

## **Comprehensive Guidelines for All States/ UTs for Identification, Release and Rehabilitation of Bonded Labourers during COVID-19 Situation**

The National HRC, while monitoring, as a watch dog, of the impact of the Covid-19 situations on the various sections of the society in the country, has been concerned with its impact particularly on the weaker sections/ migrant workers and bonded labourers. The Supreme Court of India on 09<sup>th</sup> June, 2020 requested the NHRC to consider issuing guidelines for protection, release and rehabilitation of the bonded labourers during this unprecedented pandemic.

The impact of pandemic and other disasters vary across different section of the population depending on the socio- economic - cultural conditions and other realities. As compared to the others, the socio-economically disadvantaged segments have a disproportionate adverse impact of the corona virus pandemic disaster. Workplace closures had severe impact on informal sector workers and left them without any income to sustain themselves and their families. Having lost their earnings and livelihood, and facing uncertainties, the negative effect of the COVID-19 pandemic crisis and the consequent economic slowdown may result in influx of the poor into bonded labour.

The impoverished indigenous and marginalized population groups face multiple disadvantages in life that can exacerbate social exclusion and discrimination. Economic situation that has worsened because of pandemic and subsequent lockdowns has raised an apprehension that incidences of bonded labour / child labour might increases. People who are in great economic distress may borrow money and fall into dept- trap.

The guidelines laid down are intended to cover the aspects of rescue, reparation as well as rehabilitation of the bonded labourers in the prevailing COVID pandemic. The uniform implementation across the country is expected to provide impetus and stimulus for better protection of human rights of these weaker sections of the society.

### **COVID -19 PROCEDURES FOR RESCUING BONDED LABOUR VICTIMS**

1. DM, SDM or its designated team of labour and police officials must investigate any complaint of bonded labour (BL) within 24 hours of receiving the complaint. If the investigation results in finding of bonded labourers then the labourers must be immediately rescued or moved to a safe location within 24 hours of conducting the investigation. For this purpose, the following members shall be part of a Rescue Team when conducting BL interventions:
  - a) One representative of the DM having jurisdiction not below the rank of Tehsildar to enable such representative to fulfill such duties as provided under the BLSA and Central Sector Scheme for Rehabilitation of Bonded Labour-2016;
  - b) One police officer nominated by the Superintendent of Police;
  - c) The Labour Officer (LO) having jurisdiction to inquire into, enforce and compensate under various labour laws including Minimum Wages;
  - d) Adequate number of police officers to secure the premises;

- e) One or more women officers;
- f) One qualified doctor along with a licensed health-care worker;
- g) One police photographer;
- h) Two independent witnesses, at least one of whom should be a woman;
- i) The complainant;
- j) One of the members of a civil society organization or social workers for rescued labourer support including counselling and other

2. The DM and its designated team must ensure compliance to the following points while undertaking the spot inspection in a brick kiln:

- a) *Whether the brick-kiln operator obtained a license to run the brick-kiln from Competent Authority or not? If obtained, the details thereof. If not, why it has been allowed to operate and forward the name/s of persons with designation permitting to operate without license.*
- b) *Whether record of registration of the unit, employer and the workers, as per guidelines of the State Government has been maintained;*
- c) *How many labourers belong to S.C./S.T./O.B.C.? And whether the violation of provisions of SC/ST Act is considered during enquiry.*
- d) *Total number of labourers, male, female, child with names, and their complete address.*
- e) *Amount of wages paid to them – monthly / fortnightly. Is it in conformity with the notified minimum wages.*
- f) *Forward the legible copies of wages register, muster roll, wage slips, copies of Registers required to be maintained under various labour legislations (Payment of Wages Act, Contract Labour (Regulation & Abolition) Act, Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act.*
- g) *Whether the labourers were employed directly or through an agent / Thekedar / Contractor and whether such an agent obtained a license under the law or not?*
- h) *Total number of migrant labourers from Nepal and Bangladesh, if any, details thereof and action taken for their deportation through the concerned Foreigners Regional Registration Officers.*
- i) *Whether the recruiting agents obtained a licence under the Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979, whether the Principal employer obtained a Registration Certificate under the Act or not, and whether the brick- kiln operator paid benefits under the aforesaid Act and the Rules made there under or not. If there is failure, forward the names of officers with their designations.*
- j) *Whether actions for violations of provisions of other relevant Acts like IPC, POCSO Act, JJ Act, SC/ST Act have been taken in the matter, if yes details thereof, if not, reasons thereof?*

