

(1997) 05 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 587 of 1997

Mahabubnagar District Palamoori Contract Labour Union	APPELLANT
Vs	
M/s. Nagarjuna Construction Company Limited, Mallapur Village, Karwar District and Others	RESPONDENT

Date of Decision : 27-05-1997

Acts Referred:

Constitution of India, 1950 — Article 23
Contract Labour (Regulation and Abolition) Act, 1970 — Section 41, 42, 43, 44, 51

Citation : (1998) ILR (Kar) 1160 : (1998) 1 KarLJ 639

Hon'ble Judges : V.P. Mohan Kumar, J

Bench : Single Bench

Advocate : Sri V.S. Naik, Amicus Curiae, for the Appellant; Sri K.H. Jagadish, High Court Government Advocate, Sri K. Kasturi and Sri M.S. Padmarajaiah and Sri Ashok Harnahalli, Central Government Standing Counsel, for the Respondent

Judgement

1. A letter addressed by the President of the Mahabubnagar District Palamoori Contract Labour Union, one Sri P.N. Swamy, detailing the alleged misfortunes suffered by about 200 Palamoori labourers at work at NPCL site at Mallapur Village, Karwar District, was treated as Public Interest Writ Petition. Notice thereon was issued initially to the Nagarjuna Construction Ltd., Mallapur Village, Karwar, the Principal Employer, the Commissioner of Labour, Karnataka, and the Deputy Commissioner and District Magistrate, Karwar, enclosing the copy of the letter received (hereinafter referred to as respondents 1 to 3).

2. It was alleged in the letter that Mahabubnagar District in Andhra Pradesh is a backward District, that there is lack of employment prospects in the said District, that 7 to 8 lakh people migrate to other States in search of employment, that these workers are called "Palamoori Labourers", that 200 such workers are engaged by M/s. Nagarjuna Constructions Limited, the 1st respondent herein, to "work at NPCL site, Mallapur Village, Karwar, that these workers are not registered as inter-State migrant workmen under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

(hereinafter referred to as the "Inter-State Workmen Act"), that the employer is not following the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "The Contract Labour Act"), that a petition was made to the District Magistrate, Karwar, in that behalf early on 30-12-1995, but no action was taken therein and it was in these circumstances that the present letter was addressed to the Hon"ble Chief Justice of this High Court. In the letter it was specifically alleged that these workers work around 12 hours a day, that they are paid only Rs. 300/- a month after adjusting the advance paid and they are bonded labourers as defined in the Bonded Labour System (Abolition) Act, 1976. In particular, it is stated as follows:

"That Palamoori labourers are working morning 6 a.m. to 6 p.m. - 12 hours per day. They are not getting minimum wages, over-time wages, weekly holidays, free medical facility. The contractors paid some advance and they supply broken rice food, and tamarind water (Chinta pulusu) these labourers called also "CHINTHA PULUSU" LABOUR. After the completion of the agreement they calculate salary Rs. 300/- per month".

3. It was alleged in the letter that one worker Harijan Balaram was seriously injured in the course of employment.

4. On 8-1-1997, this Court while issuing emergent notice, had directed the 3rd respondent, namely, the Deputy Commissioner and District Magistrate, Karwar, to file a detailed report as regards the steps taken by him with reference to the alleged earlier petition filed and matters referred to. As the details were not forthcoming, on 27-1-1997, this Court furnished a copy of the letter to the Government Advocate and requested him to secure the required information. On 5-2-1997, an affidavit was filed by one Mr. L.R. Kodani, the Office Assistant to the Deputy Commissioner, Karwar, Uttara Kannada.

5. The affidavit sworn to by Mr. Kodani totally denied all the allegations contained in the writ petition. It alleged that the Assistant Commissioner "accompanied by the District Labour Officer, Revenue Officials and a posse of Police Officials visited the site on 29-1-1997. They alleged that there were only 34, seen working in the site. It was further stated that.-

(a) the workers expressed that they were free persons. It was also averred that.-

"necessary medical facilities have also been provided to them.... They have been provided free accommodation in make shift zinc sheet sheds with temporary electricity facilities and common water tank..."";

(b) Labourers themselves cook food;

(c) that Harijan Balaram was injured while unloading cement on 26-11-1996, that he was treated and was discharged on 11-1-1997;

(d) that an outstanding wages of Rs. 3300/- had to be paid to the above said Balaram on the date of his discharge and he was expected to return to collect the

money;

(e) that most of the workers had left for their native place;

(f) and that the workers are free persons who are free to move about.

