇପାରିବନି । ଆମ୍ବୁଲାନ୍ସରେ ବୁଲି ନେଇ ଯା । ହସ୍ପିଟାଲରେ ଲେବର ଆଜ୍ଞା ନାୟକ ବାବୁ ଦେଖାହେଲେ । ଗୁରୁବାରୀର ଅବସ୍ଥା ଦେଖି ବ୍ୟସ୍ତ ହୋଇଗଲେ । କହିଲେ, “ଆଉ ଡେରି କରନି । ବୁଲି ନେଇଯାଅ” । ପକେଟରୁ ଟଙ୍କା ୧୦୦ ବାହାର କରି ବଡ଼ାଇ ଦେଲେ । ଜଗବନ୍ଧୁ ଆମ୍ବୁଲାନ୍ସରେ ବସିଲା । ତା ପାଇଁ କ’ଣ ଏମିତି ପରିସ୍ଥିତି ଆସୁଛି ସେ କିଛି ଭାବି ପାରୁ ନଥାଏ । ଆମ୍ବୁଲାନ୍ସରେ ବସି ଗୁରୁବାରୀର ହାତର ଖତୁ ଓ କାନଫୁଲ ବାହାର କରିଦେଲା । ଆଗକୁ ଖର୍ଚ୍ଚ ଦରକାର ହେଲେ କରିବାକୁ ହେବ । ବୁଲିରେ ପହଞ୍ଚି ଗୁରୁବାରୀକୁ କାକୁଆଲଟିକୁ ନେଇଗଲା । ଡାକ୍ତର ଦେଖି କହିଲେ, “ନା ରୋଗୀ ମରିଯାଇଛି । ଆଉ କିଛି କରିବାର ନାହିଁ” । ଗୁରୁବାରୀର ମୁହଁକୁ ଚାହୁଁଥିଲା । ଯେମିତି ସବୁଦିନିଆ ସେତା ମୁହଁଟା । ବୋଧହୁଏ ଜଗବନ୍ଧୁ ଉପରେ ଅଭିମାନ କରି ଚାଲିଗଲା । କିଛି ବି କହିଲାନି । ଜଗବନ୍ଧୁର କୋହ ଉଠୁଥାଏ । କିନ୍ତୁ, କାନ୍ଦି ପାରୁନଥାଏ । ଯିଏ ତାକୁ ନିରବରେ ଆଜି ପର୍ଯ୍ୟନ୍ତ ଯୈର୍ଯ୍ୟ ଦେଇ ଆସୁଥିଲା, ସେ ବି ରହିଲାନି । ଆଖି ଛଳ ଛଳ ହେଉଥାଏ । ଲୁହ କିନ୍ତୁ ବାହାରୁ ନଥୁଲା । ରାଗ ବି ମାଡୁଥାଏ ଏମିତି ଅସମୟରେ ତାକୁ ଏକା କରି ଛାଡ଼ି ଚାଲିଗଲା । ଆଉ ଚିକିତ୍ସା ଯୈର୍ଯ୍ୟ ରଖି ପାରିଲାନି । ପୁଅମାନେ କୋଉଠି ଥିବେ ତାକୁ ଜଣାନାହିଁ । ଝିଅକୁ ଖବର ଦେଇଦେଲା ।

ଆଜି ଘରେ ସେ ଏକା ବସିଛି । ତା ଭିତରେ ଆଜି ଆଉ ଆଲୁଅ, ଅନ୍ଧକାରର ଲୁଚକାଳି ଖେଳୁନି । ଆଲୁଅ ଆସିବାର ଉକ୍ତା ତା ପାଖରେ ନାହିଁ । ଆଉ କ’ଣ ଭଲ ହେବ ତା ପାଇଁ ଅପେକ୍ଷା ନାହିଁ । ଜୀବନରେ କି ଭୁଲ କରିଥିଲା ଯେ ସେ ଦଣ୍ଡ ପାଉଛି । ନ୍ୟାୟ ଚିକିତ୍ସା ପାଇବା ପାଇଁ ତାକୁ ୧୮ ବର୍ଷ ଅପେକ୍ଷା କରିବାକୁ ହେଲାଣି । ତଥାପି ତାର ଅନ୍ତ ହୋଇନି । ପଇସା ବାଲା ଲୋକଙ୍କ ବିରୁଦ୍ଧରେ ଲଢ଼ିବା କଣ ଏତେ ସହଜ ? ଚିକିତ୍ସା ଅଭାବରୁ ବୁଢ଼ୀ ମା ଯାଇଥିଲା । ଦୁଇପୁଅ ଦାଦନ ହେଲେ । ଝିଅ ତାର ନିଜେ ବାହା ହୋଇ ଚାଲିଗଲା । ଶେଷରେ ଗୁରୁବାରୀ ବି ଆଖି ବୁଜିଦେଲା । ଏକୃତ୍ୱିଆ ସେ ଆଜି ବଞ୍ଚି ରହିଛି । ଆଗାମୀ ଭଲ ବା ମନ୍ଦକୁ ଶୁଣିବା ପାଇଁ । ଏତେ ଦିନ ପରେ ସେ ଆଉ କେତେ ଦିନ ଚାକିରୀ କରିପାରିବ ? କାହା ପାଇଁ ବି ଚାକିରୀ କରିବ ? ଆରପଟୁ ଦଉଡ଼ି ଦଉଡ଼ି ଆସୁଥିଲା ମିର୍ଚ୍ଚା, “ଶୁଣ, ଓକିଲ ଆଜ୍ଞା ଫୁନ କରିଥିଲେ । ଆମର ଜିତ୍ ହେଉଛେ । ତତେ ନୌକରି ମିଳିବ । ଅର୍ଡର କମ୍ପାନୀରେ Fax କରିଦେଇଛନ୍ । କାଏଲ ଯିବା । ତୁଇ ଜୀବନ୍ କରବୁ” । ଜଗବନ୍ଧୁର କୌଣସି ପ୍ରତିକ୍ରିୟା ନଥିଲା । ମିର୍ଚ୍ଚାକୁ ଖାଲି ପ୍ରଶ୍ନ କରିଥିଲା “କ’ଣ ଗ୍ୟାରେଣ୍ଟି ଅଛି ଯେ ମାଲିକ ସୁପ୍ରିମ୍ କୋର୍ଟ ଯିବନି ? ଯଦି ସୁପ୍ରିମ୍ କୋର୍ଟ ଯାଏ, ତାହେଲେ ଆଉ କେତେ ବର୍ଷ ଅପେକ୍ଷା କରିବି ? ମୋ ପାଖରେ କିଏ ବା ଅଛି ? ନା ପିଲାମାନେ ନା ସ୍ତ୍ରୀ ? କାହାକୁ ନେଇ ଖୁସି ହେବି ? ଆଉ କ’ଣ ଅଛି ଏ ଅଲୋଡ଼ା ଜୀବନରେ” ?

ଆଞ୍ଚଳିକ ଶ୍ରମ କମିଶନର  
(କେନ୍ଦ୍ରୀୟ) କଲିକତା





# ମାନବିକତା ବହୁ ସମସ୍ୟା ସମାଧାନର ମୂଳମନ୍ତ୍ର

ଅଜୟ କୁମାର ପଟ୍ଟନାୟକ

ଆମେ ସମସ୍ତେ ଶିଳ୍ପ ଶ୍ରମିକ ସମସ୍ୟା, ଦାଦନ ଶ୍ରମିକ ସମସ୍ୟା, ଶିଶୁ ଶ୍ରମିକ ସମସ୍ୟା, ମହିଳା ଶ୍ରମିକ ସମସ୍ୟା ଆଦି ଅନ୍ୟାନ୍ୟ ଶ୍ରମିକ ସମସ୍ୟା ସହିତ ଓଡ଼ିଆପ୍ରୋତ ଭାବେ ଜଡ଼ିତ । ସାରା ଭାରତରେ ଶ୍ରମିକ ମାନଙ୍କ ଭିତରେ ଅସଙ୍ଗଠିତ ଶ୍ରମିକଙ୍କ ସଂଖ୍ୟା ୯୨ ଭାଗରୁ ଅଧିକ । ଏହି ସବୁ ଶ୍ରମିକ ସାଧାରଣତଃ କୃଷି କ୍ଷେତ୍ରରେ, ନିର୍ମାଣ କ୍ଷେତ୍ରରେ, ଶିଳ୍ପରେ ଏବଂ ଦୋକାନ ଓ ବଜାର ଇତ୍ୟାଦି କ୍ଷେତ୍ରରେ କାର୍ଯ୍ୟ କରିଥାଆନ୍ତି । ଏମାନେ ଏତେ ମାତ୍ରାରେ ଅସଙ୍ଗଠିତ ଯେ ମାଲିକ ବା ନିଯୁକ୍ତିଦାତାଙ୍କ ପାଖରେ ସାମାନ୍ୟତମ ଆଇନଗତ ସୁବିଧା ପାଇଁ ମଧ୍ୟ ସ୍ୱର ଉତ୍ତୋଳନ କରି ପାରନ୍ତି ନାହିଁ । ଆଜି କାଲି ସଙ୍ଗଠିତ କ୍ଷେତ୍ରରେ ମଧ୍ୟ ସେହିପରି ଅବସ୍ଥା ଦେଖାଦେଲାଣି । ପାଟି ଫିଟାଇଲେ ବିଭିନ୍ନ ଆଳ ଦେଖାଇ ହଇରାଣ ହରକତ କରାଯାଏ । ଏପରିକି ଚାକିରିରୁ ମଧ୍ୟ ବହିଷ୍କାର କରାଯାଇଥାଏ । ଯାହାକି ସେହି ଗୋଷ୍ଠୀର ଶ୍ରମିକମାନଙ୍କୁ ବାଧ୍ୟ କରିଥାଏ କୌଣସି ଅଭିଯୋଗ ନ କରିବା ପାଇଁ ଏପରିକି, ଗଣତନ୍ତ୍ର ଚତୁର୍ଥ ସ୍ତର କୁହାଯାଉଥିବା ସମୟ ପତ୍ରରେ କାର୍ଯ୍ୟ କରୁଥିବା ସାମ୍ବାଦିକ ବନ୍ଧୁମାନେ ମଧ୍ୟ ସେମାନଙ୍କ ଚାକିରୀ ସର୍ଭାବଳୀର ଖୁଲାପ ହେଲେ କିମ୍ବା ବିଭିନ୍ନ ଝୁଜ ବୋର୍ଡ ଅନୁଯାୟୀ ମଜୁରି ବା ଦରମା ନପାଇଲେ ଅଭିଯୋଗ କରନ୍ତି ନାହିଁ ବା ମାଲିକମାନଙ୍କ ବିରୋଧରେ ସ୍ୱର ଉତ୍ତୋଳନ କରିବା ପାଇଁ ପସନ୍ଦ କରନ୍ତି ନାହିଁ । ଏହି ପ୍ରସଙ୍ଗ ଏଠାରେ ଉଠାଇବାର କାରଣ ହେଲା ବିଭିନ୍ନ ସମସ୍ୟା ନେଇ ଶ୍ରମ ଅଫିସର କିମ୍ବା ଶ୍ରମ ନିରୀକ୍ଷକମାନେ ଏହି ବର୍ଗର ଶ୍ରମିକମାନଙ୍କ ପାଇଁ ସମ୍ବେଦନଶୀଳ ହେବା ସଙ୍ଗେ ସଙ୍ଗେ ସାମାନ୍ୟତମ ମାନବିକତା ପ୍ରଦର୍ଶନ କଲେ ବହୁ ଜଟିଳ ସମସ୍ୟାର ସମାଧାନ ହେବା ସହିତ ସେମାନେ ଏହି ଶ୍ରମିକ ଶ୍ରେଣୀର ଆସ୍ଥା ଭାଜନ ହୋଇପାରିବେ । ଶ୍ରମ ଅଫିସରମାନେ ସାଧାରଣତଃ ନିମ୍ନଲିଖିତ ଦିଗ ପ୍ରତି ଧ୍ୟାନ ଦେବା ଉଚିତ ଯାହାକି ମୂଳ ସମସ୍ୟା ସମାଧାନରେ ସାହାଯ୍ୟ କରିପାରିବ ।

୧. ପ୍ରଥମତଃ ଶ୍ରମିକମାନଙ୍କ ଅଭିଯୋଗକୁ ଧୈର୍ଯ୍ୟର ସହ ଶୁଣିବା ଦରକାର ଏବଂ ଏହାକୁ ଗୁରୁତ୍ୱର ସହ ଗ୍ରହଣ କରି ଏହା ଉପରେ ତୁରନ୍ତ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ କରିବା ଦରକାର ।
୨. ଦ୍ୱିତୀୟତଃ ସେମାନଙ୍କ ନାୟ ପ୍ରାପ୍ୟ ଏବଂ ଅନ୍ୟାନ୍ୟ ସୁବିଧା ସୁଯୋଗ ମାଲିକମାନଙ୍କଠାରୁ ଆଦାୟ କରି ସେମାନଙ୍କୁ ତୁରନ୍ତ ପୈଠ କରିବା ଦରକାର । ଯେଉଁଠି ମାଲିକମାନେ ଶ୍ରମ ଅଫିସରଙ୍କ ନିର୍ଦ୍ଦେଶକୁ ମାନୁ ନାହାନ୍ତି ସେ କ୍ଷେତ୍ରରେ ଆଇନ ଅନୁଯାୟୀ ମାଲିକମାନଙ୍କ ବିରୁଦ୍ଧରେ ତୁରନ୍ତ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ଗ୍ରହଣ କରିବା ଦରକାର । ଆଇନ ଅନୁଯାୟୀ କାର୍ଯ୍ୟାନୁଷ୍ଠାନ ବିବରଣୀ ଶ୍ରମିକମାନଙ୍କୁ ଜଣେଇଦେବା ଦରକାର ।
୩. ତୃତୀୟତଃ ଅଭିଯୋଗ ଶୁଣିଲା ବେଳେ ବା ଅଭିଯୋଗର ବିଚାର ସମୟରେ ଶ୍ରମିକ ଓ ମାଲିକମାନଙ୍କ ମଧ୍ୟରେ କୌଣସି ପାତରଅନ୍ତର ଦେଖେଇବା ଉଚିତ ନୁହେଁ ଏବଂ ମାନବିକତା ମୂଲ୍ୟବୋଧକୁ ବଜାୟ ରଖି ଶ୍ରମିକମାନଙ୍କୁ ଉଚିତ ସମ୍ମାନ କରିବା ଦରକାର ଏବଂ ତଦନ୍ତ ସମୟରେ ନିରପେକ୍ଷତା ଅବଲମ୍ବନ କରିବା ଦରକାର ।
୪. ପରିଦର୍ଶନ ସମୟରେ ମାଲିକ ଏବଂ କର୍ମଚାରୀଙ୍କୁ ଉତ୍ତମ ବ୍ୟବହାର ପ୍ରଦର୍ଶନ କରିବା ଦରକାର । ନିଜେ ସବୁ କଥା ଜାଣିଛି ବୋଲି କେବେ ଭାବିବା ଉଚିତ ନୁହେଁ ଏବଂ ଅନ୍ୟକୁ କହିବାର ସୁଯୋଗ ଦିଅନ୍ତୁ, ବେଶି ଶୁଣନ୍ତୁ ଓ ଅଳ୍ପ କହନ୍ତୁ ।
୫. ପଞ୍ଚମତଃ କୌଣସି ବାହାନା ଦେଖାଇ ଶ୍ରମିକମାନଙ୍କର ଅଭିଯୋଗକୁ ବିନା କାରଣରେ ତାରିଖ ଗଢ଼ାନ୍ତୁ ନାହିଁ । କାର୍ଯ୍ୟ ପ୍ରଣାଳୀର ସଠିକ ବିବରଣୀ ଶ୍ରମିକମାନଙ୍କୁ ଜଣାନ୍ତୁ ଏବଂ ସେମାନଙ୍କର ଆସ୍ଥା ଭାଜନ ହୁଅନ୍ତୁ ।