- k) *Whether the brick-kiln owner has followed all the provisions contained in the Minimum Wages Act, 1948 and the Rules made there under or not. If not, what action is taken?*
  - l) *Whether the labourers have been provided with basic amenities like schooling to children, Medical and Health care, Food, Water, Sanitation / toilets and proper accommodation by the employer?*
  - m) *Whether the labourers have been got medically examined by the District Administration during the course of enquiry, if not, reasons thereof?*
  - n) *Whether the concerned District Magistrates of their native place have been informed of their release and steps taken for ensuring their safe arrival at the destination point, if yes, details thereof?*
  - o) *Whether recoveries of Rs. 20,000/- each has been made from the employer in favour of the Child Labourers and the funds @ Rs. 25,000/- each stand deposited with the District Magistrate for the welfare of such Child labourers, if not reasons thereof, if yes, details thereof.*
  - p) *Whether Vigilance Committee as mandated under the provisions of the Bonded Labour System (Abolitions) Act, 1976, was constituted or not. If not, the reasons thereof. If functioning, since when? You may give all the details of the Committee constituted according to law.*
  - q) *Whether the members of the Vigilance Committee belonging to SC & ST accompanied the team or not? If not, the reasons of the same to be conveyed.*
3. Prior to conducting a rescue intervention/spot inquiry, the DM or SDM must ensure that concerned rescue team members are trained on COVID-19 precautions. Each team member must be assessed for any common signs and symptoms of COVID-19 to reduce the exposure of the infection. This includes recording of self-monitor temperature checks and installation of Aarogya Setu App on the mobile phones of the rescue team members, as far as possible.
4. When conducting rescue interventions/spot inquiries, the DM or SDM must ensure that members of the rescue/spot inquiry team adhere to Government orders on reducing the risk of COVID-19 infection:
- a) Wear sterilized face-masks/face shields, disposable gloves and use hand sanitizers among other personal protection equipment (PPE).
  - b) Clean and disinfect frequently touched objects and surfaces.
  - c) Maintain a physical distance of one meter (three feet) when interacting with others.
  - d) Avoid and prevent mass gathering at the rescue/spot inquiry location.
  - e) Should the rescue be conducted in another State, upon returning, team members must follow the mandatory quarantine/self-isolation protocol for a period of two weeks and must be medically examined for COVID-19 if they demonstrate symptoms (fever, cough, difficulty in breathing).
  - f) Install Aarogya Setu App, as far as possible.