6. A letter written by the Deputy Commissioner, Karwar, dated 1-2-1997, after his visit on 31-1-1997 and addressed to the Government Advocate, was also made available to the Court. The affidavit filed by Mr. Kodani is the reproduction in the form of a statement the contents of the letter dated 1-2-1997. In the letter dated 1-2-1997, the Deputy Commissioner has concluded stating as hereunder:

"Further, it may kindly be brought to the notice of the Hon"ble Court that action should be taken against the petitioner, Sri P.N. Swamy for misleading the Court and for making false and baseless allegations against the State....".

This claim has been faithfully reiterated in the affidavit of Mr. Kodani in the following manner:

"(viii) I submit that as the allegations made by the petitioner is false and frivolous, the writ petition filed by the petitioner deserves to be dismissed with exemplary costs".

In view of the emphatic assertion on behalf of the respondents denying the allegations of the petitioner, this Court considered that it would be proper to appoint a Commissioner to conduct a local inspection. Shri V. Gopala Gowda, Advocate, was requested to assist the Court in this behalf and he gladly accepted the task and made a local inspection without receiving any remuneration in this behalf except the actual expenses defrayed. This Court directed the 1st respondent to meet the actual expenses incurred by the Commissioner.

7. The Commissioner filed his report on 11-2-1997. A reading of the report has disclosed the very pathetic condition of the workers and how none of the authorities have not cared to see that the employer obeys the welfare legislation enacted by the State. It also disclosed how the authorities have either pretended ignorance of the law or how they have deliberately ignored the same. The report disclosed the following materials:

(i) The workers are engaged to construct 160 "C" type and 152 "B" type quarters by M/s. Nagarjuna Construction Ltd., the 1st respondent, at Kaiga Township. They have engaged one Mr. Shravana kumar as sub-contractor to execute the work. He has engaged the labourers through one Mr. Lakshmana who is his maistry. In the first place, it is seen that Mr. Shravana kumar has not taken any licence under the Contract Labour (Regulation and Abolition) Act, 1970. He has thus violated Section 12 of that Act. The maistry has brought the workers from Secunderabad and North Lalguda of Andhra Pradesh. He claims of bringing only 16 workers from Andhra Pradesh from the places mentioned above. This is clearly untrue. In the letter of the Deputy Commissioner dated 1-2-1997,

he reports to have met some workers from Bihar and Orissa. If that be so, the number of workers would increase if these workers are also added and would be above 20 and the Act referred to above will undoubtedly apply. In any event, as there are admittedly more than 5 workers, clearly these workers come within the ambit of the Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979. Admittedly, Mr. Shravana kumar has no licence under the said Act as well. Nor has the principal employer shown as to whether they have any such licence.

(ii) The sub-contractor has stated that the wages paid to the painters is at Rs. 80-85/- per day, whereas to that of the helpers is at Rs. 60/-. None of the authorities under the Minimum Wages Act has ascertained as to what is the minimum wages notified and whether what is allegedly paid is the minimum wages. There is no ascertainment as to whether the wages as claimed were paid at all.

8. The Deputy Commissioner along with the letter dated 1-2-1997, has produced the alleged individual statements given by the workers. The Advocate-Commissioner questioned the workers about the same and they have stated thus:

"... They stated that on 29-1-1997, the Assistant Commissioner, Karwar, Labour Department Officers and Police Officers visited the colony and obtained their signatures to the statements which were written in Kannada. Those statements were not read over and explained the contents of those statements to them. These workmen have stated to them that Mr. Lakshmana has brought them from Secunderabad to the said place stating that they would be taken to Goa to do the painting work. All those workmen, except one workman whose name I do not remember has categorically stated to me that they have not stated to the Assistant Commissioner that the 1st respondent is giving medicines, good food to them and they are happily residing in the make-shift, zinc sheet and wooden sheds temporarily constructed by the 1st respondent for their housing in the said colony".

