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Letter no 1392/36-03-12

Sender

Atul Kumar Gupta
Chief Secretary, UP Govt.
To.
1. All Divisional Commissioners of Uttar Pradesh.
2. All District Magistrates of Uttar Pradesh.
Labor Section-3 Lucknow: Dated 09 July, 2008

Subject: Criminal Writ Petition No. 15630/06 Vishnu Dayal Sharma Vs Regarding identification of child labourers, educational rehabilitation and economic rehabilitation of families in compliance with the order dated 22.05.08 passed by the Hon'ble High Court of Allahabad in the State and others and the guidelines of the National Human Rights Commission.
Sir,

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In the above-mentioned writ petition, the Hon'ble High Court of Allahabad, in its order dated 22.05.08, has directed for effective action through mutual coordination between all the concerned departments of the government regarding identification of child laborers, their educational rehabilitation and benefiting the families of child laborers from employment-oriented schemes. Similar instructions have also been issued by the National Human Rights Commission.

To implement the Child Labor Elimination and Rehabilitation Program in the state, a "Child Labor Elimination District Committee" has been formed at the district level under the chairmanship of the District Magistrate. This committee is required to play an active and important role for the success of the Child Labor Elimination Program in the district. This committee will need to establish better coordination between the government's departments of Basic Education, Women and Child Development, Health, Home Revenue, Rural Development, and Urban Development and take comprehensive action. Therefore, the District Magistrate is responsible for holding regular meetings with the Child Labor Elimination Committee in each district, reviewing the progress of the work, and effectively ensuring the elimination and rehabilitation of child labor. He is expected to take the following actions:

1- Identification of child labour:-

The Child Labour (Prohibition and Regulation) Act, 1986 prohibits the employment of child labour in 15 occupations and 57 processes. Besides the Labour Department, officers of other departments, such as the Sub-Divisional Magistrate, Tehsildar, Naib Tehsildar, Block Development Officer, Assistant Block Development Officer, Basic Education Officer and Assistant Basic Education Officer, have also been declared "Inspectors" under the Act by Notification No. 3401/36-3-98-16(SA)-97 dated 28.12.1998.

(1) Therefore, the District Magistrate should prepare a district level action plan and conduct timely inspection campaigns for identification of child labourers through the notified inspectors of the Labour Department and other departments available in the district.

(2) The inspection notes/survey forms used by inspecting officers/inspectors when identifying child labourers should clearly and completely mention the names of the child labourers, their fathers and their residences. No negligence should be shown in this regard.

(3) Child labourers engaged/identified in hazardous occupations/processes should be separated from work and produced before the Child Welfare Committee (CWC) constituted under the Juvenile Justice (Care and Protection of Child Labour) Act, 2000, so that not only the separation of the child from work is ensured but also the health and age of the child can be examined through the Child Welfare Committee. It should also be ensured that the age certificate of such identified child labourers is obtained from the Chief Medical Officer within 48 hours.

(4)Whatever orders are passed by the Child Welfare Committee for temporary protection of the child, the details of the same must be recorded in the office records and later the educational rehabilitation/ rehabilitation of that child with the family should also be monitored (tracked) and the entry in the records should be updated accordingly.

(5) To discourage the use of child labor in industries, raids are essential, but they must be conducted in a planned manner, not just randomly. To this end, while periodically alerting and cautioning industries, effective enforcement should be implemented by gathering accurate intelligence on potential child labor, taking the District Magistrate into confidence, and obtaining his prior approval. Efforts should be made to conduct such raids in locations where there is definite information about widespread child labor.

2- Educational rehabilitation of child labourers: -

(1) The list of child labourers identified for educational rehabilitation of manual labourers should be made available by the Inspector to the Basic Education Officer/Project Director, National Child Labour Project within three days of inspection, so that educational rehabilitation of the child labourers becomes possible in case they belong to the local district.

(2) The relevant inspector should obtain details of a child's school admission from the Basic Education Officer. Cases regarding children for whom the Basic Education Department does not provide information in a timely manner should be brought to the attention of the District Committee for the Elimination of Child Labor, which will decide on further action and ensure educational rehabilitation.