5. Upon rescue, the DM or SDM must ensure that rescued labourers are provided with face-masks and are made aware of public health hygiene measures like hand hygiene, physical distancing, respiratory etiquettes etc. Such awareness shall also extend to preventing and addressing the social stigma associated with COVID-19. They will also be subjected to general medical check up by the doctor in the team.
6. When arranging transportation for the rescue and repatriation of BL survivors, the DM or SDM shall ensure that seating arrangements are implemented in reference to the physical distancing guidelines (among other precautionary measures) and the precautionary measure so as to reduce the exposure and risk of COVID-19 infection.
7. The DM or SDM must ensure that rescued victims are assessed for common signs and symptoms of COVID-19; pregnant women, those above the age of 60-65 years and infants/children below the age of 10 years should be prioritized, if present.
8. The DM or SDM must ensure that rescued victims demonstrating COVID-19 symptoms are separated from others to reduce the spread of the infection as well as be provided with prescription from the medical practitioner.
9. If any labourers are suspected for COVID-19, the DM or SDM must ensure that concerned rescued labourers are immediately escorted to the nearest health facility to access free testing and treatment. At the time of rescue, if pregnant women and infants are suspected to be at high-risk of COVID-19, ambulances shall be arranged to transport such victims to the nearest health care center, medical college, district hospital to receive further essential health services free of cost.
10. The DM or SDM, in coordination with the police, shall ensure that rescued victims are separated and protected from the offender and his associates. Additionally, when rescued victims are waiting their turn to provide statements to the police and other concerned authorities, it shall be ensured that a physical distance of one meter (three feet) is maintained. An audio record of statements may also be simultaneously made for ease of sharing and post facto documentation.
11. At the time of rescue, the rescue team must retrieve victims' personal documentation - that were confiscated or held in possession by the exploiters/accused – to avoid experiencing additional barriers when accessing COVID-19 related health care and other services.
12. To issue a release certificate, the DM or SDM shall conduct an inquiry in a free and fair environment, in respect of each labourer separately or with his family, in the absence of the offender and in the presence of a member of a civil society organization or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked the labourer should include questions

regarding advance or other obligation, wage payments, freedom to travel, seek alternative employment, and sell or purchase goods at market value, and questions regarding other offences against schedule castes or tribes, offenses against children etc. It shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedure for criminal trials do not apply to such an inquiry.

## **COVID-19 PROCEDURES FOR RESTORING BONDED LABOUR SURVIVORS**

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### **REPATRIATION**

1. Repatriation shall be subject to the consent of the rescued BL survivor. The rescuing DM or SDM shall be responsible for repatriation, which must be done at the earliest possible time and in any case, not later than 24 hours from the date of rescue. In case of rescued bonded labour survivors who are children in need of care and protection, the process under the provisions of the Juvenile Justice Act, 2015 shall be followed. However, rescued BL survivors tested positive for COVID-19 must be repatriated after due medical-care has been provided. In the event repatriation is not possible due to the prevailing conditions of Covid-19, the labourers must be escorted to a local safe location with adequate police protection.
2. Provision should be made for immediate cash transfer to the rescued labor.
3. As per the Supreme Court Order (dated 28th May 2020) on – “The originating State shall provide meal and water to the migrant workers during their journey. The State shall also take care of providing necessities during the period of transportation either in the bus or in the camps on the way” AND “The receiving State, after the migrant workers reach his native place, shall provide transport, health screening and other facilities free of cost”
4. The DM or SDM shall coordinate with both rehabilitation and rescue location’s police and District Administration for the quick and safe transfer, protection and rehabilitation of the BL survivor, which includes:
  - a) Providing food-water, shelter, basic hygiene products, medical aid and transport. The rescued labourers should be benefitted under the Atmanirbhar Bharat Package which provides for free food grain for migrant workers. Non ration card holders are entitled to 5kg of free grain per person per month and 1kg of chana per household per month.
  - b) Providing immediate financial assistance to the BL survivors.
  - c) Providing information to the survivors on their rights to rescue and rehabilitation and providing them with access to psycho-social support through NGOs.
  - d) Sending a written request to the local police (of the rehabilitation location) to ensure the protection of BL survivors against possible harassment and intimidation by the identified offender or his associates.
  - e) Sending a written request for immediate rehabilitation of the BL survivors to the concerned officials of the District Administration, including the District Magistrate (of the rehabilitation location).

