



ABSTRACT

Labour Welfare and Skill Development Department – Bonded Labour – Standard Operating Procedure – Consideration of some points to be modified in the Standard Operating Procedure of Bonded Labours – Approved.

LABOUR WELFARE AND SKILL DEVELOPMENT (U1) DEPARTMENT

G.O.(Ms) No. 138

Dated 28.09.2021

பிலவ வருடம், புரட்டாசி 12
திருவள்ளூர் ஆண்டு 2052

Read:

1. G.O.(Ms) No.35, Labour and Employment (U1) Department, dated 08.03.2019.
2. From Ms.D.Rachel Prasannah, Government Relations Manager, International Justice Mission, Chennai-8, Letter dated: 10.12.2019.
3. From the Commissioner of Labour, Letter No. T2/39824/2017, dated 21.09.2020 and 27.07.2021

ORDER:

In the Government Order first read above, the Government of Tamil Nadu have approved Standard Operating Procedure for Identification, Release, Rescue and Rehabilitation of Bonded Labour and implementation of Bonded Labour System (Abolition) Act, 1976.

2. In the letter second read above, Government Relations Manager, International Justice Mission (I.J.M), Chennai in her representation, dated 10.12.2019 suggested some points for modification in the Standard Operating Procedure, based on some gaps and practical challenges on the field.

3. Accordingly, in the letters third read above the Commissioner of Labour has sent necessary proposals for amendment / inclusion / modification in the Standard Operating Procedure issued vide G.O. (Ms) No. 35, Labour and Employment (U1) Department, dated 08.03.2019 to the Government for approval.

4. The Government have examined the proposal of the Commissioner of Labour carefully and accept the amendments/ inclusions / modifications in the Standard Operating Procedure and issue necessary amendments to the Standard Operating Procedure issued vide G.O.(Ms) No.35, Labour and Employment (U1) Department, Dated: 08.03.2019, as annexed to this Government Order.

(BY ORDER OF THE GOVERNOR)

R. KIRLOSH KUMAR,
SECRETARY TO GOVERNMENT.

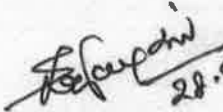
To

All Additional Chief Secretary's / Principle Secretary's /
Secretary's to Government, Chennai - 600 009.
The Principle Secretary / Commissioner of Labour, Chennai - 600 006.
The State Level Officer (Bonded Labour), Chennai - 600 006
The Director of Industrial Safety and Health, Chennai - 600 032.
The Director of Employment and Training, Chennai - 600 032.
The concerned Heads of the Departments and all Collectors,
through the Commissioner of Labour.

Copy to:

The Senior Personal Assistant to the Hon'ble Minister
(Labour Welfare and Skill Development), Chennai - 600 009.
The Senior Private Secretary to Secretary to Government,
Labour Welfare and Skill Development Department, Chennai - 600 009.
Stoke File / Spare Copies

//FORWARDED BY ORDER //


28.9.2021
SECTION OFFICER

ANNEXURE

Amendment to the Standard Operating Procedure

(G.O.Ms.No. 138 Labour Welfare and Skill Development (U1) Department,

Dated:28.09.2021)

Sl. No	Para No	Details in the Standard Operating Procedure (Vide G.O.(Ms) No.35, Labour and Employment (U1) Department, dated 8.3.2019)	Amendment
1	3.2(a)	One representative of the District Collector having jurisdiction not below the rank of Tahsildar to enable him to perform such duties as provided under Bonded Labour System (Abolition) Act, 1976 and Central Sector Scheme for Rehabilitation of Bonded Labourers- 2016;	For the word "Tashildhar" the word "Revenue Divisional Officer" shall be substituted
2.	3.2(h)	Members of a civil society organization or social workers for rescued labourers support including counseling and other roles.	Before the term "Members of a civil society organization" the term "District and Sub-Divisional Vigilance Committee members" shall be added.
3.	3.2 (i)	Any other necessary person nominated by District Collector.	This shall be modified as under: Any member of one stop crisis team authorized by the District Legal Services Authority shall provide adequate legal assistance to the victims throughout the process from identification to trial and implement the witness protection scheme. In addition to Vigilance Committee, District Legal Services Authority wherever needed may be included.
4.	3.2(j)	(Addition)	In Para 3.2 the additional clause 3.2 (j) shall be added as under: 3.2 (j) The District Child Protection Units to assess

