



WEST BENGAL HUMAN RIGHTS COMMISSION

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Ref. No. *98/WBHRG/Gen/946/18*

Date: *10.1.19*

Recommendation No 27,28,29,30,31,32 & 33/WBHRG/2018-19/946/GEN/2018

From: Shri Laima Chozah IAS,
Secretary & CEO.

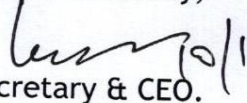
To: The Chief Secretary
Government of West Bengal
NABANNA
325, Sarat Chatterjee Road
Mandirtala, P.O.- Shibpur,
Howrah-711102

Sir,

I am directed to send herewith an authenticated copy of the Recommendations dated 08.01.2019 made by the West Bengal Human Rights Commission alongwith enclosures for taking necessary action. The recommendations are self-explanatory.

Action taken or proposed to be taken by the Government on the recommendations may please be intimated to the Commission within 4(four) months.

Yours faithfully,


Secretary & CEO.

WEST BENGAL HUMAN RIGHTS COMMISSION

File No.946/Gen/2018

P r e s e n t

1. Mr. Justice G.C. Gupta - Chairperson
2. Mr. N. Mukherjee - Member
3. Mr. M.S. Dwivedy - Member

The question of migrant labourers from West Bengal to other States like Rajasthan, Uttar Pradesh etc. has been engaging attention of the media and the administration for quite some time. The welfare and well being of such migrant labourers has come into focus following incidents of murder of migrant worker from Maldah in Rajasthan. The Commission studied the matter and law relating to migrant workers, namely, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 which is the main law governing the Rules, Regulations and Welfare of migrant workers from one State going to another State in the search of jobs. The Commission studied various provisions regarding duties and obligations of contractors (chapter iv), wages, welfare and other facilities to be provided to Inter-State workman (chapter v), licensing of contractors engaging such contract labourers and migrant workers (chapter iii) and inspecting staff charged with the responsibility to supervise the working of the contractors and condition of migrant labourers (chapter vi). The Commission also studied section 25 to 28 of the

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N. C. Sarkar
Assistant Secretary
W.B. Human Rights Commission

Act which are basically penal provisions for offences under this Act. Such offences are triable by Judicial or Metropolitan Magistrate on complaint made by Inspector. The Commission formed the opinion that probably Inter-State Migrant Workmen

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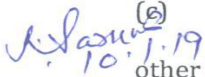
(Regulation of Employment and Conditions of Service) Act, 1979 was not being implemented properly in the State of West Bengal for which such gross violations were occurring to the detriment of migrant workers. The Commission, therefore, directed its Investigating Wing to undertake a thorough study of the entire situation in view of the prevailing law of Parliament in this regard and submit a report to the Commission.

2. The Investigating Wing of West Bengal Human Rights Commission conducted the study (which is enclosed) along with the recommendations on the subject matter of "Implementation of Inter-State Migrant Workman (Regulation of Employment and Conditions of Service) Act, 1979 at the ground level. The Commission discussed the entire report submitted by its Investigating Wing and came to the following conclusions :

a. Districts like Murshidabad, Uttar and Dakshin Dinajpur, North and South 24 Parganas, Howrah and Maladah were the districts where from number of migrant workers are seeking work in other States. However, for supervision and implementation of the Act all these districts have huge vacancies of Inspectors. The respective data is available in the study.

(b) The prosecution and conviction figures in respect of West Bengal for the last five years of delinquent contractors are 'nil'. This goes to show that this act was not really being implemented and supervised properly.

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Assistant Secretary

W.B. Human Rights Commission

There is no mechanism in place to maintain records of migrant workers to other States (for the last five years) in the Labour Department.

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- (d) No documents are available with the Labour Department to show figures of recorded migrant workers and places where they were sent for jobs.
- (e) There is no mechanism available with the Labour Department to track record of migrant workers returning to West Bengal leaving on completion of their jobs/contracts.
- (f) The Labour Department has no data of applications received by contractors for recruitment of workmen to be employed outside the West Bengal.
- (g) No data is available with Labour Department regarding the age of migrant workers, date when they left West Bengal and their return to the State, area in which employed, death toll etc.
- (h) The migrant labourers have to be paid wages according to Minimum Wages Act but no mechanism was available with the Labour Department to ensure whether such migrant workers were being paid minimum wages, according to law.
- (i) The Labour Department does not have any mechanism to monitor the welfare and living conditions of migrant workers who are employed in other States through labourer contractors.
- (j) No contractors were identified by Labour Department under this Act. Therefore, there was no possibility of prosecuting such contractors for violation of various penal provisions of the Act.
- (k) The Inspectors in the districts were under the District Magistrate but their parent office was that of Labour Commissioner. Because of this dichotomy the Inspectors in the districts may have been facing problems in proper functioning.

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The Commission discussed the report in details and in view of above conclusion makes following recommendations to the Government :-

A. The labour Department should fill up the vacancies of Inspectors in all the districts of West Bengal so that they can function properly. The Labour Inspectors should immediately identify recruiting contractors, make a list and also names and addresses of labourers recruited by them who are sent to other State as migrant labours.

B. The Labour Inspectors should regularly monitor through contractors as well as migrant labourers coming back to their home towns regarding welfare and issue of wages to such migrant labourers and if need be launch prosecutions against the defaulters.

C. Seminars, meetings etc. should be regularly organised in district and Sub-Division levels to sensitize common people about the provisions of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. In this regard the District Welfare Officers, District Labour Commissioner, Panchayats should be involved.

D. A website of Labour Department should be created where monthly data related to workmen of West Bengal working outside and related information should be uploaded.

E. Under provisions of Section I(4)(a) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 licence is required if five or more workers are recruited by contractors at a time. The contractors are mis-utilising this provision by recruiting less than five workers at a time there by avoiding licensing. IN

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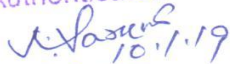
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view of such violations it is suggested that a separate register be maintained in respect of each such contractor recruiting less than five workmen.

F. Govt. welfare schemes like Samajik Suraksha Yojana, Kanyashri, Sabuj Sathi be extended to families of such workmen.

G. In order to collect data of employees /contractors/agents for recruiting such migrant labourers Labour Unit Cells may be created at Gram Panchayat, Block, Sub-Division and District levels. The data be shared with the Labour Department. A tracking portal could be created to track migrant workers online who go to other States in search of jobs in unorganised sector. A smart card can be issued by the central authority like the Unique Identity Card (UID). The Labour Department, West Bengal should also share data regarding migrant workers with such of the State as migrant workers are employed in various sectors. An appropriate inter-State co-ordination mechanism is thus, required to ensure welfare of such migrant workers.

The Principal Secretary, W.B.H.R.C. is directed to send a copy of recommendations to the Chief Secretary, Govt. of West Bengal for appropriate action at his end and action taken report be sent by Government to the Commission within four months time.

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 10.1.19
 N. C. Sarkar
 Assistant Secretary
 W.B. Human Rights Commission

Dt : 08-01-2019

Encl : Copy of report of
 Investigation Wing, WBHRC


 (Justice G.C. Gupta)
 Chairperson


 8/1/2019
 (N. Mukherjee)
 Member


 8/1/19
 (M.S. Dwivedy)
 Member