5. The DM or SDM shall ensure that his representative, along with the police, accompanies BL survivors during such repatriation. At all times, the DM or SDM shall ensure the identified offender is not allowed to come into contact with the labourer.
6. When arranging transportation for the BL survivors, the DM or SDM shall ensure that seating arrangements are implemented in reference to the physical distancing guidelines (among other precautionary measures) on reducing the exposure and risk of COVID-19 infection.
7. The DM or SDM shall ensure that BL survivors will be provided with mandatory thermal screening for COVID-19 and are registered on the National Migrant Information System, upon reaching their home state or district.
8. The DM or SDM may ensure that rescued bonded labourers upon reaching their home state or district, must follow the mandatory quarantine protocol for a period of two weeks (either at home or in State/District organized quarantine facilities/centres) to reduce the exposure and risk of COVID-19 infection. The DM or SDM must inform the rescued labourers of this procedure and designated quarantine locations. During the time of quarantine and during transit, the receiving state or district DM or SDM shall ensure that COVID-19 emergency relief support – includes food-water, shelter, basic hygiene, medical care, social protection and financial support (among other identified immediate needs) - are provided to the BL survivors.
9. The DM may ensure that the District/Sub.-Divisional Vigilance Committees and District Task Force convene via video conferencing and along with Railways Police Force/GPF and Child Welfare Committees be vigilant against the expected increase in bonded labour and child labour trafficking.
10. The Government of India should frame a Repatriation policy for relief and rehabilitation of bonded laborers when two or more States are involved.

## **REHABILITATION**

Where a BL survivor has been repatriated but, in the opinion of the Designated Magistrate, is later required to be summoned for evidence, the Designated Magistrate should ensure that any expenses incurred by the labourer or witness in this regard are met and that such a BL survivor (or witness) is given adequate protection during and post-trial. Given the risks involved in travel during the ongoing COVID-19 pandemic, the DM/SDM along with the police authorities shall make efforts to ensure that the testimony of the survivor is recorded by the concerned court through video conferencing.

1. The DM or SDM (through their subordinate staff specifically assigned and accountable to do the needful) shall provide any benefit due to the BL survivor including new and existing central and state benefits not included under the Bonded Labour System Act, which are eligible and free-of-cost to the rescued BL survivor, such as:

- Food-Water Security
  - Financial Assistance - This includes ensuring that Labour Officials initiate proceedings under the Minimum Wages Act (1948) and immediate cash relief of Rs. 20,000 for each BL survivor, where applicable. Compensation under the SC/ST Act, in case rescued survivor belongs to SC/ST category; as well as the *2016 Central Sector Scheme for the Rehabilitation of Bonded Labourers* - would also be considered.
  - Shelter and Housing
  - Transport Facilities
  - Employment Guarantee
  - Healthcare- This includes community health services listed under the National Rural Health Mission such as ASHA, Aanganwadi and Integrated Child Development Scheme (ICDS) among others. The DMs shall also take steps to ensure that the bonded labour survivors are provided various benefits under the State-specific Schemes.
2. The DM or SDM (through their subordinate staff specifically assigned and accountable to do the needful) shall coordinate with relevant authorities to expedite provision of new and existing public benefits and schemes (includes cash and non-cash components such as the *2016 Central Sector Scheme for the Rehabilitation of Bonded Labourers* or 2016 CSS) including issuance of the following to the BL survivor -
    - a) Release Certificate (within 24 hours of being rescued)
    - b) Aadhaar Card
    - c) Ration Card
    - d) Caste Certificate
    - e) Voter ID
    - f) MNREGA Card
    - g) Land Patta
    - h) Government Health Insurance
    - i) Any other relevant or required document
  3. The DM or SDM shall provide the BL survivor or their representative with receipt of any application for provision of any benefit due to the labourer including benefits not included under the Bonded Labour System Act; herein or benefits that are specific to the bonded labourer.
  4. The DM or SDM (through their subordinate staff specifically assigned and accountable to do the needful) shall ensure the BL survivors (child/adult) are provided access to new and existing educational services, schemes and resources.
  5. The DM or SDM (through their subordinate staff specifically assigned and accountable to do the needful) shall ensure that BL survivors are provided access to counselling centres, primary health centres, opening of bank accounts, help desks at block and district level to provide all necessary information

regarding schemes of the Central and State Government and further assist migrant labourers to identify avenues of employment and benefits which can be availed under the different schemes.