(3) Out of the child labourers identified so far in hazardous and non-hazardous occupations and processes, the enrolment of those child labourers who are left for educational rehabilitation must be ensured by 31.08.2008 in all cases and information regarding the same must be made available to the Labour Commissioner, Uttar Pradesh by 01.09.2008.

(4) The responsibility for educational rehabilitation of the Force Labourer shall be of the concerned Inspector and the Basic Education Officer of the district.

3- Economic rehabilitation of child labour families:-

(1) The details of the families of child labourers identified in hazardous occupations and processes along with their addresses should be made available to the Chief Development Officer of the district, Rural Development Department, Urban Development Department within a week of inspection.

(2) The Chief Development Officer will ensure that one able-bodied adult unemployed person from the family of the concerned child labourer must be covered under employment oriented schemes run by various departments of the government within one month of receiving the list, so that the family size can increase.

(3) The District level officer of the Labour Department shall contact the Chief Development Officer in this regard and obtain the list of rehabilitated families and shall make entries accordingly in the office records.

(4) If information regarding such families is not received from the Chief Development Officer and other departments running employment oriented schemes, the Child Labour Eradication District Committee will consider and take further action and take a decision.

4- Recovery of compensation from employers:-

(1) As per the Supreme Court's decision dated 10.12.96, compensation at the rate of Rs. 20,000 per child labourer employed/removed in hazardous occupations and processes is being recovered from employers, like land revenue. Currently, approximately Rs. 14.00 crore remains to be recovered in the state.

(2) Like land revenue, collection is handled by the Revenue Department at the district level. The District Magistrate must review collections at each annual meeting of the District Committee for the Elimination of Child Labor, and ensure that collections are made on priority.

(3) Investment of the recovered amount and utilization of the interest earned for the welfare of the concerned child labourers should be ensured in accordance with the "Uttar Pradesh Child Labour Rehabilitation and Welfare Fund Rules-2000".

5-Regarding prosecution:-

(1) The relevant inspector should ensure that prosecutions filed against employers in competent courts are duly prosecuted. Subpoenas and warrants issued by courts for evidence should be dutifully executed through the police department.

(2) For the speedy disposal of pending prosecutions, which number about 7700 in the state, the same should be brought to the notice of the District Legal Services Committee and the competent court should be requested to dispose them off within a fixed time period.

6-Review related:-

(1) The District Committee for the Elimination of Child Labour, constituted at the district level, includes district-level officers from various departments as members. To ensure better coordination at the district level towards the elimination and rehabilitation of child labour, the District Magistrate will ensure effective monitoring by conducting regular reviews at his monthly staff meeting.

(2) In the monthly review meeting held by the District Magistrate with respect to the Government officials, he shall specially review the disposal of cases related to the Child Labour Act and shall keep a close watch on the status of their speedy disposal/prosecution.

(3) The Divisional Commissioner shall regularly review the progress of the child labour scheme and prosecution in his monthly staff meeting and shall ensure that evidence action is taken by sensitizing all the concerned departments.

You are requested to ensure that under your able guidance, along with identification of child labourers, educational rehabilitation of child labourers, rehabilitation of families and other required above mentioned actions are taken on priority basis and monthly progress report is made available to the Labour Commissioner, Uttar Pradesh through the regional office of the Labour Department. The Labour Commissioner, Uttar Pradesh should ensure that the compiled report of the progress made in this regard is made available to the Principal Secretary, Labour, Government of Uttar Pradesh on the prescribed format every month.

Yours sincerely,

(Atul Kumar Gupta)
chief Secretary,

Nos. 1332 (1)/36-3-08, dated the same date

Copy-For information and necessary action to the following:

1. Principal Secretary/Active Labour/Basic Education/Women and Child Development/Revenue/Justice

Development/Urban Development, Government.

2. Departmental instructions to Principal Secretary, Medical and Health and Principal Secretary, Home Department

3.Labour Commissioner, Kanpur, Uttar Pradesh.

4.Forwarded to the Director, Information and Public Relations Department for publication.

5.Special Secretary, Planning (National Human Rights Commission), Aggressive Governance.

6.Home(Human Rights) Section-1. UP Government.

7.Private Secretary to Chief Secretary, for information of the Government

8. Private Secretary to Hon'ble Labour Minister, 3020 for information of the Government

9. Guard Phyla

From now on.

(Satyendra Kumar)
Secretary

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