ଯଦିଓ ଆମେ କାର୍ଯ୍ୟ କ୍ଷେତ୍ରରେ ବହୁ ଅସୁବିଧାର ସମ୍ମୁଖୀନ ହେଉଛେ ଏବଂ ପ୍ରଚଳିତ ଶ୍ରମ ଆଇନରେ ଶ୍ରମିକମାନଙ୍କର ତୁରନ୍ତ ନ୍ୟାୟ ପ୍ରଦାନ କରିବାର ବିଳମ୍ବ ହେଉଛି ତଥାପି ସାମାନ୍ୟ ତମ ପ୍ରଚେଷ୍ଟା, ଆନ୍ତରିକତା ଏବଂ ମାନବିକତା ବହୁ ଜଟିଳ ସମସ୍ୟାର ସମାଧାନ କରି ପାରିବ ଏଥିରେ ସାମାନ୍ୟତମ ଦ୍ୱିଧା ପ୍ରକାଶ କରିବା ଉଚିତ ନୁହେଁ । ଏହି କ୍ରମରେ ଏକ ଉଦାହରଣ ଆପଣଙ୍କର ସମ୍ମୁଖରେ ମୁଁ ଉପସ୍ଥାପନ କରୁଛି । ମୁଁ ନୁଆ ନୁଆ କରି ଚାକିରୀରେ ଜଏନ କରିଥାଏ । ପୂର୍ବ ଭାରତ ଶ୍ରମ ମନ୍ତ୍ରାଳୟର ସମ୍ମିଳନୀ ଭୁବନେଶ୍ୱରରେ



ଅନୁଷ୍ଠିତ ହେଉଥାଏ । ସେତେବେଳର ଶ୍ରମ ମନ୍ତ୍ରୀ ମାନ୍ୟବର ଶ୍ରୀଯୁକ୍ତ ପି.ଏ.ସାଙ୍ଗମା ଏହାକୁ ଉଦ୍‌ଘାଟନ କରିବାକୁ ଆସିଥାଆନ୍ତି । ତାଙ୍କୁ ଏୟାରପୋର୍ଟରୁ ଆଣିବା ଏବଂ ଛାଡ଼ିବା ସହିତ ତାଙ୍କର ରହଣୀକାଳ ମଧ୍ୟରେ ସମସ୍ତ କାର୍ଯ୍ୟ ବୁଝିବା ପାଇଁ ମତେ ଦାୟିତ୍ୱ ଦିଆଯାଇଥିଲା । ଉତ୍କଳର ସହିତ ଏବଂ ବିନମ୍ବର ସହିତ ମାନ୍ୟବର ଶ୍ରମ ମନ୍ତ୍ରୀଙ୍କୁ ପଚାରିଲି ସାର ! ଏହି ଶ୍ରମ ବିଭାଗକୁ ଏବଂ ଶ୍ରମ ଅଫିସରଙ୍କୁ ଏପରି ଅବହେଳିତ କରି କାହିଁକି ରଖାଯାଇଛି, ସାମାନ୍ୟତମ ସୁବିଧା ସୁଯୋଗ ମିଳୁନି । ତାହାର ଉତ୍ତରରେ ମାନ୍ୟବର ଶ୍ରମ ମନ୍ତ୍ରୀ କହିଥିଲେ ଯେ ଏହି ବିଭାଗକୁ ଯେତିକି ସମ୍ମାନ ଦେବାକଥା ଏବଂ ଏହି ଅଫିସରମାନଙ୍କୁ ଯେତିକି ସୁବିଧା ସୁଯୋଗ ଦେବାକଥା ଆମେ ଦେଇପାରିନୁ ମାତ୍ର ଆପଣମାନଙ୍କ ପାଖକୁ ସାଧାରଣତଃ ଚାକିରୀ ହରାଇଥିବା, ଦରମା ପାଇ ନଥିବା, ହାତ, ଗୋଡ଼ ହରାଇଥିବା ଏବଂ ମୃତ ଶ୍ରମିକଙ୍କ ପରିବାରମାନେ ଆସିଥାନ୍ତି ଯାହାଙ୍କ ସେବା କରିବା ସମସ୍ତଙ୍କ ଭାଗ୍ୟରେ ଲୁଚେ ନାହିଁ । ସେମାନଙ୍କ ସେବା କରିବା ଏକ ମହତ କାର୍ଯ୍ୟ । ସରକାରଙ୍କ ଠାରୁ କିଛି ନ ମିଳିଲେ ମଧ୍ୟ ଯଦି ସେମାନଙ୍କ ଆଶୀର୍ବାଦ ମିଳେ ତାହେଲେ ତାହାଠାରୁ ବଡ଼ ସମ୍ପତ୍ତି ଓ ସମ୍ମାନ ଆଉ କିଛି ନାହିଁ । ଏହି କଥାଟା ମୋ ଉପରେ ଗଭୀର ପ୍ରଭାବ ପକାଇଥିଲା । ଶ୍ରମିକମାନଙ୍କ ପାଇଁ କାର୍ଯ୍ୟ କରିବା ସମୟରେ ସାଧାରଣତଃ ସାମାନ୍ୟତମ ମାନବିକତା ପ୍ରଦର୍ଶନ କରନ୍ତୁ, ଦେଖିବେ ବହୁ ଜଟିଳ ସମସ୍ୟାର ସମାଧାନ ହେବା ସଙ୍ଗେ ସଙ୍ଗେ ଏକ ସୁନ୍ଦର ଏବଂ ସୁସ୍ଥ ସମାଜ ଗଠନ ହେବ ଯାହାକି ସମସ୍ତଙ୍କ ପାଇଁ ଆଶୀର୍ବାଦ ହେବ ।

ସହକାରୀ ଶ୍ରମ କମିଶନର, ଜଗତସିଂହପୁର

### ଶ୍ରମ ଦର୍ପଣ ପାଇଁ ଲେଖା ଆବଶ୍ୟକ....

ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ, ଭୁବନେଶ୍ୱର ଆନୁକୁଲ୍ୟରେ ପ୍ରକାଶିତ ହେଉଥିବା ତ୍ରିମାସିକ ପତ୍ରିକା ଶ୍ରମ ଦର୍ପଣ ପାଇଁ ଲେଖକ/ଲେଖିକାମାନଙ୍କ ଠାରୁ ନିଜସ୍ୱ ଲେଖା ଆବଶ୍ୟକ କରୁଛି । ଶ୍ରମ ଆଇନ ସଂପର୍କିତ ଲେଖା, ଆଇନର ବିଶ୍ଳେଷଣ ସମ୍ପର୍କିତ ଲେଖା ଏଥିରେ ପ୍ରକାଶିତ ହେବ । ଯାହା ପୂର୍ବରୁ ଅପ୍ରକାଶିତ ହୋଇଥିବା ଆବଶ୍ୟକ । ହାତଲେଖା କିମ୍ବା ଡିଟିପି ହୋଇଥିବା ଲେଖା ସହିତ ଲେଖକ / ଲେଖିକାଙ୍କର ସଂପୂର୍ଣ୍ଣ ଠିକଣା ଓ ମୋବାଇଲ ନମ୍ବର ଥାଇ ନିମ୍ନ ଠିକଣାରେ ପହଞ୍ଚିବା ଆବଶ୍ୟକ । ଚୟନ ହୋଇଥିବା ଲେଖା ଗୁଡ଼ିକ ପ୍ରକାଶ ପାଇବା ପରେ ଲେଖା ବାବଦକୁ ଲେଖକ/ଲେଖିକାଙ୍କୁ ଟ ୩୫୦୦ (ତିନିଶହ ପଚାଶ ଟଙ୍କା) ପାରିତୋଷିକ ଦେଇ ତେଜ୍ ଆକାରରେ ପ୍ରଦାନ କରାଯିବ ।

#### ସର୍ତ୍ତାବଳୀ

- ୧. ଅମନୋନୀତ ଲେଖା କୌଣସି ପରିସ୍ଥିତିରେ ଫେରସ୍ତ ହେବ ନାହିଁ ।
- ୨. ଏଥିରେ ରାଜ୍ୟ ଶ୍ରମ ସଂସ୍ଥାନ ଚୟନ କମିଟିର ବିଚାର ଓ ନିଷ୍ପତ୍ତି ହିଁ ରୂଡ଼ାନ୍ତ ।

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## ଆଲୋକ ବର୍ତ୍ତକା

ସୌରୀବଂଧୁ କର

କୋରାପୁଟ ଆସିଯାଇଥିଲା । ଲମ୍ବା ରାସ୍ତା । ଝାରସୁଗୁଡ଼ାରୁ ଭୁବନେଶ୍ୱର ଦେଇ କୋରାପୁଟ । ଦୀର୍ଘ ସମୟ ବସି ବସି ଅଣ୍ଟା ପିଠି ଦରଜ ହୋଇଯାଇଥିଲା ମୃଣାଳିନୀଙ୍କର, କିନ୍ତୁ ନ ଆସି ଉପାୟ ନାହିଁ । ଚାକିରୀ ଜୀବନରେ ଏହା ଘଟିବା ସ୍ୱାଭାବିକ ।

ଅନେକ ବର୍ଷତଳେ ଆସିଥିଲା କୋରାପୁଟ । ସେତେବେଳେ ରମାଦେବୀ ମହାବିଦ୍ୟାଳୟର ଛାତ୍ରୀ । କଲେଜ ତରଫରୁ ଏସ୍କରସନ୍ । କୋରାପୁଟର ପାର୍ବତ୍ୟଅଞ୍ଚଳ; ପ୍ରକୃତିକୁ ଦେଖିବା ଓ ଅନୁଭବ କରିବା ସହିତ ଆଦିବାସୀ ଜନଜାତି ଲୋକଙ୍କର ଜୀବନଶୈଳୀକୁ ଦେଖିବା ଥିଲା ଏହି ଏସ୍କରସନ୍ ଉଦ୍ଦେଶ୍ୟ । କୋରାପୁଟ, ଜୟପୁର, ନବରଙ୍ଗପୁର ଇତ୍ୟାଦି ଅଞ୍ଚଳ ବୁଲି ଦେଖିବା ବେଳେ ବିରାଟ ବିରାଟ ଶାଳ ବୃକ୍ଷ, ଦୂରରୁ ପାହାଡ଼ର ସବୁଜିମା ତା' ମନରେ ସୃଷ୍ଟି କରିଥିଲା ଅନେକ ପରିବର୍ତ୍ତନ । ପ୍ରକୃତିର ବିରାଟତା, ବ୍ୟାପକତା ସହିତ ଅପରୂପ ସୌନ୍ଦର୍ଯ୍ୟ ତାଙ୍କୁ ଆମୋଦିତ କରିଥିଲା ।

କାହିଁ କେତେବର୍ଷ ବିତି ଯାଇଛି ଯା ଭିତରେ । କଲେଜ ଜୀବନର ମାଦକତା ସରିଯାଇଛି ଚାକିରୀ ଜୀବନ ମଧ୍ୟରେ ପ୍ରବେଶ କରି ।

ଲେବର ଷ୍ଟେଲଫେୟାରରେ ଏମ୍.ଏ ପାଶ୍ କରିବା ପରେ ଇଣ୍ଟରଭ୍ୟୁ ପରେ ଇଣ୍ଟରଭ୍ୟୁ ଦେଇ ଚାଲିଲା ସେ ଚାକିରି ଖଣ୍ଡିଏ ପାଇବା ପାଇଁ । ଚାହିଁଲେ ତ ଚାକିରି ମିଳିଯାଏନା । ଅକ୍ଳାନ୍ତ ପରିଶ୍ରମ ଫଳରେ ରାଜ୍ୟସରକାରଙ୍କ ଶ୍ରମ ବିଭାଗରେ ଶ୍ରମ ଅଧିକାରୀ ଭାବରେ ଚାକିରି ପାଇଲା ସେ । ଚାକିରି ଯେତେବେଳେ କରିବାକୁ ହେବ, ଶ୍ରମ ଅଧିକାରୀ ହେଲେ ଅସୁବିଧା କେଉଁଠି ? ଶ୍ରମିକମାନଙ୍କର ସମସ୍ୟାକୁ ଜାଣିବାର ଏଇ ତ ସୁଯୋଗ ।

ତା'ର ଅନେକ ବର୍ଷ ତଳର ଘଟଣା ମନେ ପଡ଼ିଥିଲା । ସେତେବେଳେ ସେ ଛୋଟ ପିଲା । ବାପା କଲିକତାର ଚଟକଳରେ କାମ କରୁଥାଆନ୍ତି । ଗାଁରେ ସେ ଓ ମା । ବର୍ଷକରେ ଥରେ ବାପା ଆସନ୍ତି ଗାଁକୁ ଛୁଟି ନେଇ । ଗୋଲଗାଲ ଚେହେରା ତାଙ୍କର କଳା ପଡ଼ିଯାଇଥାଏ । ମୁହଁ ଶେତା । ମା'କୁ କହିବେ ବୁଝିଲ ! ମୁଁ ଆଉ ୧୨/୧୪ ଘଣ୍ଟାର କାମ କରିପାରୁନି । ଦୈନିକ ମଜୁରିରେ କେତେଦିନ କାମ କରୁଥିବି ? ମାଲିକମାନଙ୍କର ତା ଉପରେ ଜୋର ଲୁଲମ୍ । ଛୁଟି ପୁରିଗଲେ ପୁଣି ଫେରିଯାଆନ୍ତି କଲିକତା ଚଟକଳକୁ । କାମ ନକଲେ ତିନି ପ୍ରାଣୀଙ୍କର ପେଟ ଯେ ଉପାସ ରହିବ ।

ତା ଉପରକୁ ମୃଣାଳିନୀର ଭବିଷ୍ୟତ ।

ହଠାତ୍ ଦିନେ ଫେରିଆସିଲେ ଅଦିନିଆ ମେଘ ପରି । ଦେହରେ ଖଇଫୁଟା ତାତି । କ'ଣ ହେଲା କେଜାଣି ତିନିଦିନ ପରେ ସବୁ ଶେଷ ।

ମୃଣାଳିନୀ ହେଲା ବାପ ଛେଉଣ୍ଡ ।

ସ୍କୁଲରେ ଦଶମ ଶ୍ରେଣୀର ଛାତ୍ରୀ । ପାଠଘରେ ଭୋରୀ ବନ୍ଧା ଯାଇଥାନ୍ତା କିନ୍ତୁ ମା' ଲାଗି ପଡ଼ିଲେ ଝିଅକୁ ଶିକ୍ଷିତ କରିବା ପାଇଁ । ବାପାଙ୍କ ଚାକିରୀର ସାମାଜିକ ସୁରକ୍ଷା ନଥିଲା । ନଥିଲା ଗ୍ରାଭ୍ୟୁଏର୍ ବା ପେନ୍ସନ୍ । ଜୀବନ ତମତାମ୍ ଖଟି ଖଟି ଶେଷରେ ରୋଗ ଶେଯରେ ପଡ଼ି ତାଙ୍କର ଜୀବନଟା ଚାଲିଗଲା ।

ମୃଣାଳିନୀ ନିଜ ଆଖିରେ ଦେଖୁଥିଲା ଶ୍ରମିକ ପିତାର ନିଦାରୁଣ ଜୀବନ ସଂଗ୍ରାମ । ଅନୁଭବ କରିଥିଲା ଦାରିଦ୍ର୍ୟ ।

ଶ୍ରମଦପ୍ତରରେ ଶ୍ରମ ଅଧିକାରୀ ଭାବରେ ନିଯୁକ୍ତି ତା' ମନରେ ସୃଷ୍ଟି କରିଥିଲା ଅନେକ ଆତ୍ମପ୍ରତ୍ୟୟ । ଶ୍ରମିକମାନେ ଏବେ ବି ଠିକ୍ ପୂର୍ବପରି ହେଉଥିଲେ ଶୋଷିତ, ନିର୍ଯ୍ୟାତିତ ଓ ନିଷ୍ଠେସିତ ।



ପିଲାଦିନରୁ ସେ ଚାଲେଞ୍ଜକୁ ସମ୍ମୁଖୀନ ହେବାକୁ ପସନ୍ଦ କରୁଥିଲା । ଜୀବନରେ କିଛି କରିବାକୁ ହେଲେ ଚାଲେଞ୍ଜକୁ ଗ୍ରହଣ କରିବାକୁ ହେବ ।

ତା'ର ପ୍ରଥମ ପୋଷିଂ ହେଲା ଝାରସୁଗୁଡ଼ା । ଅନେକଦିନ ଧରି ସେଠାରେ କେହି ଜିଲ୍ଲା ଅଧିକାରୀ ନଥିଲେ । ଯଦିଓ ଝାରସୁଗୁଡ଼ା କଳକାରଖାନାରେ ଭର୍ତ୍ତି । ନୂତନ ଭାବରେ ଗଢ଼ିଉଠିଥିବା ଶିଳ୍ପ ସମୂହ ଜିଲ୍ଲା । ଆଦିବାସୀମାନଙ୍କର ଆଦିଭୂମି କହିଲେ ଭୁଲ ହେବନି । ଯେଉଁ ଜିଲ୍ଲାରେ ପ୍ରଥମେ ଓରିଏଣ୍ଟ ପେପର ମିଲ, ଭାସ୍କର ଟେକ୍ସଟାଇଲ୍ସ ଓ ଇବ୍ ଭ୍ୟାଲିରେ କୋଇଲା ଖଣି ଆରମ୍ଭ ହୋଇଥିଲା ।