			whether the child/children are exploited sexually or any other child related abuse like physical assault, confinement and take action to ensure protection appropriately.
5.	3.5	The authorities concerned shall ask brief questions to the labourer in the absence of the offender and in the presence of a member of a Civil Society Organization or a social worker to determine whether there are indications of bonded labour. Such brief questions should include questions regarding nature of the advance or other obligation, payment of minimum wages of rights, freedom to travel as per rule of Bonded Labour Act, such document as wages and ability of the labourer to leave or work elsewhere.	<p>This shall be modified as under:-</p> <p>The authorities concerned shall ask brief questions to the labourer in the absence of the offender and in the presence of Vigilance Committee members/ Members of a Civil Society Organization / Social Worker to determine whether there are indications of bonded labour. Such brief questions should include questions regarding nature of advance, debt, payment less than minimum wages or other obligation with any one of the rights i.e.,</p> <ul style="list-style-type: none"> a) Freedom of Employment b) Right to move freely throughout India c) Right to receive the legal Minimum Wage d) Right to appropriate or sell at Market Value any of his product <p>forfeited under the Bonded Labour System (Abolition) Act, 1976.</p> <p>The proceedings may be audio/video recorded to ensure fair proceeding.</p>
6.	3.6	The authorities concerned shall ensure that all the relevant evidences if any available of the employer / offender, such as phone books	The word "Videographed" may be added after the word "Photographed".

		(directories with the number of other traffickers or accomplices), mobile phones, travel tickets and documents, accommodation receipts, bank statements, wage receipts/slips and registers, muster rolls, ledger books, bond agreement, notebooks, cash, weapons, locks, ownership documents, lease, license are photographed and seized by the police, and the offender is arrested as per the Code of Criminal Procedure, 1973 ("CrPC").	
7.	3.7	The authorities concerned shall ensure that the police prepare a "Magajar" seizure list and rescue memo detailing the identities of the rescued labourer and his contact details, and cause it to be signed by two independent and local witnesses. (Annexure-II and III) from the same of any other locality.	The word " of " may be read as " or ".
8.	4.3	The authorities concerned shall within 24 hours, issue a release certificate in the format prescribed in the Central Sector Scheme to each rescued bonded labourer, including children, found to be bonded labourer even if they are accompanied by families.	For the term "found to be bonded labourer even if they are accompanied by families" the term "If the children found to be working along with their families are also bonded labourers" shall be substituted.
9	4.5	The authorities concerned shall take necessary action for the medical examination of the victim by a registered medical practitioner for the purpose of age, injury or disease incidental to the exploitation and occupational health hazards.	This shall be modified as under:- The authorities concerned shall within 24 hours of the rescue, shall take necessary action for the medical examination of the victim by a Medical Officer not below the rank of Assistant Surgeon for the purpose of age, injury or disease incidental to the exploitation and occupational health hazards before sending them to native.
10.	5(A)	(Addition)	After Para 5 the following para shall be added: 5(A) Launching of Prosecution

			<p>(1) While filing a First Information Report, the State Legal Services Authorities (SLSA) /District Legal Services Authorities (DLSA) shall provide necessary legal assistance to the prosecuting officers under the Act, wherever applicable till the conviction of the offender.</p> <p>(2) The Tamil Nadu State Legal Services Authority shall take all effective steps to provide free and competent legal services to the rescued Bonded Labour when the case comes up for trial by the para legal volunteers.</p>
11.	5.3	Upon a complaint being made to the Police, the authorities concerned shall ensure that all relevant documents in their custody including the Inquiry Form, Release Certificate, Executive Releasing order, Acquaintance of Initial Rehabilitation amount, Sub Divisional Magistrate's Report to District Magistrates and other relevant documents (W.P. No.32091 of 2016) and Medical Examination Reports, are furnished to the police at the earliest for effective investigation.	Before the term 'Release Certificate' the term "attested copy of the" shall be added. The term "Community certificates and any other related documents" shall be added after the term "Report to District Magistrates "
12.	5.4	The authorities concerned shall ensure that the police completes all the necessary procedure under the CrPC, the Bonded Labour System (Abolition) Act, 1976 in relation to the labourer, as soon as possible, such as taking of statements under Section 161 CrPC, if applicable, before the labourers are repatriated / moved beyond the jurisdiction of the said police.	<p>After the term" before the labourers are repatriated / moved beyond the jurisdiction of the said police" the following shall be added.</p> <p>"the District Legal Services Authority may provide necessary assistance to the victims while recording of 161 statement by police".</p>
13.	5.5	The Police shall take all effective steps to file FIR within 24 hours of the rescue and proceed under the Bonded Labour System (Abolition) Act, 1976, Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act,	<p>This shall be modified as follows:-</p> <p>The Police shall take all effective steps to Register/</p>