This means that the statement in the letter and the averments in the statement of objections cannot be taken as correct. This conclusion is fortified by another circumstance. The Assistant Commissioner, Mr. P.V. Mohan has filed an affidavit on 17-3-1997, wherein he states:

".. In this regard, I respectfully submit that it is a fact that the statements made by the labourers were in Telugu and one Sri Saibaba, FDA of the Deputy Commissioner, who was well versed both in Kannada and Telugu had accompanied the team and the statements made by the labourers were translated in Kannada by Sri Saibaba and the same was recorded in Kannada since Kannada is the administrative language of the State. The statements were read over and explained to the labourers but there was a bona fide mistake in not recording the same in the statement. ...".

Thus the translation offered by Sri Saibaba is the statement produced. None has

verified its correctness. This aspect of the matter is not stated by Mr. Kodani in any of his affidavits. Clearly this is an improvement. Besides there is yet another important circumstance. All the persons who gave statement are illiterate. Palamoori workers were drawn from the so-called poverty stricken District of Mahabubnagar. They are nomadic workers travelling in search of work to make a living. Why did not the District Administration take with them Police Officials when they went to the site and while they questioned these workers? The obvious intention was to intimidate them and coerce them to give their statement. There is an attempt to explain the same by stating that they took Police assistance with intention that if they found any bonded labourers, they could liberate them (vide the affidavit of Sri P.V. Mohan, Assistant Commissioner). This clearly betrays the ignorance of the administration of the law and the state of affairs existing in the District. One does not know as to how they can "liberate" the workers with Police aid. Whatever that be, the conduct of the Administration in this behalf does not at all generate any confidence in the Court. Further the Deputy Commissioner and the District Magistrate, Karwar, has erred in producing such statements before this Court to set up a defence for his inaction.

9. The following part of the Advocate-Commissioner's report discloses the sordid living condition of these workers:

"6. I enquired with them with regard to the food supply, then, they took me to one make-shift zinc sheet shed where they are staying and shown me the plate containing rice and sambar which was left out, then, I asked them as to why they have left the food in the plate, they answered me in Telugu language that they cannot eat that food. They further told me that they cannot stay in the sheds and they want their wages for having worked and the subcontractor is not giving train fare to them and they wanted to go to Secunderabad. They have also stated that they have worked from 9.00 a.m. to 5-30 p.m on every day. The statement recorded -in Kannada by the Assistant Commissioner on 29-1-1997 was not read over and translated the same to them in Telugu language and I asked their comments on those statements. I was shown their respective signatures to those statements and those persons have admitted their signatures on those statements which were recorded in Kannada. They have stated that no medicine was being given to them by the NCL. Further, they stated that in 3 sheds 16 workers are staying. There is no bath room, no separate latrine, they have to attend to their nature call near the colony which is situated by the side of the river, they are taking their bath in the said river. They further showed me one tank where drinking water is stored. I went near the tank which is situated in the said workers colony. I saw water tank which is not cleanly maintained, water is not clean and not fit for drinking purpose. Two women were taking water from the said tank. I asked them whether they are taking that water from the tank for drinking purposes, they answered "yes" and further, one lady who was washing clothes there at that time.

7. I went along with Mr. V.S. Nayak, Amicus Curiae and workers who are working there, inside the make-shift sheds which are temporarily constructed by the 1st respondent for providing accommodation to the workmen. There is no flooring to the said sheds and the entire colony is not kept clean and tidy and there is no sewerage, latrine and bath room facilities are not available to the workers in the colony. There is a stinking smell in the colony where workers are housed. All the workers have unanimously stated that they did not say to the Assistant Commissioner on 29-1-1997, when they were enquired by him that the 1st respondent is supplying medicine to them".

This shows that even the minimum facilities needed for decent human existence is denied to them for the sin of themselves offering as workers. These workers are crowded in a shed like cattle. The shed has no flooring. There is no tidy place to sleep or sit. There is no neat place to cook food. There is no drinking water facilities provided. There are no latrines and urinals. The shed has zinc roofing. The heat, it would radiate in the day and night would be unbearable. Should they be denied even the minimal comforts solely because they offered to work, as they had no other alternative to earn to keep their body and soul together?