ପ୍ରକୃତି କୋଳରେ ଥିବା ଅମାପ ସମ୍ପତ୍ତି, ଖଣି, ଜଙ୍ଗଲ ଓ ଜମିର ମାଲିକ ପାଲଟି ଯାଇଥିଲେ ବଡ଼ ବଡ଼ ବ୍ୟବସାୟୀମାନେ । ସେଇ ଝାରସୁଗୁଡ଼ାରେ ତାର ପ୍ରଥମ ପୋଷିଂ ହେବ୍ୟ ବେଳକୁ ପୁରୁଣା କଳକାରଖାନା ବନ୍ଦ ହୋଇଯାଇଥିଲା, କିନ୍ତୁ ପରିତ୍ୟକ୍ତ କାରଖାନାର ଜାଗାଗୁଡ଼ିକ ରହିଥିଲା ମାଲିକଙ୍କ ହାତରେ । ଶ୍ରମିକ ବୁଲୁଥିଲା ବାରଦ୍ଦାର ହୋଇ ରାସ୍ତାରେ ବୁଲୁଥିବା ବୁଲା କୁକୁରମାନଙ୍କ ପରି । କେତେକ ଜାତୀୟ ରାଜପଥର ବିରାଟ ବିରାଟ ଦୈତ୍ୟ ସଦୃଶ୍ୟ ଗାଡ଼ିମାନଙ୍କ ଚକାତଳେ ମରିଯାଉଥିଲେ ତ ଅନ୍ୟ କେତେକ ଅଇଁଠା ପତ୍ର ଖୋଜି ଖୋଜି ନିୟାନ୍ତ ହୋଇ ଶୋଇଯାଉଥିଲେ ନିଘୋଡ଼ ନିଦରେ । ଆଉ କେବେ ଉଠି ସୂର୍ଯ୍ୟୋଦୟ ଦେଖିବା ସେମାନଙ୍କ କପାଳରେ ଜୁରୁ ନଥିଲା ।

ବଡ଼ ବଡ଼ ବ୍ୟବସାୟୀଙ୍କ ସ୍ଥାନ ନେଇଥିଲେ ବହୁରାଷ୍ଟ୍ରୀୟ କମ୍ପାନୀମାନେ । ସେମାନଙ୍କ ପୁଞ୍ଜର ବିଶାଳତାକୁ ମହାନଦୀର ପାଣି ମଧ୍ୟ କଳି ପାରୁ ନଥିଲା । ସମ୍ବଲପୁର, ରାଉରକେଲା ରାସ୍ତା କଡ଼ରେ କାଁ ଭାଁ ଧାନ ଜମିର ଗଛଗୁଡ଼ିକ ସବୁଜ ଦେଖାଯାଉଥିଲା । ବିରାଟ ବିରାଟ ଗେଟ, ଧୂଆଁ, ଗାଡ଼ିର ହର୍ଷ ଓ ଶ୍ରମିକମାନଙ୍କର ହାଉଯାଉରୁ ମନେ ହେଉଥିଲା ସହରାଞ୍ଚଳର ଦୈନିକ ମାର୍କେଟ । ଅବଶ୍ୟ ସୁରମ୍ୟ, ସୁଉଚ୍ଚ, ସୁନ୍ଦର ସୁନ୍ଦର ପ୍ୟାଲେସମାନଙ୍କର ଢେର ଚାହିଦା ବଢ଼ି ଯାଇଥିଲା ବେପାରୀ ଓ ଠିକାଦାରମାନଙ୍କ ଯୋଗୁଁ । ତା' ସହିତ ପ୍ରତିଯୋଗିତା କରୁଥିଲା କ୍ୟାବିନ, ଚାଲିଆ ଦୋକାନରେ ଚା ଓ ହୋଟେଲର ବ୍ୟବସ୍ଥା ।

ସାଇରନ୍ ବାଜିବା ମାତ୍ରେ ଦଳଦଳ ମେଣ୍ଟାପଲ ଚାଲିବା ପରି ଫ୍ୟାକ୍ଟରୀରୁ ବାହାରୁ ଥିଲେ ଶ୍ରମିକମାନେ । ସବୁ ଠିକା ଶ୍ରମିକ ଯେଉଁମାନଙ୍କୁ ଠକି ହେଉଥିଲା, ଠକି ହେଉଥିଲା ।

ମୃଣାଳିନୀ ଝାରସୁଗୁଡ଼ାରେ ଯୋଗ ଦେଇ ପୁରୁଣା ନଥି ସବୁ ଖୋଜିଲା । ଫାଇଲ ଉପରେ ପରସ୍ତ ପରସ୍ତ ଧୂଳି ଜମି ଯାଇ ଗୋଦରା ଗୋଡ଼ ପରି ଦେଖାଯାଉଥିଲା ସେଇଗୁଡ଼ିକ ।

ଫାଇଲରୁ ଧୂଳି ସଫା କରିବା ଯେତିକି ସହଜ ଥିଲା, ତା'ଠାରୁ ଶହେ ଗୁଣ କଷ୍ଟ ଥିଲା ଶ୍ରମିକମାନଙ୍କୁ ଖୋଜିବା । କିଏ ମରିଯାଇଥିଲା ତ କିଏ ଦେଶାନ୍ତରୀ ହୋଇ ଗାଁକୁ ଫେରି ନଥିଲା । ଉଜୁଡ଼ି ଯାଇଥିଲା ପ୍ରାୟ ଅଧିକାଂଶ ପରିବାର । ନ୍ୟାୟପାଳିକାଠୁ ନ୍ୟାୟ ପାଇବାର ଆଶା ମଧ୍ୟ ମଉଳି ଯାଇଥିଲା ।

ମୁଣ୍ଡରେ ହାତ ଦେଲା ମୃଣାଳିନୀ । ସ୍ଵାଧୀନତାର ପଚାଶ ବର୍ଷ ପରେ ଶ୍ରମିକର ଏ ଦୁର୍ଦ୍ଦଶାକୁ ଅନୁଧ୍ୟାନ କରି ତା'ର ମନେହେଲା ବ୍ରିଟିଶ ଗୋଲାମୀରୁ ସିନା ଦେଶଟା ମୁକ୍ତ ହେଲା, କିନ୍ତୁ ଦେଶ ତମାମ ଗୋଲାମ ଓ ଗୋଲାମୀ ମନୋବୃତ୍ତି ଏବେ ବି ଜୋର ରହିଛି । ଶକ୍ତ ଚେର ଏତେ ଗଭୀରକୁ ଭେଦିଛି ଯେ ତାକୁ ସହଜରେ ଉପୁଡ଼ା ଯାଇ ପାରିବନି ।

ନୂଆ ଫାଇଲ ତିଆରି କରିବାକୁ ଆରମ୍ଭ କଲା ସେ ।

ଅର୍ପିସର ବଡ଼ ବାବୁ କହିଲେ, ମ୍ୟାଡାମ୍ ! ଆପଣଙ୍କ ଚାକିରୀ ନୂଆ । ଟିକିଏ ସାବଧାନରେ ଯିବା ଆସିବା କରିବେ । ଏଠାରେ ଷୋଳଚକିଆ ଗାଡ଼ିଗୁଡ଼ିକର ଦୌରାତ୍ମ୍ୟ ବେଶୀ । ତା'ପରକୁ ଭାରତରେ ଉତ୍ପାଦିତ ହେଉଥିବା ସବୁଠାରୁ ଦାମି କାର୍ମାନେ ଝାରସୁଗୁଡ଼ା ସହରରେ ଆତୟାତ କଲେଣି ।

ବଲ୍ ବଲ୍ କରି ତାଙ୍କ ମୁହଁକୁ ଚାହିଁଲା ମୃଣାଳିନୀ ।

ହଠାତ୍ ରୁମ୍ ଭିତରକୁ ପଶି ଆସିଲେ ଜଣେ ମଧ୍ୟବୟସ୍କ ଭଦ୍ରଲୋକ । ଦେହରେ ପଞ୍ଜାବୀ ।

ସାମ୍ନାରେ ପଡ଼ିଥିବା ଚେୟାରଟିକୁ ଚାଣି ନେଇ ବସି ପଡ଼ିଲେ ସେଥିରେ ନଥି କରି ଏବଂ ଟେବୁଲ ଉପରେ ଲଦିଦେଲେ ଡାହାଣ

ହାତଟିକୁ ।



ପାଞ୍ଚ ଆଙ୍ଗୁଳିରେ ଶୋଭା ପାଉଥିବା ବିଭିନ୍ନ ମୂଲ୍ୟବାନ ପଥର ଖଚିତ ମୁଦିଗୁଡ଼ିକ ମୃଣାଳିନୀକୁ ବିଦ୍ରୁପ କରୁଥିଲା ।  
 ମ୍ୟାଡ଼ମ୍ ! ମୋ ନାଁ ଗୋବର୍ଦ୍ଧନ ଛାଟୋଇ । ମୁଁ ଏଠାକାର ଶିଳ୍ପ ଶ୍ରମିକମାନଙ୍କର ସର୍ବମାନ୍ୟ ନେତା । ମୋର ବିନା ଅନୁମତିରେ  
 ଏଠାର କାରଖାନାରେ ସାଇରନ୍ ବାଜେନି । କଥା କ’ଣ କି ରୁଦାନ୍ତ ଆଲୁମିନିୟମ୍ କମ୍ପାନୀର ମାଲିକ ଓ ତାର ପୋଷା ଗୁଣ୍ଡାମାନେ  
 ମୋତେ ଯୁନିୟନ୍ କରିବାକୁ ଦେଉ ନାହାନ୍ତି । ଶ୍ରମିକମାନଙ୍କ ଅବସ୍ଥା କ’ଣ କହିବି ? ସର୍ବନିମ୍ନ ମଜୁରି ଦାବି କଲେ କମ୍ପାନୀ କହେ,  
 “ସରକାରଙ୍କ ବିଜ୍ଞପ୍ତି କେବଳ ବିଜ୍ଞପ୍ତି ପାଇଁ । ତୁମର ଯଦି ଅସୁବିଧା ହେଉଛି, ଚାକିରୀ ଛାଡ଼ି ଚାଲିଯାଅ ନଚେତ୍ କେଶ୍ କର ।”

ମୁହଁରେ ତାଙ୍କର ବ୍ୟଙ୍ଗାତ୍ମକ ହସ ଓ କୁଟିଳ ଚାହାଣୀ ।  
 ପାନ ଖାଉଥିବା ପାଟିରୁ ପାନୁଛେପ ଝିପିଝିପି ବର୍ଷା ପରି ବର୍ଷଗଲା ତାଙ୍କ ଟେବୁଲ୍ ଉପରେ ।

“ହଁ, ମୁଁ କ’ଣ କହୁଥିଲି କି ଆପଣ ଚାହଁଲେ ଆମ ରେଜିଷ୍ଟ୍ରେସନ ହୋଇଯାନ୍ତା । ହେଉ ତେବେ, ମୁଁ ଆସୁଛି, ପୁଣି ଦେଖା  
 ହୋଇ ।”

ମୃଣାଳିନୀ ବଡ଼ବାବୁଙ୍କୁ କମ୍ପାନୀମାନଙ୍କର ତାଲିକା, ସର୍ବନିମ୍ନ ମଜୁରି ଲାଗୁ କରିବା ସରକାରୀ ନିର୍ଦ୍ଦେଶନାମା ଦେବାକୁ  
 କହିଲେ ।

“ଯେ କୌଣସି ଭାବରେ ସର୍ବନିମ୍ନ ମଜୁରି ଲାଗୁ କରିବାକୁ ହେବ ।” ମନେ ମନେ ସ୍ଥିର କଲେ ସେ । ବଡ଼ବାବୁଙ୍କୁ ସରକାରୀ  
 ନିର୍ଦ୍ଦେଶନାମା ସହିତ ତାକୁ ଲାଗୁ କରିବା ପାଇଁ ଚିଠି ସବୁ କମ୍ପାନୀମାନଙ୍କୁ ପଠାଇବାକୁ ନିର୍ଦ୍ଦେଶ ଦେଲେ ସେ ।

ବାହାରେ କୋଳାହଳ ଶୁଣାଗଲା । ପ୍ରାୟ ୫୦ ଶ୍ରମିକ ‘ଜିନ୍ଦାବାଦ’, ‘ମୁର୍ଦ୍ଦାବାଦ’ ଧ୍ବନି ଦେଇ ଅଫିସ୍ ହତା ମଧ୍ୟକୁ ପ୍ରବେଶ  
 କଲେ ।

ମୃଣାଳିନୀ ଅଫିସ୍ ଦୁଆର ମୁହଁକୁ ଚାଲି ଆସିଲେ ଘଟଣା କ’ଣ ବୁଝିବାକୁ ?

“ମ୍ୟାଡ଼ମ୍ ! କୁଷ୍ଠ ଫ୍ୟାକ୍ଟୋରୀରେ ଶ୍ରମିକ ମେସିନରେ ଚାପାପଡ଼ି ମରିଗଲା । ମାଲିକ କହୁଛି ସେ କିଛି କରିପାରିବ ନାହିଁ ।  
 ଆପଣ କିଛି କରନ୍ତୁ । ନଚେତ୍ ଆମେ ଏଇଠି ଧାରଣା ଓ ସ୍ନୋଗାନ ଦେବୁ ।

ବଡ଼ବାବୁଙ୍କୁ ଡାକି ଗାଡ଼ି ବାହାର କରିବାକୁ କହିଲା ସେ ।  
 ଡିମା ଡିମା ଆଖିରେ ଚାହଁଲେ ବଡ଼ବାବୁ ।

“ମ୍ୟାଡ଼ମ୍ ! ଲେବର ଅଫିସରେ ଗାଡ଼ି କେଉଁଠୁ ଆସିବ ? ଆପଣ ଗାଡ଼ି ଭଡ଼ା କରି ଯାଆନ୍ତୁ । ନଚେତ୍ ଅଟୋରେ । ଗାଡ଼ିଭଡ଼ା  
 ମଧ୍ୟ ଆପଣଙ୍କୁ ଅଫିସରୁ ମିଳିବନି ।”

ସ୍ନୋଗାନ ଦେଉଥିବା ଶ୍ରମିକମାନଙ୍କୁ ଅଟୋଟିଏ ଡାକି ଆଣିବାକୁ କହି ନିଜେ ବାହାରି ପଡ଼ିଲା କୁଷ୍ଠ ଫ୍ୟାକ୍ଟୋରୀ ଅଭିମୁଖେ ।  
 ଫ୍ୟାକ୍ଟୋରୀ ଆଗରେ ଅଟୋରୁ ଓହ୍ଲାଇ ଗେଟ୍ ପାଖକୁ ଗଲା । ସିକ୍ୟୁରିଟିକୁ କହିଲା, ‘ଗେଟ୍ ଖୋଲ ।’  
 ସିକ୍ୟୁରିଟି ଗେଟ୍ ଖୋଲିଲା ନାହିଁ । ମୁନିବର ପ୍ରଭୁଭକ୍ତ ସେ । ବିନା ଅନୁମତିରେ ତାକୁ ଯିବାକୁ ସେ ବା କିପରି ଦିଅନ୍ତା ।  
 ହଠାତ୍ ଗେଟ୍ ସମ୍ମୁଖରେ ଲାଗିଲା ଇନୋଭା କାର୍ । ସିକ୍ୟୁରିଟି ଗାଡ଼ି, ସାଲ୍ୟୁଟ ମାରି ଗାଡ଼ି ଯିବାକୁ ଗେଟ୍ ଖୋଲିଦେଲା ।  
 ଗାଡ଼ିରେ ଥିଲେ ସେ ଅଞ୍ଚଳର ମହାମାନ୍ୟ ବିଧାୟକ ।

ବିଧାୟକ ମହୋଦୟ ମୃଣାଳିନୀକୁ ଦେଖି ଗାଡ଼ି କାତ ଖୋଲି ଦେଇ କହିଲେ, “ମ୍ୟାଡ଼ମ୍ ! ଆପଣ ଶ୍ରମ ଅଧିକାରୀ ନା ?  
 ଆସନ୍ତୁ, ମୋ’ ସହିତ ।

ନିଜର ଅନିଚ୍ଛା ସତ୍ତ୍ୱେ ତାଙ୍କ ସହିତ ଫ୍ୟାକ୍ଟୋରୀ ଭିତରକୁ ଗଲା ।  
 ବିଧାୟକଙ୍କୁ ସସମ୍ମାନେ ସ୍ୱାଗତ କରାଗଲା । ଉପରିସ୍ଥ କର୍ମଚାରୀମାନେ ତାଙ୍କୁ ନେଇ ପରିଚାଳନା ନିର୍ଦ୍ଦେଶକଙ୍କୁ ସାକ୍ଷାତ  
 କରାଇଲେ ।