		1986 or under Section 370 of Indian Penal Code against the employer for having engaged in Human Trafficking, employing Bonded and forced labour. The charge sheet shall be accompanied with all the relevant documents for a fair trial.	Lodge FIR within 24 hours of the rescue and proceed under the Bonded Labour System (Abolition) Act, 1976, Child and Adolescent Labour (Prevention and Regulation) Act, 1986, Juvenile Justice (Care and Protection of Children) Act, 2015, Protection of Children from Sexual Offences (POCSO) Act, 2012, Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1986 or under Section 370 of Indian Penal Code against the employer for having engaged in Human Trafficking, employing Bonded and forced labour. The charge sheet shall be accompanied with all the relevant documents for a fair trial. The Police after completion of investigation will register the final report/charge sheet before Judicial Magistrate.
14.	5.6	(Addition)	After Para 5.5, the following para shall be incorporated 5.6 The Police shall complete the investigation and file the final report/charge sheet before Judicial Magistrate within 60 days from the date of the FIR.
15.	5.7	(Addition)	After Para 5.6, the following para shall be incorporated 5.7 The concerned investigating officer shall produce a copy of the charge sheet and other documents to the concerned District Legal Service Authority in order to enable the District Legal Services Authority to assist the victims during trial.

16.	6.1	<p>The Police after completion of investigation will file the final report before local Judicial Magistrate.</p> <p>The District Collector in Co-ordination with other line departments shall ensure to provide various benefits such as benefits under the Central or State Schemes including issuance of the following to the rescued labourer. The Rescued release certificate shall be considered as identity proof for the labourer.</p>	<p>The words "The Police after completion of investigation will file the final report before local Judicial Magistrate" shall be deleted, since the same has been already included in clause 5.5.</p>
17.	6.1(h)	<p>(h) Registration in the relevant welfare board and provide assistance under various schemes of Welfare Board like Marriage Assistance / Maternity Assistance / Educational Assistance / Old Age Pension,</p>	<p>This shall be modified as follows:-</p> <p>(i) Registration in the relevant welfare boards and provide assistance under various schemes of Welfare Board like Marriage Assistance/Maternity Assistance /Educational Assistance/Old Age Pension/Family Pension/ Disability Pension and assistance which is applied in any other welfare schemes.</p> <p>(ii) Pschyo –Social care or trauma care to be provided by Health Department.</p>
18	6.2	<p>Assistant Commissioners of Labour (Enforcement) being the Nodal Officer shall co-ordinate with the district administration officials of Directorate of Industrial Safety and Health, District lead Bank Manager, Directorate of Employment and Training, Rural Development and Panchayat Raj Department, Health and Family Welfare Department, Department of School Education, Adi Dravidar and Tribal Welfare Department, Backward Class, Most Backward and Minorities Welfare Department, etc., and Trade Unions and Non-Government Organizations in the process of rehabilitation.</p>	<p>After the term "Most Backward and Minorities Welfare Department" and before the term " and Trade Unions" the following shall be inserted:-</p> <p>"Social Welfare and Nutritious Meal Programme Department, Vigilance Committee members, District Legal Services Authority One stop crisis team."</p>

19.	6.2(a)	(Addition)	<p>After Para 6.2 the following Para shall be added:</p> <p>Vigilance Committee members to monitor the welfare assistance has reached or provided to the victims at the time of rescue and also to ensure that they get the various other entitlements for the Bonded Labourer.</p>
20.	6.4	The Assistant Commissioners of Labour (Enforcement) / Official of Directorate of Industrial Safety and Health shall take necessary action to provide the above schemes to the eligible rescued bonded labourer.	<p>After the term "to the eligible rescued bonded laborer" the word "residing in their jurisdiction District within the State of Tamil Nadu" shall be added.</p>
21.	6.6	Assistant Commissioners of Labour (Enforcement) shall upload all relevant data's, in the Bonded Labour Management System software developed by the Labour Department.	<p>The word "maintain" shall be added after the word upload. Further the following words shall be added:</p> <p>"The Assistant Commissioners of Labour may collect the details of non-cash benefits and conviction cases and upload the same in the portal".</p>
22.	9.2(a)	a) fooding, shelter, transport and protection,	<p>In Para 9.2(a) for the word "fooding" the word "food" may be substituted.</p>

R. KIRLOSH KUMAR,
SECRETARY TO GOVERNMENT.

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[Signature]
28/9/2021
SECTION OFFICER.