10. It can be seen from the report that none of the provisions of the Contract Labour (Abolition and Regulation) Act, 1970 and the rules framed thereunder are followed in the instant case. Rule 41 calls upon the principal employer/contractor to provide rest room. This has not been provided. Rule 42 contemplates establishment of canteens. There is no canteen facility for the workers. Rules 43, 44 and 45 deal with the details and amenities of the canteen. Rules 51, 52, 53, 54 and 55 deals with providing of latrines and urinals. Rule 57 has dealt with washing facilities. Section 18(a) of the Act mandates providing of wholesome drinking water for the contract labour. All these rules are not shown to have been followed by the principal employer and its contractor in this case. It is not as if the authorities are not aware of the same. In the report of the Commissioner, the following statement is made:

"... They also told me that the food which is supplied to them is being cooked by a Cook and further they categorically told to the said Assistant Commissioner that no bath room, latrine and clean drinking water is provided to them. When I read over their statements and the affidavit, they stated that their statements are not correctly incorporated in their statements and in the affidavit filed by Mr. Kodani".

After the report was received, this Court passed the following order on 3-3-1997.

"2. On the basis of this statement as also the documents produced, an affidavit was sworn to by one Sri L.R. Kodani, Office Assistant to Deputy Commissioner in which he almost reproduced the contents of the letter of the Deputy Commissioner. As it was felt that it was not satisfactory to resolve the dispute raised by the parties, this Court appointed Mr. V. Gopala Gowda, as Advocate-Commissioner, to make a local inspection. He submitted his report on 11-2-1997.

It is seen from the report that all the statements made in the letter dated 1-2-1997, received from the Office of the Deputy Commissioner as also the affidavit are far from truth. It is seen that the statement was taken from the workers in the presence of Police Officials. No reason are stated as to why the Police were pressed at the time the statement was recorded. All the circumstances disclose that all is not well with what was taking place. It calls for further investigation. It may be noted that under the statute, the Deputy Commissioner (Labour) is the Competent Authority to enquire whether they are bonded labourers or contract labourers. On comparing the contents of the letter and the report of the Commissioner, one wonders whether any respect has been shown to the provision of law by the authorities.

3. Mr. L.R. Kodani, who has filed the affidavit is directed to explain how he happened to swear to an affidavit as also the concerned officer who has written the letter to the Government Advocate giving details which are different from the factual position and is different from the actual situation existing in the area".

Meanwhile, on 18-3-1997, the author of the letter which was converted as a writ petition also filed an affidavit reiterating the statements in the letter sent by him. On 18-3-1997, the Deputy Commissioner, Karwar, as also Mr. L.R. Kodani filed separate affidavit in terms of the order dated 3-3-1997, referred to above. All these transpired long after the report of the Commissioner. This also did not throw any light on these aspects highlighted by the Commissioner.

11. At this stage, an application was filed by the petitioner to implead Regional Labour Commissioner (Central), Crescent Road, Bangalore as 4th respondent and M/s. Nuclear Power Corporation of India Ltd., Karwar, as 5th respondent. On 19-3-1997, they were impleaded. It was alleged that as far as the 1st respondent is concerned, the "appropriate Government" under the Contract Labour Act would be the Central Government and that the 4th respondent therefore be impleaded. The 5th respondent has engaged the 1st respondent to commission the work and therefore the 5th respondent was also impleaded. Hence notice was sent and served on them and 4th respondent appeared through Mr. Ashok Harnahalli, learned Central Government Standing Counsel. A statement of objection was also filed on their behalf on 4-4-1997. It may be noted that the statement of objection filed was after the Commissioner had filed the report.

12. In the statement of objections filed on behalf of the 4th respondent, it is stated as under:

"That the department of the respondent 4 is responsible for enforcement of Contract Labour (Regulation and Abolition) Act, 1970, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and also Minimum Wages Act, 1948 for the establishment of respondent 1 at Mallapur Village".

He deposed that the concerned officials had inspected the establishment to verify

whether the principal employer and the contractor have obeyed the requirements of law. Thereafter the objection states thus:

"Further the above enactments do not empower him to check the quality of food provided for these workers and even he cannot insist under the above laws to provide these workers with food".