କିଛି ସମୟ ପରେ ମୃଣାଳିନୀକୁ ଭିତରକୁ ଯିବାକୁ ଡକରା ଆସିଲା ।  
 ଶ୍ରମିକମାନେ ଗେଟ୍ ନିକଟରେ ହୋ ହଲ୍ଲୁ କରିବାରେ ଲାଗିଥିଲେ ।



ବିଧାୟକ କହିଲେ, “ମ୍ୟାଡ଼ମ୍! ପରିଚାଳନା କର୍ତ୍ତୃପକ୍ଷ କ୍ଷତିପୂରଣ ଦେବାକୁ ରାଜି। ଆପଣ ରିପୋର୍ଟ ପଢ଼ି ଦସ୍ତଖତ କରିଦିଅନ୍ତୁ।”  
“ମୁଁ ଶ୍ରମିକମାନଙ୍କୁ ବୁଝାଇଦେବି।”

ମୃଣାଳିନୀ ଦେଖୁଥିଲା ବିଧାୟକଙ୍କ ମୁହଁକୁ ଓ ପରିଚାଳନା କର୍ତ୍ତୃପକ୍ଷଙ୍କର ତାତ୍ପର୍ଯ୍ୟପୂର୍ଣ୍ଣ ହସକୁ। ସେ ରିପୋର୍ଟକୁ ହାତରେ ଧରି କହିଲା, “ମୁଁ ଏଇଟିକୁ ନେଇଯାଉଛି। ସରକାରଙ୍କୁ ଏହା ପଠାଇଦେବି। ଆପଣ ବ୍ୟସ୍ତ ହୁଅନ୍ତୁନି। ମୋ କର୍ତ୍ତବ୍ୟ ଯାହା କରିବାର କଥା କରିବି।”

ବିଧାୟକ ଖୁସି ହୋଇ ମନ୍ତବ୍ୟ ଦେଲେ, “ଆପଣଙ୍କ ପରି ତରୁଣୀ ଅଫିସରଙ୍କଠାରୁ ସରକାର ଏଇଆ ଆଶା କରନ୍ତି।”  
ଗେଟ୍ ପାଖରୁ ଶ୍ରମିକମାନେ ଶବ୍ଦ ଘେନି ଚାଲି ଯାଇଥିଲେ। ଅଚୋବାଲା ଛିଡ଼ା ହୋଇଥିଲା।

ହାତରେ ରିପୋର୍ଟ ଧରି ଫେରିଲେ ମୃଣାଳିନୀ। ଅଫିସରେ ପହଞ୍ଚି ଆଇନ ଅନୁଯାୟୀ ରିପୋର୍ଟ ପ୍ରସ୍ତୁତ କରି ପଠାଇଲେ। ଜିଲ୍ଲା ଶ୍ରମ କାର୍ଯ୍ୟାଳୟରେ କାର୍ଯ୍ୟ ବଢ଼ିବାକୁ ଲାଗିଲା। କନ୍ସିଲେକ୍ଟନ୍ ଠାରୁ ଆରମ୍ଭ କରି ସେଟଲମେଣ୍ଟ କରିବା କାର୍ଯ୍ୟ ଅତ୍ୟନ୍ତ ତତ୍ପରତା ସହିତ କରିବାକୁ ଲାଗିଲେ। ଶ୍ରମିକମାନଙ୍କ ପାଇଁ ଯେତେସବୁ ଆଇନ ଥିଲା ତାକୁ କଢ଼ାକଢ଼ି ଲାଗୁ କରାଇଲେ ଏବଂ ଠିକା ଶ୍ରମିକମାନଙ୍କୁ ସେମାନଙ୍କର ନାୟ ପାଉଣା ଦେବାକୁ ଚେଷ୍ଟା କଲେ।

ଝାରସୁଗୁଡ଼ା ଜିଲ୍ଲାରେ ମୃଣାଳିନୀଙ୍କର ଶ୍ରମିକମାନଙ୍କ ମଧ୍ୟରେ ପତିଆରା ବଢ଼ିଲା।

କିନ୍ତୁ ଉଦ୍ୟୋଗର ମାଲିକମାନଙ୍କର ଅକ୍ଳୋଶର ଶରବ୍ୟ ହେଲେ। ତାଙ୍କ ବିରୁଦ୍ଧରେ ନାନା ପ୍ରକାର କୁସୂରଚନା କରାଗଲା। ଖବରକାଗଜରେ ଝାରସୁଗୁଡ଼ା ଜିଲ୍ଲା ଶ୍ରମ କାର୍ଯ୍ୟାଳୟ ଦୁର୍ନୀତିର ଗନ୍ତାଘର ପାଲଟିଛି ବୋଲି ଖବର ପ୍ରକାଶ ପାଇଲା।

ଜିଲ୍ଲା ପ୍ରଶାସନର ମୁଖ୍ୟ ଜିଲ୍ଲାପାଳ ଦିନେ ତାଙ୍କୁ ଡାକି କହିଲେ, “ମୁଁ ଜାଣେ ଆପଣ ବେଶ୍ କର୍ତ୍ତବ୍ୟନିଷ୍ଠ ଓ ସଜୋଚ କିନ୍ତୁ ଖବରକାଗଜରେ ଆପଣଙ୍କ ବିରୁଦ୍ଧରେ ଲେଖାଯାଉଛି। ବହୁ ଅଭିଯୋଗ ମଧ୍ୟ ମୋ ପାଖରେ ପହଞ୍ଚୁଛି।

ସବୁ ଦେଖିବୁଝି କାର୍ଯ୍ୟ କରିବେ ବୋଲି ମୋର ଆଶା।”

ଏହା ତାଙ୍କର ଉପଦେଶ ନଥିଲା ବରଂ ଥିଲା ପ୍ରଚ୍ଛନ୍ନ ଧମକ।

ଏଥିରେ ସେ ଆଦୌ ଭୟଭିତ ହୋଇନଥିଲା। ସତ୍ୟ ପ୍ରତି ଏକନିଷ୍ଠତା ତାଙ୍କୁ ଦୃଢ଼ମନା କରିଥିଲା।

ନିଜ କର୍ତ୍ତବ୍ୟ ସମ୍ମୁଖରେ ସେ ସମସ୍ତ ମାନ ଅପମାନକୁ ମହାଦେବ ବିଷପାନ କରିବା ପରି ପାନ କରି ଚାଲିଥିଲା, ଶ୍ରମିକମାନଙ୍କର ମଙ୍ଗଳ କରିବା ପାଇଁ ଦୀର୍ଘ ୩ବର୍ଷର ରହଣୀ ତାର ବିଚାରକୁ ପାକଳ କରିଥିଲା ଓ ଶ୍ରମିକମାନଙ୍କର ସମସ୍ୟାକୁ ଗଭୀର ଭାବରେ ବୁଝିବାକୁ ସେ ସକ୍ଷମ ହୋଇଥିଲା। ଶୋଷଣର ନଗ୍ନଚିତ୍ର ସେ ଦେଖି ପାରିଥିଲା।

ସେ ଜାଣିଥିଲା ଶ୍ରମ ଇତିହାସରେ ତାର ସ୍ଥାନ ନଗଣ୍ୟ। କିନ୍ତୁ ଶ୍ରମିକମାନଙ୍କର ହୃଦୟ ଭିତରେ ସେ ଧୀରେ ଧୀରେ ପ୍ରବେଶ କରିପାରିଛି। ତାର କାର୍ଯ୍ୟ ତା ମନରେ ଥିବା ଆତ୍ମପ୍ରତ୍ୟୟକୁ ଦୃଢ଼ୀକୃତ କରିଥିଲା।

ହଠାତ୍ ତାଙ୍କୁ ରାଜ୍ୟ ସଚିବାଳୟରୁ ଡାକରା ଆସିଲା। ଶ୍ରମ ବିଭାଗର ସଚିବ ତାଙ୍କୁ କହିଲେ, “ମୃଣାଳିନୀ! ତୁମ ବିରୁଦ୍ଧରେ ମାଲିକ, ଶ୍ରମିକ ଓ ଶ୍ରମ ସଂଗଠନ ପକ୍ଷରୁ ଅନେକ ଅଭିଯୋଗ ଏଠାରେ ପହଞ୍ଚୁଛି। ତାହାର ବିଧିବଦ୍ଧ ତଦନ୍ତ ପାଇଁ ମୁଁ ନିର୍ଦ୍ଦେଶ ଦେଇଛି ଏବଂ ତୁମକୁ କୋରାପୁଟକୁ ବଦଳି କରାଯାଇଛି।”

ଏତକ କହି ସେ ବଦଳି ଆଦେଶ ତାଙ୍କ ହାତରେ ଧରାଇ ଦେଇଥିଲେ।

ମୃଣାଳିନୀର କୌଣସି କଥାକୁ ଶୁଣିବାକୁ ସେ ଆଗ୍ରହ ପ୍ରକାଶ କରି ନଥିଲେ।

ବଦଳି ହେଲା ଝାରସୁଗୁଡ଼ାରୁ କୋରାପୁଟ।

ମହାସମର ଆରମ୍ଭ ପୂର୍ବରୁ ଏହା ତାଙ୍କୁ ସାମାନ୍ୟ ଘଟଣା ଜଣାପଡ଼ୁଥିଲା।

ସେ ପଢ଼ିଥିଲା ମହାଭାରତ। ଭାରତ ଇତିହାସରେ ଏପରି ଯୁଦ୍ଧ କେବେ ହୋଇ ନଥିଲା କିମ୍ବା ଭବିଷ୍ୟତରେ କେବେ ହେବ ବୋଲି କେହି କଳ୍ପନା କରି କହି ପାରିବ ନାହିଁ।

କୌରବମାନଙ୍କର ଶତଚେଷ୍ଟା ସତ୍ତ୍ୱେ ବିଜୟ ଲାଭ କଲା କଲା ସତ୍ୟ।



ପୁଞ୍ଜି ଶୋଷଣ ବିରୁଦ୍ଧରେ ସଂଗ୍ରାମ ଚାଲିଛି ଅନବରତ । ବିଶ୍ୱ ଇତିହାସରେ ଏଇମିତି କେତେ ସଂଗ୍ରାମର କାହାଣୀ । ସେ ଜାଣେ ସେ ଯେଉଁ ବାଟରେ ପାଦ ଦେଇ ଚାଲିବାକୁ ଆରମ୍ଭ କରିଛି, ତାହା ହିଁସୁ ଶ୍ଯାପଦମାନଙ୍କର ଯାତାୟତର ପଥ । ଅତ୍ୟନ୍ତ ଦୁର୍ଗମ, ବିପଦ ସଙ୍କୁଳ ।

ହାତରେ ବଦଳି ଆଦେଶ ଧରି ସେକ୍ରେଟାରିଏଟରୁ ପଦାକୁ ଆସୁଥିଲା । ଆଗରେ ଇନ୍ଦିରାଗାନ୍ଧି ପାର୍କ । ଅନେକ ଗଛ ଲତା ପୁଷ୍ପରେ ସୁଶୋଭିତ ଉଦ୍ୟାନ ଇନ୍ଦିରାଗାନ୍ଧୀଙ୍କର ସ୍ଵାରୂପ ଯାହାଙ୍କର ମୃତ୍ୟୁ ନିଜ ଅଙ୍ଗରକ୍ଷାଙ୍କର ଗୁଳିରେ ହୋଇଥିଲା । ଠିକ୍ ମୃତ୍ୟୁର ପୂର୍ବଦିନ ସେ ଏହି ଜାଗାରେ ଭାଷଣ ଦେଇଥିଲେ ।

ପାଦରେ ଚାଲି ଚାଲି ମାଷ୍ଟରକ୍ୟାଣ୍ଟିନ୍ ଦିଗକୁ ମୁହାଁଇଲା । ପି.ଏମ୍.ଜି. ରାଷ୍ଟ୍ରରେ ଲାଲ ରଙ୍ଗର ପତାକା ଓ ବ୍ୟାନର ଧରି ଶ୍ରମିକମାନଙ୍କର ବିକ୍ଷୋଭ ଦାବି ହାସଲ ପାଇଁ ।

ସେ ଆଗକୁ ବଢ଼ିଲା । ଦଳ ଦଳ ଶ୍ରମିକମାନଙ୍କର ର୍ୟାଲି, ସ୍ଲୋଗାନ ତାର ହୃଦୟ ତନ୍ତ୍ରୀରେ ଝଙ୍କାର ସୃଷ୍ଟି କରିଥିଲା । ସେ ସ୍ଵର୍ଗତୋଚ୍ଛି କରିବା ପରି କହି ଚାଲିଥିଲା,

“ମୁକ୍ତିକାମୀ ମଣିଷ ସଂଗ୍ରାମରେ ସାମିଲ ହୁଅ । ଗଣତନ୍ତ୍ରକୁ ସୁଦୃଢ଼ କରିବା ପାଇଁ ଗରିବ ଖଟିଖୁଆ ମେହନତି ମଣିଷର ହାତଧରି ଆଗକୁ ମାଡ଼ି ଚାଲ । ତୁମେ ହିଁ ଆଲୋକ । ସେହି ଆଲୋକରେ ଅନ୍ଧାରକୁ ଦୂର କରିବାକୁ ଚେଷ୍ଟାକର ତାହା ଯେତେ ସାମାନ୍ୟ ହେଉ ପଛେ ।”

ଗଜପତି ନଗର

ଭୁବନେଶ୍ୱର

## STOP CHILD LABOUR

### ଶିଶୁ ଶ୍ରମିକ ପ୍ରଥା ଏକ ସାମାଜିକ କଳଙ୍କ

- ୧୪ ବର୍ଷରୁ କମ୍ ବୟସର ଶିଶୁଙ୍କ ବିପଦପୂର୍ଣ୍ଣ କାର୍ଯ୍ୟରେ ନିୟୋଜିତ କରିବା ଏକ ଦଣ୍ଡନୀୟ ଅପରାଧ ।
- ଏଥିପାଇଁ ୨ ବର୍ଷ ଜେଲଦଣ୍ଡ ଏବଂ ୨୦ ହଜାର ଟଙ୍କା ପର୍ଯ୍ୟନ୍ତ ଜୋରିମାନା ହୋଇପାରେ ।
- ଆସନ୍ତୁ ମିଳିମିଶି ଶିଶୁ ଶ୍ରମିକ ପ୍ରଥାକୁ ବନ୍ଦ କରିବା



# “ନେଲା ବେଳକୁ ଆଗ ଦେଲା ବେଳକୁ ବାଘ”

ଭାଗ୍ୟଲତା ରାଉତରାୟ

ନିଜ ଆଖିକୁ ବିଶ୍ୱାସ କରିପାରୁ ନଥିଲେ ରବି ନାୟକ । ଦାଦନ ଖଟିବା ପାଇଁ ତିନି ବର୍ଷ ବାହାରକୁ ଯାଇଥିଲେ, ଫେରି ଆସି ଦେଖିଲେ - ଘର ପରିବେଶ ବଦଳି ଯାଇଛି ।