6. The DM or SDM (through their subordinate staff specifically assigned and accountable to do the needful) shall ensure that regular follow-up is conducted with the BL survivors and further assistance and support is provided for their well-being.

### **Other Recommendations**

1. State Government needs to work in close coordination with civil society groups for effective rehabilitation of the rescued laborers.
2. Efforts should be made for Home- delivery of mid-day meals to children (similar to the practice adopted in Kerala). Working closely with NGOs can help facilitate this.
3. Efforts should be made by the State Government/ District Administration to work closely with the Department of Education to boost enrolment of children into schools to minimize the number of children falling out of education system and into child labor.
4. Efforts should be made to have effective distance-learning solutions for vulnerable children.
5. Awareness Programs should be conducted in source areas of trafficking/ vulnerable areas/ villages through intensive campaigns/ advertisements to educate the communities about the threat of bonded labor/ trafficking.
6. Efforts should be made for strengthening labor inspectorates to monitor bonded labor through video based monitoring/ Regular inspection of Brick kilns, factories to ensure the employer is providing the employees with wages, health facilities, following social distancing, maintaining records etc.
7. Setting up cash transfer programs as income support for vulnerable populations, providing them with alternative income generating opportunities to mitigate the risk of child labor and bonded labor as during this time poor households are driven to contract debt to survive.
8. Efforts should be made by the State Governments to initiate registration of workers in the unorganized sector.
9. Attempt should be made to develop a system where all employers running units in the unorganized sector are made to periodically submit a list of workers, wages paid to them, period of employment etc.

- 10.State Governments should consider increasing the budget allocated for rehabilitation of the rescued bonded laborers.
11. A bonded labour Help-Line may be introduced in every state..
- 12.Special drive should be organized in each district with the help of agencies including the civil society organizations/ NGOs, Trade unions /Workers' Organizations, Students of Social Work NCC, NSS and NYK, Panchayati Raj Institutions Central Board Of Workers Education, Training Institutions and others to locate the bonded labourers in distress.
- 13.It is imperative to prevent them from influx to bondage because of pandemic situation. Therefore, poverty reduction strategies should be merged with skill development activities. Skill development will generate more employment and hence more income and hence reduce vulnerability to bondage.
- 14.Literacy level of the poor households should be taken seriously while planning to develop skills. Skills that are less demanding on education may be chosen.
- 15.The social protection programmes should be designed in the right based direction in order to deal with a specific vulnerabilities of the marginalized, impoverished, indigenous, socially excluded, disadvantage it and discriminated population groups. All State Governments may consider formulation of social security schemes, for all category of workers, contract labour, bonded labours, migrant labourers, unorganized sector labour etc in the light of the Code on Social Security, 2020 passed by the Union Government.
- 16.Imparting training for acquiring and developing employable skills by the released bonded labour should be given importance for quality rehabilitation and for reintegrating. There may be lack of knowledge among the bonded labour about the gains from acquiring skills. The benefits of training have to be made clear and interest in acquiring skills through training should be empathetically incalculated.
- 17.Training in acquiring new skills and developing existing skills should be undertaken after carrying out exercise by each sectoral department / agency in order to identify the employment potential and skill requirement in each area. To start with, such an exercise may be undertaken in the cottage and village industries, handicrafts small trade and business and thereafter in other sectors of economy for establishing in linkages with imparting contemporary relevant skill training for productive employability.
- 18.The philosophy of social security to include the principal of unemployment allowance for unorganized workers for any form of loss employment and means of wage / income.

19. Universal health coverage and access to be extended to all migrant / unorganized workers.
20. Vulnerability and hot spot mapping – States should undertake data collection on unorganized sector workers in all sectors and manage data base especially for prone sectors like agriculture, construction, brick kilns, garments manufacture etc. Support of panchayati raj institutions, village watch wards, community leaders could be useful.