



## THE SUPREME COURT ON CHILD LABOUR

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### SYNOPSIS

The case of Bandhu Mukti Morcha and the case People's Union of Civil Liberties Vs Union are discussed in detail with the comments of Arun Shourie on the cases in his famous book Courts and Their Judgments are discussed in the paper.

### The Bandhu Mukti Morcha Case

Swami Agnivesh, a social worker began drawing attention on bonded labourers in the quarries around Delhi. Swami Agnivesh and his associates, accompanied by journalists, photographers, swept down on Surajkand – a place on the outskirts of Delhi and they liberated the labourers who were in bondage.

Swami Agnivesh approached the then Chief Minister, and tried to take his help but he was threatened by the then Chief Minister. When he tried to register a complaint with the police but he was dragged nearly for two years into the courts as a Naxalite.

### The case in the Supreme Court

On 25<sup>th</sup> February 1982 Swami Agnivesh wrote to Justice P. N. Bhagwati regarding bonded labourers. The commission was sent by the Court and the Commissioners confirmed everything which Swami Agnivesh had affirmed.

The matter was heard and the Court ordered that the labourers be released. A two man Committee was appointed to investigate. The Committee submitted a report in June 1982. Justice Bhagwati delivered the Judgment on 16 December 1983 and gave 21 directions.

1. The Court directed the Director General, Labour Welfare to report about the implementation. After three months the report was submitted stating that – **not one of the 21 directions had been implemented** because of the limited time and only 300 workers were examined and 295 workers were in bondage.

The Court gave order to Additional Commissioners to examine the cases of the remaining 15000 workers but nothing happened.

After a year had passed, 4000 to 5000 labourers, their wives and children sat down in a dharana at the office of the District Collector in Faridabad, demanding that the Supreme Courts directions be implemented.

2. Swami Agnivesh filed a **Contempt of Court petition in 1985** – the petition was adjourned for 78 times.

After 1 year the Bandhu Mukti Morcha declared that on 16<sup>th</sup> March 1986, it would wrap the text of the Judgment in paper and cloth and send it to the Supreme Court as a stillborn child.

The Chief Justice scheduled the case during the Court vacation, he retired without delivering the judgment.

He was replaced by Justice Pathak – who said that as one of the Judges who had been hearing the case had retired, the complete petition must be filed again.

The petition was accordingly filed again.

Justice Pathak retired replaced by Justice Venkataramiah – who was replaced by Justice Sabyasachi Mukherji – who was replaced by Justice Ranganath Mishra.



Swami Agnivesh labored again to collect the facts and gave a list 2800 bonded labourers. Haryana Government submitted that – there had been 544 bonded labourers, of these 250 hailed from other states and they had been sent back to those states, and 18 had been rehabilitated; the rest were not traceable. Hence there was no bonded labourers in or around the quarries.

Hearing followed hearings.

3. In the 1988 Mahabir Jain, **Commissioner of the national labour institute submitted a report and stated that – not one of the Court’s 21 directions had been put into effect.**

4. on 21<sup>st</sup> February 1991 a **committee** was appointed which submitted the report on 30<sup>th</sup> June 1991 and stated that 1983 labourers were in bondage. The report also showed that - **Directions of the Supreme Court were not observed** by any contractor.

On 13<sup>th</sup> August 1991 the Chief Justice pronounced the judgment.

The author has commented:

Another grandiloquent chapter had thus far remained on paper.

The bonded labour case has been one of the most prominent initiatives of the Supreme Court in the realm of social jurisprudence. Its judgment on the matter has been in the judicial eye all along – the case is an oft-cited one; it is mandatory reading in the LL.B. course. The case concerns not some far-flung area in Mizoram. It concerns quarries on the outskirts of Delhi. The law is a law enacted by parliament, not by the Legislature of some outlying state. The tribunal involved is not some Munsif court but the Supreme Court. Within that Court, Chief Justice after Chief Justice has been personally involved in handling the matter and delivering the judgments.

Moreover, the Supreme Court has not restricted itself to enunciating general principles; it has taken great pains to give directions.

#### **Parallel Proceeding:**

A parallel proceeding about bonded labour was instituted – this one also was in the Supreme Court – by the *People’s Union of Civil Liberties v. Union of India* (AIR 1997 SCC 1203). It addressed the problem in the country as a whole.

In *Peoples Union for Democratic Rights v. Union of India* (1997 (1) SCC 301) the Court had said – ‘Time has now come when the Courts must become the courts for the poor and struggling masses of this country’.

#### **Furthermore, the Supreme Court declared:**

‘Whenever any fundamental right which is enforceable against private individuals such as, for example, a fundamental right enacted in Article 17 or 23, 24 is being violated, it is the constitutional obligation of the State to take the necessary steps’.

The author commented that – **the implementation of the judgment remained on paper only.**

#### **REFERENCES**

- 1) Bandhu Mukti Morcha case – AIR 1997 SC 2218.
- 2) People’s Union of Civil Liberties v. Union of India - AIR 1997 SCC 1203.
- 3) Shourie Arun - *Courts and their Judgements* - Rupa and Co. New Delhi 110002 - Forth Impression 2010.