ପ୍ରଥମେ ବିସ୍ମିତ ହେବା ସହିତ ପରେ ପରେ ଆତଙ୍କିତ ହୋଇ ପଡିଲେ ରବି ନାୟକ । ପନ୍ଦର ବର୍ଷ ତଳେ ଯେଉଁ ଧର୍ମପତ୍ନୀ ବେବିନାକୁ ହାତଧରି ବାହା ହୋଇଥିଲେ ତାରି ହାତରେ ଘରର ସବୁ ଦାୟିତ୍ୱ ଛାଡିଦେଇ ଯାଇଥିଲେ ବିଦେଶକୁ ରାଜନିଷ୍ଠା କାମ କରିବା ପାଇଁ । ଘର ଛାଡି ଗଲାବେଳେ ପୁଅ ରାଜେଶକୁ ବାରମ୍ବାର କହିଥିଲେ ତୁ ବଡ ହୋଇଗଲୁଣି ମା’ ଓ ଘର କଥା ବୁଝିବୁ, ଘର ଛାଡି କୁଆଡେ ଯିବୁ ନାହିଁ, କିନ୍ତୁ ଆଜି ଘର ସାମ୍ନାରେ ମୁଣ୍ଡ ଟେକି ଠିଆ ହେଲା ବେଳକୁ ଚମକି ପଡିଲେ ରବି ନାୟକ । ଘରର ଛପର ନାହିଁ, ଗୁହାଳ ଘର ଖାଲି, ବାଡି ବଗିଚାକୁ ଚାହିଁ ହେଉ ନାହିଁ । ଘର ଚାରିପଟରେ ଥିବା ତେନ୍ତୁଳି, ଜାମୁକୋଳି, ଆମ୍ବ, ପଶସ ଗଛ ଉପରେ ଲଟାଗଛ ସବୁ ମାଡି ଯାଇଛି । ଏସବୁ ଦେଖି ରବି ନାୟକ ନିଜକୁ ସମ୍ଭାଳି ପାରିଲେ ନାହିଁ । ପାଖରେ ଠିଆ ହୋଇଥିବା ପୁଅ ରାଜେଶ ଉପରେ ବିରକ୍ତ ହେଉଥାଆନ୍ତି । ରାଜେଶ ମୁହଁ ତଳକୁ ପୋତି ଦାନ୍ତରେ ନଖ କାମୁଡି କାମୁଡି, କିଛି କହି ନପାରି ପରାଜୟ ସୈନିକ ଭଳି ମୁଣ୍ଡ ହଲଉ ଥାଏ । ରବି ନାୟକ ଏସବୁ ପରିବେଶ ଦେଖି ନିଜକୁ ସମ୍ଭାଳି ନପାରି ରାଜେଶକୁ କହିଲେ ଚାଲି ଯିବା ଆମ ନୁଆ ଘରକୁ । ଗାଡିରେ ବସାଇ ବାପାକୁ ନେଇଗଲା ରଜେଶ । କିଛି ସମୟ ପରେ ପହଞ୍ଚିଲେ ନୁଆ ଘର ସାମ୍ନାରେ । ଘର ସାମ୍ନାରେ ବଳଦ ଯୋଡାକ ଓ ଗାଈ ବାଛୁରୀ ଦିହଳ ଦେଖି ଖୁସି ହୋଇଗଲେ ରବି ନାୟକ । ଘରର ବାହାର ପଟରେ ପ୍ଲାଷ୍ଟର ନାହିଁ, ଘର ଦାଣ୍ଡରେ ପାଦ ଦେଲା ବେଳକୁ ଦେଖିଲେ ଦାଣ୍ଡଟା ଆଣ୍ଟୁସ ପାଣିରେ ଭର୍ତ୍ତି । ଏରୁଣ୍ଡିବନ୍ଧ ତେଜଁ ଘର ଭିତରକୁ ପ୍ରବେଶ କଲାବେଳକୁ ମୁଣ୍ଡ ଉପରେ ଟୋପା ଟୋପା ପାଣି ପଡିଲା । ଉପରକୁ ଚାହିଁ ଦେଖିଲେ ଘରର ଛାତ ଥାଁ କରିଛି । ଲୁହା ରତ ସବୁ ଦେଖାଯାଉଛି । ଦାଣ୍ଡଘରେ ପ୍ରବେଶ କରିଲାବେଳକୁ ଦେଖିଲେ ବିଞ୍ଚଣାରେ ପଡି ରହିଥିବା ସ୍ତ୍ରୀ ବେବିନାକୁ । ସ୍ତ୍ରୀକୁ ଦେଖି ରବି ନାୟକ କଥା ଦୁଃଖରେ ଭାଙ୍ଗି ପଡିଲେ । ସ୍ତ୍ରୀ ବେବିନା ବିଞ୍ଚଣାରୁ ଉଠି ସ୍ୱାମୀଙ୍କ ଗୋଡ ତଳେ ପଡି ଆଶୀର୍ବାଦ ନେଲେ । କୋହଭରା କଣ୍ଠରେ ସ୍ତ୍ରୀ କହିଲେ ତୁମେ ଦେଇଯାଇଥିବା ଦାୟିତ୍ୱକୁ ମୁଁ ସମ୍ଭାଳି ପାରିଲି ନାହିଁ । ମନେ ମନେ ଠାକୁରଙ୍କୁ ସ୍ତ୍ରୀ ବେବିନା ଡାକିଲେ ଭଗବାନ ହିଁ ଦୟାକରି ଏଇ ବିପଦ ସମୟରେ ମୋ ସ୍ୱାମୀଙ୍କୁ ଆମ ପାଖକୁ ପଠାଇ ଦେଇଛନ୍ତି । ସବୁକଥା ଓ ପରିସ୍ଥିତିକୁ ସମ୍ଭାଳି ରବି ନାୟକ ସାହାସର ସହିତ ନିଜର ଦୁଃଖକୁ ନିଜ ଭିତରେ ଚାପି ରଖିଲେ । ସେତେବେଳକୁ ଘରର ଏରୁଣ୍ଡି ବନ୍ଧ ପାଖରେ ପୁଅ ରାଜେଶ ଖୁଣ୍ଟଟା ଭଳି ଠିଆ ହୋଇଥାଏ । ଆଖିରୁ ତାର ବୋହି ଯାଉଥାଏ ଧାର ଧାର ଲୁହ । ରବି ନାୟକ ପୁଅ ରଜେଶର ମୁଣ୍ଡରେ ହାତ ବୁଲାଇ ଦେଇ କହିଲେ ମୋ ପାଇଁ ଆଜି ଏ ଘର ନଷ୍ଟ ହୋଇଗଲା । ମତେ ପଇସାର ଲୋଭ ଗ୍ରାସ କଲା । ସେତେବେଳେ ରବି ନାୟକ ଚିନ୍ତା କରିଲେ ବିଦେଶକୁ ଯାଇ ମୋର ଲାଭ କେତେ ହେଲା, ଆଉ କ୍ଷତି କେତେ ହେଲା, ଆଉ ରହିଲା କ’ଣ ? ଏତେ ଦୁଃଖ କେଉଁଠୁ ଆସିଲା କିଏ ବୁଣିଲା ମୋ ସୁଖର ସଂସାରରେ ଦୁଃଖର ବିହନ ? ଯୁଆଡେ ଦେଖିଲେ ଖାଲି ଦୁଃଖ ଆଉ ଦୁଃଖ ।

ଠିକାଦାର ରଘୁଆର କଥାରେ ମୁଁ ବାଙ୍ଗାଲୋର ଯାଇ ରାଜନିଷ୍ଠା କାମ କରିଲି । କେତେ ଲୋକଙ୍କର ଘର ତିଆରି କରିଥିଲି, କେତେ ପରିବାର ଆଜି ଖୁସିରେ ଅଛନ୍ତି । ଠିକାଦାର ରଘୁଆ ମୋତେ ଗାଁରୁ ନେଲା ବେଳକୁ ଚିକକଣ ଚିକକଣ କଥା କହିଲା । ତମେ ସେଠାରେ କାମ କରିଲେ ଗାଁ ଅପେକ୍ଷା ଦିଗୁଣା ମଜୁରୀ ପାଇବ, ରହିବା ଓ ଖାଇବାର ବ୍ୟବସ୍ଥା ଅଛି, ଖାଲି କାମ କରିବ ଆଉ ଖାଇପିଇ ଆରାମ କରିବ । ବାଙ୍ଗାଲୋରରେ ପହଞ୍ଚିଲା ବେଳକୁ ବାରମାସି ଚଢ଼େଇ ପରି ରଘୁଆର ରଙ୍ଗ ବଦଳି ଗଲା । ସେ କମ୍ପାନୀ ସୁପରଭାଇଜର



ପାଖରେ ପହଞ୍ଚାଇ ଦେଇ କେଉଁ ଆଡେ ଅନ୍ତର୍ଦ୍ଧାନ ହୋଇଗଲା । ସାମାଜିକ ଦୃଷ୍ଟିକୋଣରୁ ଏସବୁ ଠିକ୍ ନଥିଲା । ଠିକାଦାର ଯେଉଁ ଘର ଆମକୁ ଦେଇଥିଲା ସେଇ ଘରେ ରହିବା ଉପଯୋଗୀ ନଥିଲା । ଏତେ ଛୋଟ ରୁମ୍‌ରେ ଦଶ ବାରଜଣ ଶୋଇଲେ, ନିଜ ଗାଲରେ ମଶା କାମୁଡ଼ିଲେ ପାଖ ଲୋକଙ୍କ ଗାଲକୁ କୁଣ୍ଡେଇ ଦେଉଥିଲେ ଅଜାଣତରେ । ଆମକୁ ଯେଉଁ ଖାଇବା ଦେଉଥିଲା ନକହିଲେ ଭଲ । ଦେହ ଖରାପ ହେଲେ ଔଷଧ ମିଳିବା କଷ୍ଟ ହେଉଥିଲା । ସୁପରଭାଇଜର କେବଳ କାମ କରାଇବା ଛଡା ଆଉ କିଛି ଜାଣେନି । ଆମକୁ କମ୍ପାନୀର ପ୍ଲାଣ୍ଟ ଭିତରେ କାମ କରାଏ, ଆଠରୁ ଦଶ ଘଣ୍ଟା ଖଟାଏ । ବେଳେବେଳେ ପ୍ଲାଣ୍ଟରେ କୌଣସି ଜରୁରୀ କାମ ପଡ଼ିଲେ ବାରରୁ ପନ୍ଦର ଘଣ୍ଟା କାମ କରିବାକୁ ପଡୁଥିଲା । ସୁପରଭାଇଜରକୁ ଅଭିଯୋଗ କରିଲେ ସେ ତରେଇକି କହେ ତମେ କାମ କରିବ, ପଇସା ନବ ତମ ପଇସା କିଏ ଖାଇ ଦେଉଛି ନା ନେଇଯାଉଛି । ତମେ ଯେତେ କାମ କରିବ ତମ ପାଇଁ ଭଲ, ଓଭର ଚାଇମର ହିସାବ କରି ତୁମକୁ ତମ ପଇସା ଦିଆଯିବ । ବିନା କାମ କରି ତମେ ଗାଁ ଛାଡ଼ିବା ପୂର୍ବରୁ କାମ କରିବା ପାଇଁ ଆଡ଼ଭାନ୍ ଦେଇଯାଇଛି । ଆଉ ଏଠି କାମ କରିଲା ବେଳକୁ କଷ୍ଟ ଲାଗୁଛି । କାମ କରି କରି ଏସବୁ ସହି ସହି ମୋର ଦେହ ଖରାପ ହୋଇଗଲା । କାମ ସରି ଯାଉଥିଲା ସବୁ ନଥିଲା ଦିନ ।

ସେଦିନ ଦେହ ମୋର ଭୀଷଣ ଖରାପ ଥାଏ । କାମ କରିବାକୁ ଇଚ୍ଛା ହେଉନଥିଲା । ମୁଁ ସୁପରଭାଇଜରକୁ କହିଲି ମୁଁ ଏତେ କାମ କରିପାରିବି ନାହିଁ ମତେ ହିସାବ କରି ମୋ ପଇସା ଦେଇଦେଲେ ମୁଁ ଗାଁକୁ ଯିବି । ସୁପରଭାଇଜର ମୋତେ ଧମକ ଦେଇ କହିଲା ଏ ସହରଟା ଏତେ ବଡ଼ ଯେ ତତେ ଏଠି ମାରି ପକେଇ ଦେଲେ କେହି ଜାଣିବେ ନାହିଁ, ତୁ ଏଠୁ ଗାଁକୁ ଯିବୁ କ'ଣ ? ମୁଁ କିଛି କହି ନପାରି ପରାଜୟକୁ ସ୍ୱୀକାର କରି ବାହାରିଲି ପ୍ଲାଣ୍ଟକୁ କାମ କରିବା ପାଇଁ, ପ୍ଲାଣ୍ଟର ଗେଟ୍ ପାଖରେ ବସିଥାଏ । ଏଇ ସମୟରେ ପ୍ଲାଣ୍ଟର ଜଣେ ବଡ଼ବାବୁ ଗାଡ଼ିରୁ ଓହ୍ଲାଇ ତାଙ୍କ ମୋବାଇଲରେ ଓଡ଼ିଆରେ କଥା ହୋଇ ଚାଲି ଚାଲି ତାଙ୍କ ଅଫିସ୍ କୋଠରୀକୁ ଗଲେ । ମୁଁ ତାଙ୍କ ପଛେ ପଛେ ଗଲି । ମୁଁ ମୋ ବିଷୟରେ ତାଙ୍କୁ ସବୁ କଥା କହିଲି, କିଭଳି ସୁପରଭାଇଜର ହଇରାଣ କରୁଛି, ମୋ ପଇସା ଦେଉ ନାହିଁ କହି ମୁଁ ମୋ କାମର ଚିପାଖାତା ତାଙ୍କୁ ଦେଖାଇଲି । ସେ ଫୋନ୍ କରି ସୁପରଭାଇଜରକୁ ଡକାଇଲେ, ସେ ତାଙ୍କୁ କହିଲେ ଏ ବାବୁ ଜଣଙ୍କ ମୋ ଜଣାଶୁଣା ଲୋକ ଆମର ଏରିଆରେ ତାଙ୍କରି ଘର । ତାର ପାଇବାକୁ ଥିବା ପଇସା ହିସାବ କରି ତାକୁ ଦେଇ ଦିଅ । ନହେଲେ ତମେ ପାଇଥିବା କାମ ଅତରଳ କମ୍ପାନୀର କରିଦେବି, ଆଉ ତାକୁ ଦେହ ଖରାପରେ ଖଟାଉଛ । ତାଙ୍କୁ ନେଇ ପ୍ଲାଣ୍ଟର ଡାକ୍ତରଖାନାରେ ଦେଖାଇ ଔଷଧ ଦିଅ । ଟ୍ରେନ୍ ଟିକେଟ୍ କରି ତାଙ୍କୁ ଗାଡ଼ିରେ ବସାଇ ଦିଅ, ସେ ତାଙ୍କ ଘରକୁ ଯିବେ । ଏସବୁ କଥା ଶୁଣିଲା ପରେ ମୋ ଖୁସିର ସାମା ରହିଲା ନାହିଁ । ମୁଁ ବାବୁଙ୍କ ଗୋଡ଼ତଳେ ପଡ଼ିଗଲି ବାବୁ ଜଣେ ଧର୍ମପରାୟଣ ଲୋକ ଥିଲେ । ସେ ମୋତେ ବୁଝାଇଲେ ତମେମାନେ ଭିଗାମାଟି ଛାଡ଼ି ଚାଷଜମି ସବୁ ପଡ଼ିଆ ପକାଇ ଘର ସଂସାରଠାରୁ ଦୂରେଇ ରହି ଦାଦନ ଖରୁଛ, ଦୁଃଖ ଯତ୍ନଶା ଭୋଗ କରୁଛ, ରୋଗରେ ପଡ଼ି ଦେହ ଖରାପ କରୁଛ, ତୁମକୁ ଏଠି ଦେଖବବାକୁ କେହି ନାହାନ୍ତି । ଏଥିରୁ କ'ଣ ଲାଭ ପାଉଛ ? ମୁଁ ଏକଥା ଶୁଣି ବୁଝିଗଲି ମୋର ସାଇତା ହୋଇଥିବା ସୁଖକୁ ଛାଡ଼ି ମହଙ୍ଗା ଦୁଃଖରେ ଘାଣ୍ଟି ହେଉଛି । ତା'ପରେ ମୁଁ ବଡ଼ ବାବୁଙ୍କଠାରୁ ଯୋଡ଼ ହସ୍ତରେ ପ୍ରଣାମ କରି ବିଦାୟ ନେଲି । ବାବୁ ମୋତେ କହିଲେ ଭଗବାନ ତୁମର ମଙ୍ଗଳ କରନ୍ତୁ । ମୁଁ ତୁମ ବିଷୟରେ ସୁପରଭାଇଜରକୁ ସବୁକଥା କହି ଦେଇଛି । ତୁମେ ଗାଁରେ ପହଞ୍ଚିଲା ପରେ ମତେ ମୋବାଇଲରେ କଣ୍ଟାକ୍ଟ କରିବ । ସୁପରଭାଇଜର ମୋ ଉପରେ ବିରକ୍ତ ହୋଇ କହିଲେ ମୋତେ କହିଥିଲେ କ'ଣ ମୁଁ ପଇସା ଦେଇ ନଥାନ୍ତି, ବଡ଼ ବାବୁଙ୍କୁ କହିବା କ'ଣ ଦରକାର ଥିଲା ? ସେ ହିସାବ କରି ମୋର ସବୁ ପଇସା ଦେଇଦେଲେ । ପ୍ଲାଣ୍ଟର ଡାକ୍ତରଖାନାରେ ଚିକିତ୍ସା କରାଇ ଆଣି ମୋତେ ଟ୍ରେନ୍‌ରେ ବସାଇ ଦେଲେ । ମୁଁ ଗାଁରେ ପହଞ୍ଚି ବଡ଼ବାବୁଙ୍କୁ ମୋର କୃତଜ୍ଞତା ଜ୍ଞାପନ କଲି ।