As regards the enforcement of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, it is stated as hereunder:

"Thus it will be observed that a workman recruited by a contractor in one State and employed in another State will only be a inter-State Migrant Workmen, but it is very clear from the Commissioner's Report dated 11-2-1997, that the workmen found employed by respondent 1 at Mallapur Village have not been recruited by the respondent 1, but by some other persons who do not have any agreement with the respondent 1, as such they cannot be considered as inter-State Migrant Workmen under the aforesaid enactment. If at all a licence is to be taken under the aforesaid enactment, then it is to be taken by the person who brought the labours from other State, but in this case that person is not at all a contractor of the establishment where the workers were found working nor have they been brought under an agreement with the respondent 1".

I am constrained to observe that the concerned Officer has made the statement with non-chalant indifference to realities. These statements admittedly disclose that they are made after study of the report of the Commissioner. The deposition also discloses that the concerned Officer is oblivious of the various provisions of law. If, as a matter of fact, a company employs inter-State Migrant Workers contrary to the requirement of law, does the 4th respondent mean to say that it is absolved of all its duties under the Act? The 4th respondent is overlooking Section 6 and Section 25 of the Act. These laws are not enacted as a mere decorative piece but with real purpose and objects to be achieved.

13. As regards the injury sustained by the worker Balaram is concerned, records have been placed before me to show that he has been treated well and that he has recovered. But, why was he allowed to go away before he had fully recovered? Yet again, why has the employer retained with him part of his wages (Rs. 3,300)? Why has not any of the respondents taken any steps to collect the amount till the matter was brought to the notice of the Court? The answer to this question indicates the failure of the authorities to implement the requirements of law. As I am informed that the said worker has recovered, I make it clear that the said worker Balaram is entitled to claim reimbursement for any future treatment that he may have to undergo in future as a result of the employment injury sustained by him and referred to in the writ petition on 23-11-1996 and the 1st respondent-M/s. Nagarjuna Construction Ltd., now having its office at Mallapur now shall be liable to meet all such expenditure.

14. Now this takes us to consider whether there is anything further to be done in the case. I am informed that most of the workers have left the site and

therefore, there is no need to carry out any post-mortem of what has transpired. Yet, in view of what has been disclosed in this case, the issue cannot be left at that. The 3rd respondent herein heads the District Administration. It is under his very jurisdiction all these things have taken place. His letter dated 1-2-1997, referred to above and the affidavit sworn to by Mr. L.R. Kodani on his behalf shows that the District Administration has not taken any serious interest in looking after the welfare of the workers working in the District. These workers who have been brought from some other States are tethered in a shed like cattle. The Commissioner's report discloses that statutory amenities to be provided by the contractor and the principal employer have been denied to them. Mr. Kasthuri, learned Counsel for the 1st respondent raised a contention that they are not the principal employer but the 5th respondent. May be, it is a nice legal question to be resolved. But, as far as the worker is concerned, he is disinterested in that adjudication. All that has happened is that he is treated like a cattle and left to fend for himself. The enactments are intended to safeguard the interest of the workers and not to adjudicate any intricate question being raised as to who the principal employer is. Besides the petitioner has averred as hereunder:

"... The contractor paid some advance and they supply broken rice food and tamarind water (Chinta Pulusu) these labourers called also "CHINTA PULUSU LABOUR". After completion of the agreement they calculate salary Rs. 300/-per month".

That means, these workers received advance and work thereafter setting off the wages towards the advance. In the report of the Commissioner, it is stated as under:

"... The other workmen have stated to me that they wanted to leave work spot and go to Secunderabad, for which they are demanding the sub-contractor Shravana kumar for the last two days to settle their wages and to pay the train fare to enable them to go to Secunderabad. But, their accounts have not been settled, as Mr. Shravana kumar told them to complete their work, otherwise, it would be difficult for him to bring other workmen to complete the painting work at Kaiga township residential quarters".

There is thus a case of labourers being detained in the work spot against their wishes and to realise the advance paid to them. Can the Administration in charge of administering the District sit back and leisurely contemplate the action to be taken? The answer is in the negative. The Administration is charged with the dynamic duty of administering all welfare legislation. It should have pressed into action when the complaint dated 30-12-1995, was received. It should have with a "roving eye" viewed the going on in the District under its control. It should not await the receipt of complaints to initiate action. It should move along with time.