ରବି ନାୟକ ସ୍ତ୍ରୀ ବେବିନାକୁ କହିଲେ ମୁଁ ଘରକୁ ଆସିଗଲି ଏଥର ସବୁ ଠିକ୍ ହୋଇଯିବ । ତମେ ଆଉ ବ୍ୟସ୍ତ ହୁଅ ନାହିଁ । କାଲି ସକାଳେ ଆମେ ଡାକ୍ତରଙ୍କ ପାଖକୁ ଯିବା । ତୁମ ଦେହ ଚିକିତ୍ସାରେ ଦୁର୍ବଳ ହୋଇପଡ଼ିଛି । ଡାକ୍ତର ଭିଗାମାଟି ମେଡିସିନ୍ ଦେଲେ ସପ୍ତାହ ଦିସପ୍ତାହ ଭିତରେ ତୁମ ଦେହ ଭଲ ହୋଇଯିବ । ଆମେ ବର୍ତ୍ତମାନ ନିଜ ଇଚ୍ଛାରେ ବଞ୍ଚିବା । ଆଗଭଳି ମୁଁ ଚାଷବାସ କରିବି, ଘର କଥା ବୁଝିବି । ଆମର ଗୋଟିଏ ବୋଲି ପୁଅ ତାକୁ ଉଚ୍ଚ ଶିକ୍ଷିତ କରିବା, ସେ ଚାକିରି କରିବ । ତାକୁ ବାହା କରାଇ ଆମେ ଭଲରେ ରହିବା । ଆଉ ପଛ କଥା ଚିନ୍ତା କର ନାହିଁ ।



ରବି ନାୟକ ଭାରି ଖୁସି ଥାଆନ୍ତି, ତାଙ୍କ ପୁଅ ରାଜେଶ ଚାକିରି ପାଇଗଲା । ତାଙ୍କର ଏଇ ବର୍ଷ ଧାନ ଫସଲ ବହୁତ ଭଲ ହୋଇଛି । ଫସଲ କଟା ସରିଲାଣି, ବିଲରୁ ନଡ଼ା ଆସି ଚାଳଘର ଛପର ହେଲାଣି, ଧାନ ଆସି ଖଳାରେ ଅଛି । ସେଦିନ ସକାଳେ ଋ ପିଆ ପର୍ବ ଚାଲିଥାଏ । ଦୂର ଦର୍ଶନ ନ୍ୟୁଜ୍ରେ ସରକାରୀ ଧାନ ରେଟ୍ ବୃଦ୍ଧି କଥା ଶୁଣି ରବି ନାୟକ ଭାରି ଖୁସି ହୋଇଗଲେ । ସ୍ତ୍ରୀ ବେବିନା ଓ ପୁଅ ରାଜେଶକୁ ତାଙ୍କ ଭାରି ଖୁସିରେ ଗୀତ ଗାଇ ନାଚିବାକୁ ଲାଗିଲେ ।

ସରିଗଲା ଦୁଃଖ ସରିଗଲା

ଋଷୀଙ୍କ ଦୁଃଖ ସରିଗଲା

ସରକାରୀ ଧାନ ରେଟ୍ ବଢ଼ିଗଲା

ଆମର ଦୁଃଖ ସରିଗଲା ।

ଖୁସିରେ ଘରଟା ପୁରି ଉଠିଲା । ସ୍ତ୍ରୀଙ୍କ ଆଖିରୁ ଖୁସିର ଲୁହ ଦୁଇଟୋପା ଗଡ଼ିଗଲା ଓ ସେ କହି ଉଠିଲେ ତୁମେ ଆଜି ଘରକୁ ଫେରିଲ ବୋଲି ଆମ ଘରେ ଏତେ ଖୁସି, ନହେଲେ..... । ରବି ନାୟକ ସ୍ତ୍ରୀ ବେବିନାର ଆଖିରୁ ଲୁହ ପୋଛି ଦେଇ ତାଙ୍କୁ କହିଲେ ତୁମେ ତୁମର କଅଁଳ ମନଟାକୁ କଢ଼େଇରେ ପକେଇ ଆଉ ଭାଜନି । ବର୍ତ୍ତମାନ ପୁଅ କେମିତି ବାହା କରିବା ଘରକୁ ବୋହୂ ଆଣିବା । ଆଉ ଏକଥା ମନେ ରଖୁଥାଅ ଆମ ପୁଅର ବାହାଘର ସମୟରେ ଘରର ସାମ୍ନା ପଟ ପାଚେରୀରେ ଗୋଟେ ପଟେ ପୁଅ ବୋହୂଙ୍କ ନାଁ ଲେଖା ହେବ, ଅନ୍ୟ ପଟେ ବଡ଼ ବଡ଼ ଅକ୍ଷରରେ ସମସ୍ତେ ପଢ଼ିଲା ଭଳି ସହଜ ଓ ସୁନ୍ଦର ଅକ୍ଷରରେ ଲେଖା ହେବ ଦାଦନ ଶ୍ରମିକ ମାନଙ୍କର ସମସ୍ୟା ବିଷୟରେ । ତାହା ହେଲେ ଆମ ଗାଁର କୌଣସି ଲୋକ ବାହାର ରାଜ୍ୟକୁ ଯାଇ କଷ୍ଟ ଯତ୍ନେ ଭୋଗିବେ ନାହିଁ । ଘରେ ରହି ଚାଷବାସ କରିବେ, ସରକାର ଦେଇଥିବା ସମସ୍ତ ଯୋଜନାର ଲାଭ ଉଠାଇବେ । ଜର୍ କାର୍ଡ ମାଧ୍ୟମରେ ଆମ ଗାଁରେ ରହି ଗାଁର ଉନ୍ନତିମୂଳକ କାମରେ ସହଯୋଗ କରିବେ ।

ଆଜିକା ଦୁନିଆରେ କେହି କାହାକୁ ସୁଯୋଗ ଦେବେନି, ସୁଯୋଗ ନିଜକୁ ହିଁ ଖୋଜି ନେବାକୁ ହେବ । ନିଜ ପରିବାର, ସମାଜ ଓ ଗାଁ ପାଇଁ ଉନ୍ନତି କରିବାକୁ ହେବ । ଗ୍ରାମାଞ୍ଚଳର ଗରିବ ଶ୍ରମିକ ଶ୍ରେଣୀର ଲୋକମାନେ ବୁଝିବା ଦରକାର ଯେ ଯେଉଁ ଲୋକମାନେ ସେହି ଶ୍ରମିକମାନଙ୍କୁ ବିଭିନ୍ନ ଲୋଭ ଦେଖାଇ ବାହାର ରାଜ୍ୟକୁ କାମ କରାଇବାକୁ ନେଉଛନ୍ତି ସେଥିରେ ତାଙ୍କର ଅନ୍ତର୍ନିହିତ ସ୍ୱାର୍ଥ ଅଛି । ତେଣୁ ସେମାନେ ନେଲାବେଳେ ବିଭିନ୍ନ ପ୍ରତିଶ୍ରୁତି ଓ ପଇସାର ଲୋଭ ଦେଖାଇ ରାଜ୍ୟ ବାହାରକୁ ଚାଲଣ କରୁଅଛନ୍ତି, କିନ୍ତୁ ପରବର୍ତ୍ତୀ ସମୟରେ ନ୍ୟାୟ ପ୍ରାପ୍ୟ ଦାବି କଲା ସମୟରେ ଦେବା ପାଇଁ କୁଣ୍ଡାବୋଧ କରି ବିଭିନ୍ନ ପ୍ରକାରରେ ଶାରୀରିକ ଓ ମାନସିକ ନିର୍ଯ୍ୟାତନା ଦେବାକୁ ପଛାଇ ନାହାନ୍ତି । ଏଣୁ କୁହାଯାଏ “ନେଲା ବେଳକୁ ଆଗ, ଦେଲା ବେଳକୁ ବାଘ” ।

କ୍ଷୀର ନଂ : ଏଫ.ଆର୍-୯୩/୧୧

ଶୈଳଶ୍ରୀ ବିହାର

ଚନ୍ଦ୍ରଶେଖରପୁର, ଭୁବନେଶ୍ୱର



## ଶ୍ରମିକ

## ଧନ୍ୟରେ ଶ୍ରମିକ ତୁମେ ଧନ୍ୟ

ବାମଦେବ ସ୍ୱାଇଁ

କିଶଳୟ ଶତପଥୀ

ଶ୍ରମିକ ମୁଁ  
ତୁମ ପରି ହାଡ଼ରକ୍ତ ମାଂସରେ  
ଗଢ଼ା ମୋ ଶରୀର  
ହାଡ଼ଭଙ୍ଗା ପରିଶ୍ରମ କରି ରକ୍ତ ନିଗାଡ଼ି  
ଗଢ଼ିଛି ମୁଁ ତୁମ ଘରଦ୍ୱାର  
ମୋ ହାତେ ଗଢ଼ା ପରା  
ରାସ୍ତାଘାଟ, ତୁମର ଏ ସୁନ୍ଦର ସହର  
ମୋ ଝାଳବୁହା ପରିଶ୍ରମରେ  
ଏସବୁ ଫସଲ ଖାଦ୍ୟ ଶସ୍ୟର  
ସେଥିରେ ପେଟ ପୂରଇ ତୁମର  
ମୋ ହାତରେ ପରା ସାରା ପୃଥିବୀଟା ସବୁଜ ସୁନ୍ଦର

ମୋ ଝାଳ ବିନ୍ଦୁ ସବୁ ଶ୍ରମି ଯାଇଛି  
ତୁମ ଘର କାନ୍ଥ ତଟାଣରେ  
ମୋ ଚମତା ନିଚୋଡ଼ି ନୋଡ଼ି ଯାଇଛି  
ତୁମପାଇଁ ବର୍ଷ ବର୍ଷ ଖଟିବାରେ  
ମୁଁ ମାଗିନାହିଁ ତୁମରି ଏଶ୍ୱର୍ଯ୍ୟ  
ଇଚ୍ଛି ନାହିଁ ପାଇବାକୁ ହୀରାନୀଳା ମଣି ଓ ବୈଦୁର୍ଯ୍ୟ  
ପତର କୁଡ଼ିଆରେ ବାସ ମୋର  
ଦିମ୍ପୁଠା ଆହାରେ ନିତି ପେଟ ପୁରେ ମୋର  
ସେଇଥିରେ ସବୁ ଖୁସି ସବୁ ଶାନ୍ତି ମୋର  
ମୋତେ ଭାଇ ବୋଲି ନତାକିଲ ନାଇଁ  
କରନା ଜମା ହତାଦର  
ବଞ୍ଚିତ କରନା ମୋତେ, ଦିଅ ମୋର ନ୍ୟାୟ ଅଧିକାର  
ମୁଁ ଶ୍ରମିକ, ତୁମ ଅତି ଆପଣାର ଅତ୍ୟନ୍ତ ନିଜର ।

ସରକାରୀ ଶ୍ରମ କମିଶନର

ଶ୍ରମଭବନ, ଭୁବନେଶ୍ୱର

ଭ୍ରାମ୍ୟଭାଷ - ୯୪୩୭୩୩୧୮୫୫

ଶ୍ରମିକ ତାହାର ପରିଚୟ ସିନା  
ସିଏ ବି ମଣିଷ ଆମ ପରି  
ତା ଲହୁ ଲୁହରେ ଗଢ଼ା ଏ ସମାଜ  
କିଏ ସେ ହୋଇବ ତାର ସରି  
ଧନ୍ୟ ହେ ଶ୍ରମିକ ତୁମେ ଧନ୍ୟ ।

ଏ ଜାତିର ପରା ତୁମେ ଭଗିରଥ  
ସବୁରି ପ୍ରାଣର ସ୍ୱନ୍ଦନ (୦)

ତାକୁଛି ଦେଉଳ ଦିଆଲ ରାସ୍ତା  
ତାକେ ବନ୍ଧବାଡ଼ ସହର ଗାଁ  
ଦେଶର ପ୍ରଗତି ପଥେ ଦିଶିଯାଏ  
ଲେଖା ହୋଇଅଛି ତୁମରି ନାଁ

ତୁମକୁ କରିଲେ ହତାଦର  
କେହିବି ଏଠାରେ ପାଇବେନି ଶାନ୍ତି  
ତୁମେ ତ ସବୁର ଭାଗୀଦାର । (୧)

ତ୍ୟାଗ ଓ ସେବାକୁ କରିଅଛ ତୁମେ  
ନିଜ ଜୀବନର ମହାକୁତ  
ଶ୍ରମ ପାଇଁ କି ନିଃସକୋଠେ ସିନା  
ଲମ୍ବିଯାଏ ସଦା ତୁମ ହାତ  
ଆହେ ଅମୃତର ସନ୍ତାନ  
ଏଇ ସମାଜର କର୍ମବୀର ତୁମେ  
କରୁଛୁ ତୁମର ଜୟଗାନ । (୨)

ହାତ ପତାଇବା ଶିଖୁ ନାହିଁ ତୁମେ  
ଜୀବନଟା ସାରା ଦୁଃଖ ସହି  
ଶ୍ରମର ମୂଲ୍ୟ ପାଇନ ତଥାପି  
ଅନୁଶୋଚନା ବି ତିଲେ ନାହିଁ  
ଆସ ଦେବା ତାର ଅଧିକାର  
ଶ୍ରମିକ ବୋଲି ତ ହେୟ ମଣିବାନି  
ଦିଅ ତାର ହକ ପୁରସ୍କାର । (୩)

ଅବସର ପ୍ରାପ୍ତ ଉପବିଭାଗ ଅଧିକାରୀ  
ଶ୍ରମ ନିର୍ଦ୍ଦେଶାଳୟ



## ଶ୍ରମ ବିବିଧ ଦର୍ପଣ :

### SAFEGUARDS FOR WOMEN WORKERS UNDER LABOUR LEGISLATION IN INDIA

SUSANTA DASH,  
ADVOCATE,  
BHUBANESWAR

The directive principles of State Policy enshrined in the Indian constitution aims and securing just and humane conditions of work and maternity relief. The Govt. of India has enacted several legislations for the welfare and well being of the women workers which are based on the ideals of human dignity and social justice. Working women have been provided with various benefits, concessions, protection and safeguards under different labour legislations in order to provide security against various risks peculiar to their nature. Further they are also entitled to the benefits under all other provisions that are applicable to industrial workers along with them in additions to special privileges like maternity benefits with wages, prohibition of work in dangerous operations, mines below ground and equal remuneration for similar work etc.

The following labour legislation in India provides special protection for women workers at their work place.

#### 1. The Factories Act. 1950

Sec. 19(1)- Sufficient Latrines and Urinal accommodations of prescribed types shall be provided and shall be conveniently situated and accessible to women workers at all times in factory with separate enclosed accommodation for female workers which shall be adequately lighted and ventilated and shall be maintained in clean and sanitary condition.

Sec.22(2) and Sec.27- Prohibition of employment of women at certain machinery which would expose them to risk of injury.

Sec.42- Separate Washing facility for male and female workers

Sec-48 -Creches- In every factory wherein more than 30 womens workers are employed, a provision of creche having required facility to be provided for the use of children under 6 years age of such women workers.

Sec.66-Restriction on employment of women workers during night i.e. before 6 AM and after 7 P.M. However State government may authorise employment between 5 Am to 10 Pm.

#### 2.The Employees State Insurance Act. 1948

Under the Act, the insured women workers are entitled to maternity benefit in addition to other benefits such as sickness benefit, disablement benefit, dependants medical benefit and funeral benefits. Section 46 provides for payment of maternity benefits in the form of periodical payment available to insured woman worker. It is payable in case of confinement, miscarriage, sickness arising out of pregnancy, premature birth of a child. The insured



women employee is entitled to leave with wages for 12 weeks in case of normal delivery and 6 weeks in case of miscarriage extendable by 4 weeks on medical advice on payment of 70 days contribution in twelve months preceding contribution period. Further 14 days leave with full wages for tubectomy operations.

### 3. The Maternity Benefits Act, 1961

The object of maternity leave and benefit is to protect the dignity of motherhood by providing for the full and healthy maintenance of women and her child when she is not working. The Act provides for maternity leave and benefits for women working in establishment employing 10 or more persons and prohibits discrimination against women employees during leave on account of maternity. The Act prohibits employment of women during the six weeks immediately following the day of delivery. No woman shall be entitled to maternity benefit unless she has actually worked not less than 80 days [eighty days] in an establishment of the employer from whom she claims maternity benefit, for a period of in the twelve months immediately preceding the date of her expected delivery. The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery. Further in case of death of women worker, the employer shall be liable to pay the maternity benefit for the entire period to her nominee or legal representative.

Section 8 provide for payment of medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge. Section 9 entitles an women employee leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage in case of miscarriage or medical termination of pregnancy, on production of such proof. Sec-9A provides leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of her tubectomy operation. Section 10 provides Leave with wages for illness arising out of pregnancy, delivery, premature birth of child, miscarriage, medical termination of pregnancy or tubectomy operation. Section 11 provides two Nursing breaks in the course of her daily working until the child attains the age of fifteen months.

### Equal Remuneration Act, 1976

This Act provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters, connected therewith or incidental thereto. Section 5 provides that "No discrimination to be made while recruiting men and women workers for the same work or work of similar nature or make any discrimination on the basis of sex unless that particular employment of men or women is restricted or prohibited by any statute. The employer shall not make any discrimination in any condition of service subsequent to recruitment, such as, promotions, training or transfer etc on the basis of sex.

### Beedi & Cigar workers (C & E) Act. 1966

Beeding manufacturing is one of the traditional and largely home-based industries in India. It largely labour intensive and maximum workers are women. Though at present the Factories Act, 1948 applies to beedi and cigar establishments, but there has been a tendency on the part of employers to split their concerns into smaller units and thus escape from the provisions of the said Act for which working conditions prevailing in such



establishment was unsatisfactory. A special feature of the industry is the manufacture of beedis through contractors and by distributing work in the private dwelling houses where the women workers provided with the raw materials given by the employers or the contractors. Employer-employee relationship not being well defined for which the application of the Factories Act has met with difficulties. Section 12 of the Act imposes an obligation on employer to provide sufficient latrine and urinal facilities in industries employing 50 or more workers and Section 14 imposes obligation for providing creches where more than 30 female employees are ordinarily employed. Section 25 prohibits employment of women during nights after 7 P.M. to 6 a.m. above all, Section 37 provides application of the Maternity Benefit Act, 1961 to women workers in manufacture of beedi and cigar.

### **Mines Act. 1952**

This Act protects the interest of women workers by prohibiting their employment in the mines below the ground and also prohibits employment in mines above the ground between 7 Pm to 6 Am and under no circumstances, the time restriction can be relaxed after 10 p.m. and before 5 am.

### **The Plantation Labour Act. 1951**

This also Act provides for the welfare of women workers. Section 12 imposed obligation on the employer to provide Creches wherein fifty or more women workers (including women workers employed by any contractor) are employed or were employed on any day of the preceding twelve months, or where the number of children of women workers (including women workers employed by any contractor) is twenty or more. Further the Act prohibits employment of women workers between 7 Pm to 6 Am. The weekly hours of women employee is fixed at 54 hours. Section 32 casts obligation on employer to provide sickness and maternity benefit to women workers.

### **Unorganized Workers' Social Security Act, 2008**

The Act seeks to apply itself to workers in the unorganized sector which constitutes around 90 per cent of India's working population by introducing a broad social security protection through various government schemes. The Act says, "unorganised worker" also includes a worker in the organized sector, who is not covered by any of the Acts mentioned in Schedule II of this Act". But, it says that the workers covered under the purview of ESI Act (and also PF Act, ID Act, Workmen/Employees Compensation Act, Maternity Benefits Act and Gratuity Act) will not come under the ambit of the present legislation. Furthermore, it has defined unorganized sector as enterprises employing less than 10 workers. The Act says that unorganized worker means a home-based worker, self-employed worker or a wage worker in the unorganized sector. Under this Act, Medical care, sickness benefit scheme, employment injury benefit scheme, maternity benefit scheme including pension scheme, survivors benefit scheme, integrated insurance benefit, housing and educational schemes etc. are included.

### **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. 2013**

Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. Keeping the above in view, the Sexual Harassment of Women at



Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted which seeks to protect women from sexual harassment at their place of work. This Act provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

The Act uses a definition of sexual harassment which was laid down by the Supreme Court of India in Vishaka v. State of Rajasthan (1997). Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choosing or to practice their own trade or business. Vishaka v. State of Rajasthan established that actions resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' is in fact a violation of the victim's fundamental right under Article 19 (1) g. The case ruling establishes that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury. Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

### Conclusion:-

Despite protective measures, beneficial legislations and judicial pronouncements, the women workers are still made to suffer discrimination in social and economical front and continued to be exploited. Most of the labour legislations apply to organized sectors and majority of women working unorganized sectors remained unattended. Even in organized sector also where the legislation applies, but the statutory provisions are not strictly followed. In most of the cases, the protective measures such as creches, maternity benefits, separate toilets etc are not provided and if provided not properly maintained. The penal provisions are not deterrent enough to prevent the employer from violating the law. The labour machinery for inspection and enforcement is inadequate.

Therefore it is suggested that measures are required to be taken for effective implementation of these welfare legislations to protect women workers at their workplace by expanding their scope and application. Awareness among women workers be created so that they became aware of their statutory rights. Moreover NGO and Trade Union organizations be involved to fight for the women workers right so that dignity and honour of women workforce at their workplace can be secured.



# Unorganized Workers' Social Security Act, 2008- A Critical Analysis

Sujata Devi

The Unorganized Sector Workers' Social Security Act, 2008 seeks to apply itself to around 93 per cent of India's working population to introduce a broad social security protection through various government schemes. This is a complex exercise, both legally and logistically, to oblige an exacting analysis of the Act and related legislation. This note offers a critical analysis of the provisions.

The draft Bill received the Assent of the President of India on 23rd December, 2008 and became an Act. Through this note, a detailed analysis of its main provisions as well as the positive and negative aspects is made. A need is also felt to discuss the operation and implementation measures surrounding the Act.

## Positive Features Of The Act

The scheme will be implemented in a phased manner to cover six crore unorganized workers, and in turn their family members of 30 crore people, over a period of five years, extending benefits to 1 crore 20 lakh workers per year. This makes it amply clear that the Act is only an eyewash and intends to cover just 6 crore workers out of the total workforce of more than 42 crore. Any legislation is meant for guaranteeing certain legal commitments on the part of the state; this Act, instead, leaves the implementation entirely to the whims of governments of the day.

## Creation of Advisory Boards

Creation of Advisory Boards. The Bill creates multiple 'Social Security Advisory Boards' with powers of recommendation, advice, review and monitoring. Needless to say, these are ornamental powers and cannot achieve the implementation of any welfare scheme. The real power is retained by the Central Government which may give directions to these Boards or to the State Governments in matters relating to the implementation of the legislation. The Boards, thus, at both Central and State levels are powerless. In addition, they are also very large. The Central Board must consist of at least 31 members and the State Boards 28 members. Along with the support and administrative staff needed to run these Boards, to no apparent gain since they do not have substantive powers, what the Bill actually does is ensure that a lot of financial resources are used with minimal effort.

## Registration of Beneficiaries

Clause 9 of the Bill creates the only legal entitlement in the entire Bill - that of all unorganized sector workers above 14 years to register themselves and receive a 'smart' identity card. There are no immediate dangers that registration might pose to unorganized sector workers. Certainly, there are no gains since the Act is insubstantial and purely symbolic. The use of 'smart' cards -with each holder's biometric information such as fingerprints - may go some way in preventing fraud. But, again, this will just mean that the government will spend



a lot of money for making and distributing 'smart' cards. Certainly, in situations where there is political will to implement welfare schemes, unorganised sector workers will benefit with 'smart' cards.

### **Social Security Schemes under the Act**

The Act has mentioned that the government would periodically notify schemes related to life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the central government. It has also mentioned ten schemes in the schedule which includes Aam Admi Bima Yojana, Rashtriya Swasthya Bima Yojana, Janshree Bima Yojana, Janani Suraksha Yojana, Old Age Pension, Family Benefit and schemes related to weavers, artisans and master crafts persons. None of these schemes are new and are mostly applicable only for BPL families. Most of the urban unorganized workers may not fall under the BPL category. The BPL income of Rs 500 is too less even for bare existence in urban areas. Moreover, most of these schemes are insurance schemes which are to be sourced from workers and operated by insurance companies. The only possibility is that the central and state governments may subsidise contributions from BPL workers. Beyond this, there appears to be no plan for the government to fund the entire social security schemes.

The state governments have been given a free hand to design their own schemes related to provident fund, employment injury benefit, housing, education, skill upgradation, funeral assistance and old age homes. It can be noted that none of them are mandatory on any government.

### **'Smart' Registration**

The function of registration of workers, the 'biggest' advantage of the entire Act, is left to the state governments to be performed through the bureaucracy at district level. Any unorganized worker of above 14 years of age can register himself/herself with the worker facilitation centre by giving a self-declaration. By getting a unique identification number and smart card that are portable, the worker will be eligible for suitable social security schemes if he/she would pay the prescribed contribution.

### **Floor Level Schemes**

What is really good about this legislation, is an enforceable 'floor scheme' that creates in each unorganized sector worker beneficiary a legal entitlement of governmental protection within a specified time frame. For instance, the National Rural Employment Guarantee Act, 2004 ["NREG Act"], creates a legal entitlement of 100 days of work for a specified minimum wage with penalties accruing to its denial. The NREG Act is both successful and un-successful, depending equally on the political will behind its implementation.

A Beginning the much awaited Unorganized Workers' Social Security Act, 2008 has become a major force of the millennium. The new legislation can be taken as a beginning - an opportunity to raise working class struggles to newer heights by involving crores of unorganized workers. It is for the working class and trade union movement to take up the challenge to create waves of bigger and bigger struggles for a really meaningful and comprehensive legislation for unorganized workers and agricultural labourers that can cover not only social security but also wages, rights, job security and the conditions of employment.

### **Negative Features Of The Act 'Unorganized Workers' National Advisory Board Act'**

The name itself is a misnomer because the Act does not provide any social security (except mere registration)



to any section of workers. It would have been more appropriate to call it an 'Unorganized Workers' National Advisory Board Act'. The Act does not guarantee anything other than the formation of an advisory board at central- and state-level and making the respective Labour Ministers the chairpersons of the same. This is the highest ever fraud on unorganized workers, who not only constitute one third of the entire population but contribute two third of our national income.

Neither Regulation nor Social Security!

It has been a decade since the Second National Commission on Labour proposed umbrella legislation for unorganized workers in 1999 in order to restructure the labour market conditions to match liberalization and globalisation. The Act has been passed that neither provides for regulation of conditions of employment nor any social security schemes; neither encompasses agrarian labourers nor extends to all unorganized workers; neither makes a categorical definition of unorganized workers nor binds the government to any commitment; neither provides a mechanism for implementation nor suggests penalty for non-implementation; neither creates a corpus fund nor makes a categorization for generating resources.

### **Ambiguity in Definition**

The Act says, "unorganised worker" also includes a worker in the organised sector, who is not covered by any of the Acts mentioned in Schedule II of this Act". At the surface level, it might appear that unorganized workers of organized sector are also covered by the act. But, it says that the workers covered under the purview of ESI Act (and also PF Act, ID Act, Workmen Compensation Act, Maternity Benefits Act and Gratuity Act) will not come under the ambit of the present legislation, which implies that 2.92 crore casual and contract workers in the organized sector will be completely left out of the purview of the present legislation. Furthermore, it has defined unorganized sector as enterprises employing less than 10 workers.

The Act says that unorganized worker means a home-based worker, self-employed worker or a wage worker in the unorganized sector but it is also subjected to the condition of a ceiling on monthly earnings which is not defined. It could be the ceiling for determining BPL (Rs.300 in rural areas and Rs.500 in urban areas) or could be the extent of landholding or could be anything which is unknown and yet to be notified by the government.

### **Unknown Resources and Notional Schemes**

Nowhere in the Act can one find explanation of the scope of the Act, targeted beneficiaries, implementation and grievance redressal mechanisms, penalties for violation or any other common features expected in any act worth the name. But, it says that all these will be taken care of by the (notional) schemes that would be notified by the central government from time to time. From where will one get the requisite funds for the operation of those 'notional' schemes? The Act is too vague on this score as well but for indicating possible sources. Schemes may be funded partly by the central and state governments, partly by the contributions from workers and from employers. Not only are the workers but also are the so called 'employers', an unknown quantity.

### **The deception of National and State Social Security Boards**

There is a lot of hue and cry over the formation of social security boards. The 'National Advisory Boards' replaced with the formation of National and State Social Security Boards. But, it is again a misleading change only, as the fundamental nature of those boards is only recommendatory and advisory in nature. They are toothless



and they cannot take any decision on their own but for recommending possible schemes and advising on issues of administration to the government. They may also review issues related to the registration of workers and monitor schemes notified by the government.

### Excluded Sections

The workers in the organised sector who enjoy no job security or social security or wage security have been left out from the purview of the Act for the sole "fault" of working in the organised sector. Unorganised workers in the cooperative sectors have been totally excluded. India has 1.38 crore workers in the cooperative sector including self-employed workers like weavers. All of them have been left out. There are lakhs anganwadi workers and an equal number of helpers under the ICDS programme alone covering anganwadi centres in the country. Besides these workers; there are mid-day meal workers in many States covering primary school children. All over the country, around 17 lakh workers are involved in this scheme. There are about 2.4 million para workers including para health workers and para teachers and non-regularised employees of local bodies including municipal workers. Neither the governmental or quasi governmental bodies employing them provide comprehensive social security to them nor have they been brought under the ambit of the Act. So, nearly millions of workers already stand excluded from social security Act.

### Major Limitations of the Act

- (1) Agricultural labourers have not perhaps been brought under the purview of the Act.
- (2) The 2008 Act appears to have excluded vast sections of unorganized workers like agricultural labourers, the unorganized labourers in the organised sector including contract labourers and the informal labourers in the formal sector, the anganwadi workers, para workers like ASHAs and parateachers, and those the cooperative sector. This exclusion reveals the true colours of the "Politics of Inclusiveness" of the UPA.
- (3) The Act is applicable only to a small section of unorganized labourers whose income limit is expected to be notified by the government. There is every possibility that the subsequent notification will include parameters to exclude good number of unorganised workers from the applicability of the law and the schemes.
- (4) There is no provision for penalties in the Act to punish those employers who violate it.
- (5) "Social Security" to the unorganized workers has been narrowed down to ten paltry social security schemes. Most of these schemes like old age pension or maternity benefit (or even the meagre Bima Yojana, for that matter) are already existing/ongoing schemes and there is nothing new in them.
- (6) The national and state boards for unorganized workers provided for in the Act are advisory bodies and like the National Labour Commission they are toothless bodies. While implementation is left to the district bureaucracy, there is no independent enforcement or watchdog/oversight body with representation from unions and there is no appellate authority even.
- (7) Not only there is no penalty against the defaulting employers, there would be no action against the bureaucrats who refuse to register any unorganized worker under any of the twin scheduled schemes.
- (8) The special problems of migrant workers, especially inter-State migrants, among unorganized workers, especially the problem of security, has been totally ignored by the Act.
- (9) The special problem of women unorganized workers do not figure in the Bill. The problems of security, sexual harassment, proper accommodation for migrant women workers, issues relating to nature of work and industrial safety, gender wage gap, non-payment of wages, childcare facilities at work spot etc., have been totally neglected.

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## APEX COURT ON CONTRACT LABOUR DURING GLOBALISED ERA: CAN IT BE CALLED JUDICIAL ACTIVISM !

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Law is dynamic and needs to be interpreted as per the changes of time-and the requirements of the society economy and the nation. It is the social engine which drags the society in the direction it needs to move with the necessity of time.

Interpretation of labour law is being done by different courts in different ways which have been superseded by larger benches of the apex court. It is not surprising that law has been interpreted taking into economic and social condition of the dynamic society. Undoubtedly it is univocally accepted that labour legislation is primarily designed for the purpose of redressing the balance between employers, employees and court should ensure that the purpose is not defeated by its too restrictive, grammatical or literal interpretation thereof (Justice Mahesh Chandra). Further in case of doubts, the interpretation of law should be adopted in favour of the employee in whose interest an Act has been enacted so that the intention and the policy of the legislature is carried forward (Industrial Jurisprudence p.70)

During the globalised era, every entrepreneur is following the cost cutting process through downsizing and right sizing the organisations in the process the permanent workers are reduced through various processes like VRS, ESS, CRS, GHS, etc. The organisations are now performing many regular functions through outsourced workers. Thus the importance of contract labour system has become part and parcel of business performance with the outsourcing of various activities other than core activities. But, at present core activities are also performed by outsourced workers in many PSUs.

The system of employment of contract labour in India is quite old though the nature of problems relating to it has undergone changes over the years, both qualitatively and quantitatively. The Labour Investigation Committee remarked as back as 1946:

"In many industries in India, the system of contract labour appeared to be entrenched while exigencies of last war have only accentuated this tendency".

2. A salient and important feature of contract labour is that it is generally engaged for short durations mainly on construction work like dams, bridges, building, canals, roads and the level of the organisation among the contract labour is rather low and the possibility of exploitation correspondingly high.
3. The Royal Commission on Labour (1931), the Bombay Textile Committee and the Bihar Labour Enquiry Committee (1946) condemned the practice of recruiting labour through contractors because the "contractors ordinarily lack a sense of responsibility towards the labour, and therefore, do not hesitate to exploit the helpless position of labour in their charge."

"The system of contract labour employment lends itself to various abuses. The question of its abolition has been under the consideration of government for a long time. In the second five year plan, the Planning Commission made certain recommendations, namely, undertaking of studies to / ascertain the extent of the problem of contract labour, progressive abolition of the system and improvement of service conditions of contract labour where abolition was not possible. The matter was discussed at various Tripartite Committees at which the state Governments were also represented and general consensus of opinion was that the



system should be abolished wherever possible and practicable and that in cases where this system could not be abolished altogether, the working conditions of contract labour should be regulated so as to ensure payment of wages and provision of essential amenities.

The Act was passed to prevent exploitation of contract labour and also to introduce better conditions of work. "The underlying policy of the Act is to abolish contract labour wherever possible and practicable and where it cannot be abolished altogether, the policy of the Act is that the working conditions of the contract labour should be so regulated as to ensure payments of wages and provision of essential amenities".

4. it would therefore be evident that the purpose of the Act is two-fold i) to abolish contract labour in any process, operation or other work in any establishment which, in the opinion of the appropriate Government, satisfies the conditions specified in Section 10; and ii) to regulate employment of contract labour where it is not possible to abolish the same .
5. Section 10 of the Act vests the power of abolition of contract labour in the appropriate Government after consultation with the Central or the State Advisory Contract Labour Board as the case may be and the second objective of regulation of contract labour is sought to be achieved by imposing on the principal employers and contractors.
6. Important provision relating to regulation of contract labour is Rule 25 (2)(v)(a), which gave rise to lot of hopes among the working class, but has virtually failed their expectations and instead has contributed to considerable amount of wasteful and costly litigation. The said Rule- which is based on the concept of equality of treatment provides as under "In case where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rate, hours of work and other conditions of services of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or of similar kind of work."
7. The constitutional validity was pronounced by the Apex Court, an important ruling was given by it in the case of Vegoils Pvt. Ltd. [1972 (24) FLR-4] to the effect that on and after the coming into force of the Act, no direction could be given by the Industrial Tribunal to abolish contract labour system, since the jurisdiction to give directions with regard to the prohibition of the contract labour is vested in the appropriate government.
8. In the case of B.H.E.L Workers Association Vs Union of India [1985 (50) FLR 205 J, it was contended by the Association that out of 16,000 Workmen employed, nearly 1000 were treated as contract labour and not paid the same wages as the direct workmen of BHEL nor the conditions of their service were comparable. The Supreme Court dismissed the Writ Petition and held that the Act does not provide for total abolition of contract labour but for its abolition in certain circumstances and for regulation of the conditions of their employment. The Court further held that the contract labour is entitled to same wages, holidays, hours of work etc. as are applicable to the workers directly employed by the employer on the same or similar type of work.
9. The next important judgment relates to the catering cleaners of Southern Railway vs. Union of India / 1987 (54) FLR 476]. After analyzing the provisions of the Act, the Court held that on the basis of facts, it was clear that the work of cleaning in the Railway junctions and pantry cars was necessary and incidental to the industry or business of the Southern Railway; that work was of the perennial nature and that it was done through workmen directly employed in most of the other Railways in the Country and sufficient number of workmen on whole time basis were required. Accordingly, the Court came to the conclusion that requirements of section 10 of the Act were clearly satisfied and there was-even an element of profitability in the catering establishment. Accordingly, the Court directed the Central government to take suitable action under section 10 of the Act within 6 months from the date of the order.



10. In *Dina Nath vs, National Fertilizers* [Lie 1992:SC-77], the Court had to reconcile conflicting views of High Courts of Madras, Karnataka [FCI loading & unloading workers Union vs. FCI {1986} to SLR 454] Gujrat [ FCI Workers Union vs. FCI {1990} 61 FLR 253 :and Bombay [United Labour Union vs Union of India {1990} 60 FLR 686 ] on the one side and those of High Courts of Kerala, Delhi and Punjab & Haryana on the other side. The controversy started with the decision of the Madras High Court in the case of *Workmen of Best & Crompton Industries Ltd. Vs, the Management* [ 1985 { LLJ} 492 Madras ] wherein it was held that the combined effect of Sections 7 & 12 of the Act made it clear that for a valid employment.
- "Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in official gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment, contract labour, two conditions should be satisfied, viz. not only the principal employer but also the contractor should possess the requisite license. In other words, the holding of license by one alone will not enable the management to treat the workmen as contract labour."
11. In view of the contrary view expressed by the High Courts of Kerala [ P Karunakaran vs. The Chief Commercial Superintendent {1988} Lab I. C 1346 ], Delhi [ New Delhi Mazdoor Union vs. SCOPE {1991} 2 Delhi Lawyer 189 ] and Punjab & Haryana [ Gian Singh vrs F.CI {1991} 1 PLR -1 ] holding that the Act does not provide for absorption of contract labour in the event of violation of provision relating to registration of the establishment by the principal employer (Section 7) or obtaining of license by the contractor (Section 12), the only consequence can be prosecution of the employer contractor concerned. Upholding the view expressed by Kerala, Delhi and Punjab & Haryana High Courts, the Supreme Court stated.
- "It is not for the High Court to inquire into the question and decide whether the employment of contract labour in any process, operation or in any other work in any establishment should be abolished or not, it is a matter for decision of the Government after considering the matter, as required to be considered under section 10 of the Act. The only consequences provided in the Act where either the Principal employer or the labour contractor violates the provisions of section 9 and 12 respectively is the penal provision, as envisaged under the Act for which reference may be made to sections 23 and 25 of the Act. We are thus of the firm view that in the proceedings under Articles 226 of the Constitution merely because the contractor or the employer had violated and provisions of the Act or the rules, the court could not issue any mandamus for deeming the contract labour as having become employees of the principal employer.-"
12. In the case of *R.K. Panda vs. SAIL* [1994 {69} FLR 256], the contract labour filed a writ petition under Article 32 of the Constitution of India claiming parity in pay with the regular/direct employees and also regularization in the employment of SAIL. The contract labour was continuing in the employment for periods ranging from 10 to 20 years. Although the contractors used to be changed, but the new contractors were under the terms of agreement required to retain the workers of the predecessor contractors.
13. Taking into consideration all the developments and certain offers made by the management of SAIL, the Apex Court gave certain directions in respect of 879 workers involved in the case. The Court directed regularization of workmen "who had put in 10 years of continuous services provided they were below 58 years of age, but the workmen were not to receive any difference in their contractual and regular wages till the date of their absorption".
14. In the case of *Gujrat Electricity Board vs Hind Mazdoor Sabha* [ 1995 { 71 } FLR 102 ] evidently relying upon the earlier judgment in the case of *Hussain Bhai. Calicut vs The Alath Factory Thozhilal Union, and others* [ 1980 {37} FLR 136 ] dealing with of a sham contract and the power of the court to lift the veil, it



was held that the workmen of the so called contractor can raise an industrial dispute for declaring that they were always the employees of the principal employer and claiming the appropriate service conditions. The Court stated thus in words:

"The answer to the question as to what would be the status of the erstwhile workmen of the contractor, once the contract labour system is abolished is therefore that where an industrial dispute is raised, the status of the workmen will be as determined by the industrial adjudicator. If the contract labour system is abolished while the industrial adjudication is pending or is kept pending on the concerned dispute, the adjudicator can give direction in that behalf in the pending dispute. If, however, no industrial dispute is pending for determination of the issue, nothing prevents an industrial dispute being raised for the purpose." The last but equally important question that remains to be answered is who can raise an industrial dispute for absorption of the workmen of the ex-contractor by the principal employer. As has been pointed out earlier, if the contract is not genuine, the workmen of the contractor themselves can raise such dispute, since in raising such dispute the workmen concerned would be proceeding on the basis that they are in fact the workmen of the principal employer and not of the contractor. Hence the dispute would squarely fall within the definition of industrial dispute under Section 2(k) of the I.D. Act, 1947 being a dispute between the employer and the employees. In that case, the dispute would not be for abolition of the contract labour, but for securing the appropriate service conditions from the principal employer on the footing that the workmen concerned were always the employees of the principal employer and they were denied their dues. In such case, the workmen are required to establish that the so called labour contract was sham and was only a camouflage to deny them their legitimate dues"

15. In the case of *Air India Statutory Corporation v/s. United Labour Union* AIR-1997 sc that the Act being a social welfare measure, there was need to shift the judicial orientation and interpretation from private law to public law, broadly keeping in view the constitutional goals and perspectives enshrined in the Preamble, Fundamental Right and Directive principles. The Court overruled *Dina Nath's* case and also partly the law laid down in *Hind Mazdoor Sataha V/s Gujrat Electricity Board*. It emphasised in para 50 that:
- "All essential facilities and opportunities to the poor people are fundamental means to development, to live with minimum comforts, food, shelter, clothing and health. Due to economic constraints, though right to work was not declared as a fundamental right right to work of workmen, lower class, middle class and poor people is means to development and source to earn livelihood. Though, right to employment cannot, as a right, be claimed but after the appointment to a post or an office, be it under the State, its agency instrumentality, juristic person or private entrepreneur, it is required to be dealt with as per public element and to act in public interest assuring equality, which is a genus of Article 14 and all other concomitant rights emanating there from are species to make their right to life and dignity of person real and meaningful. In a socialist democracy governed by the rule of law, private property, right of the citizen for development and his right to employment and his entitlement for employment to the labour, would all harmoniously be blended to serve larger social interest and public purpose".
16. Dealing with the question of the abolition of the contract labour and its consequences, the Court stated as under; "The Act does not provide for total abolition of the contract labour system under the Act. The Act regulates contract labour system to prevent exploitation of the contract labour. The Preamble of Act furnishes the key to its scope and operation. The Act regulates not only employment of contract labour in the establishment covered under the Act and its abolition in certain circumstances covered under Section 10(2) but also matter connected therewith. The phrase • matter connected therewith gives clue to the intention of the Act. The enforcement of the provisions to establish canteen in every establishment under section 16 is to supply food to the workmen at the subsidized rates as it is a right to food, a basic human right, Similarly, the provision in section 17 to provide rest rooms to the workmen is a right to leisure



enshrined in Article 43 of the Constitution.....Upon consideration of these facts and recommendation for abolition was made by the Advisory Board, the appropriate Government examines the question and takes a decision in that behalf. The explanation to Section 10(2) provides that when any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final. It would thus give indication that on the abolition of the contract labour system by publication of the notification in the official Gazette, the necessary concomitant is that the whole time workmen are required for carrying on the process, operation or other work being done in the industry, trade, business, manufacture or occupation in that establishment. When the condition of the work which is of perennial nature etc, as envisaged in sub-section (2) of Section 10, thus are satisfied, the continuance of contract labour stands prohibited and abolished. The concomitant result would be that source of regular employment became open.

17. With the latest Judgment in the case of Secretary, Haryana State Electricity Board v/s Suresh & Ors { 1999 -1-LIM086J, the circle was complete and it was held that where the principal employer had not obtained registration under the Act or that or that the contractor did not have a valid license, "it has to be held that factually there was no genuine contract system prevailing at the relevant time wherein the Board could have acted as only the principal employer and Kashmir Singh a licensed contractor employing labour on his own account. Once the Board was not a principal employer and the so called contractor Kashmir Singh was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in a transparent veil which could easily be pierced and the real contractual relationship between the Board, on the one hand, and the employees on the other, could be clearly be visualized ." Accordingly, the Apex Court held that the workmen of the contractor who had put in 240 days work were entitled to regularization as employees of the Board,
19. The above cases, which are only some of the important ones, only deal with litigation at the level of Supreme Court. It can be easily visualized that if all the cases which have gone to the various High Courts and the Industrial Tribunals are also taken into account, the bare judgments alone would run into thousands of pages. There is thus no doubt at all that the Act has led to lot of litigation and thereby bedeviled industrial relations considerably.
20. Further, another pernicious effect of the aforementioned litigation has been on the employment of the contract labour as the employers are apprehensive of being burdened with the liability of permanent absorption of contract labour. The net effect therefore has been reduction of employment opportunities at the lower end of employment market thereby creating socio-economic problems for the working class.
21. The Act has also imparted a certain measure of inflexibility in the labour market which is likely to hinder the economic growth of the country and also send wrong signals to the foreign investors who are already complaining of too many and too complex labour laws in the country. This has serious implications in the present scenario when the country is gearing up to face global competition which requires cost reduction and quality upgradation.
22. While one of the objectives of the Act was to curb abuses inherent in the contract labour system, interpretation by the Courts of the various provisions is causing serious difficulties, particularly for the principal employers who are being constantly threatened with prosecution and punishment, being more easily accessible than the elusive contractors.
23. Some of the provisions which have caused constant friction are those relating to abolition of contract labour under Section 10 and payment of some wages under Rule 25 (2) (v) (a) of the Contract Labour (Central) Rules, As regards the first, one view is that section 10 of the Act should itself be abolished so that



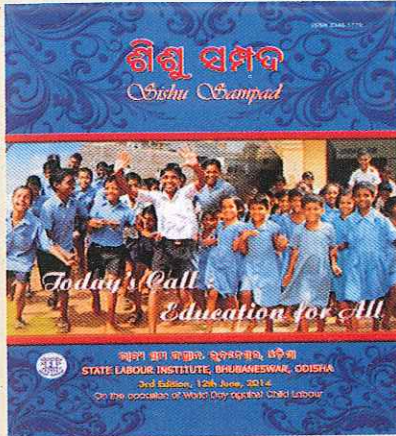
the Act deals only with regulation of labour to achieve the primary objective of eliminating exploitation of labour. The other view is that section 10 should remain in the Act but the power of abolition of contract labour should be limited to only that core and perennial activities of an undertaking, leaving the employers free to engage contract labour of peripheral and maintenance works.

24. Regarding Rules 25 (2) (v) (a), it is strongly urged that since the contract labour does not, possess the requisite qualifications applicable to the regular employees, is not required through employment exchange and its appointment is not in accordance with the rule of the organization, the above rule should be changed to limit its applicability only to grant facilities such as hours of work holidays etc. As a consequence, the contract labour would be entitled only to minimum wages or wages in accordance with the settlement or award between the contract labour and the contractor and not the same wages as are paid to comparable regular employees.
25. Keeping in view the above, there is rule to have brain storming discussion on the following issues:
- Is it possible to regulate the interest of workers and employers by suitable amendments to the Act so that a reasonable measure of flexibility in the matter of utilization of contract labour can be secured to the industry while simultaneously protecting the interest of the labour and avoiding exploitation;
  - What strategies can be adopted by the employers to remain viable and competitive and at the same time ensuring the employees statutory protection and amenities;
  - Should there be different standards/rules applicable to P.S.Us having regard to the fact that economic forces and market pressures apply; equally to establishments i-n both private and public sector; and

From the above observation of the different judgments delivered by the Apex court and other Honourable High courts, it may be assumed that the globalization has brought changes in the minds of the honorable courts to save the milchen cow rather than making the calves to alive. The industries are necessary to exist and to compete in the global market, may be at the cost of sentiment, morality, bread and butter of the working class people. The country has to maintain its economic growth with gearing up to the fact of global competition which requires cost reduction and quality maintenance providing ordinary livelihood to a vast labour force of the country but not to give relief to their mental agony and turpitude of insecure job throughout their life.



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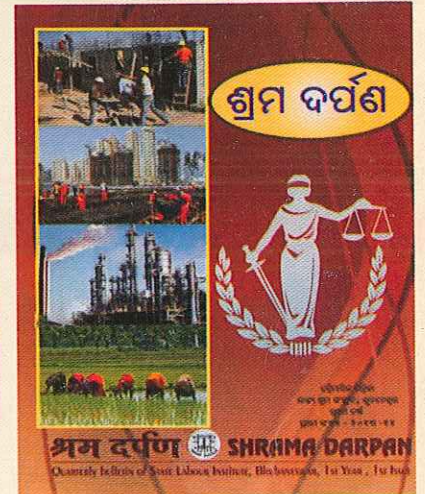
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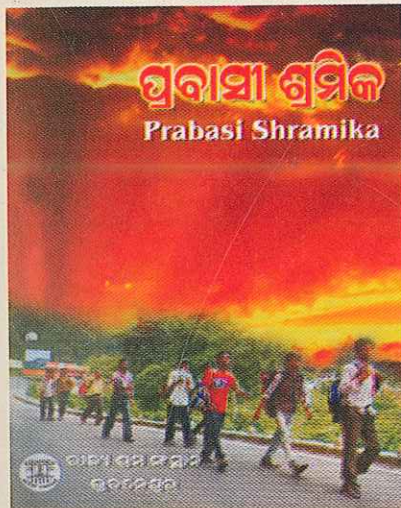
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