15. Briefly, bonded labourer has been defined in the Bonded Labour System (Abolition) Act, 1976, hereinafter referred to as "the Bonded Labour Act", to

mean a labourer who has incurred bonded debt. "Bonded debt" is defined to mean an advance received by a bonded labourer under or in pursuance of bonded labour system. Bonded labour system includes the system of forced labour whereunder a debtor agrees to render service in consideration of an advance received. In the instant case, it is alleged that the workers brought from other States are rendering service in consideration of advance received by them. May be, this is a disputed question. But the 3rd respondent is the Competent Authority under the Act to ascertain its correctness. Why does he shy from conducting an enquiry into the allegation made by the petitioner as early as on 30-12-1995? Instead, he demands from the Court to impose heavy and exemplary cost on the person who has invited the attention of the Court in this behalf. I am not making any detailed investigation at this stage, as it may prejudice any investigation, the authorities may in future may have to undertake if need be.

16. There is much more desirable action to be taken on the part of the 3rd respondent than what has been demonstratedly taken by him in the instant case. He should not have merely rest satisfied with the report of his Assistant Commissioner, who has in turn decided to depend on an F.D.A.'s inaccurate translation. The 3rd respondent has not bothered to respond to the complaint lodged by the petitioner on behalf of the workers on 30-12-1995. The explanation offered was that the concerned Tahsildar of Gadasi lost the file and as such he could not follow it up. This is a lame excuse to be offered by a public functionary. This is not the way that the 3rd respondent ought to have acted. When serious complaint regarding perpetration of bonded labour system, violation of Contract Labour Act, etc., are brought to his notice, he cannot explain away his inaction stating that the file relating to the same was lost in the Tahsildar's Office. Bonded labour is a very serious matter. It is a disgrace to the society we are living in. It is inhuman. By the practice, scores of lesser privileged men and women are denied everything for the mere reason that they were born poor. Dehors the official position, the 3rd respondent has a duty to intercede in such cases. The administration should be geared up in full measure to assist in its abolition. An official, who by his laches allows it to continue and be perpetuated, is committing a crime which is equal to that of the employer. It can even be said that the authority abets the commission of the offence prohibited by the Act. When someone invites the Administration of the existence of such a practice, the Administration should act in post haste to see that appropriate relief is brought to the less fortunates. The complaint was raised on 30-12-1995. Nothing came out of it; the 3rd respondent has an explanation that the file was lost (vide his affidavit dated 22-3-1997). And again the petitioner complained to this Court, when the Court acted on the complaint and started conducting an enquiry into the same; strangely the 3rd respondent wants exemplary cost to be imposed on the petitioner for highlighting the issue. I wonder in fact as to who should pay the exemplary costs.

17. The 3rd respondent has also urged at the fag end of the arguments that he is

not the "Appropriate Authority" under the Contract Labour Act to proceed against the 1st respondent. May be, by virtue of the statutory interpretation, it may be so. But, that is not an answer to be given in a case where it is brought to his notice the flagrant violation of the statutory law. Under the Contract Labour Act, only the notified Inspector can take action for the violation of the provisions of the Act. Section 28 is clear in this behalf. Likewise, cognizance of an offence u/s 26 is only if the complaint is made by the Inspector. If so, nothing prevents the 3rd respondent from bringing to the notice of the Inspector, the state of affairs as far as violation of Contract Labour (Regulation and Abolition) Act, 1970. For this, it is not necessary that the 3rd respondent be notified as the Inspector by the Appropriate Government. As the Head of the District Administration, such duty is inherent in the 3rd respondent.

18. The conduct of the 4th respondent is equally strange. As we have noticed, the Commissioner's report disclosed the blatant violation of the provisions of the Contract Labour (Abolition and Regulation) Act, 1970 and the Inter-State Workers Act. Still, the statement of objections filed by the 4th respondent proceeds as if everything is being done properly and in accordance with law. It is disclosed in this case that prima facie every provisions of the Act and, Rules referred to above have been violated by the principal employer and his contractors. It is demonstrated from the report of the Commissioner. (As I am not adjudicating the question, this is only a prima facie, view of the matter). It is strange that still the 4th respondent feels that all is well. The 4th respondent has not cared to take any action in the matter. Circumstances do exist in "this case where the 4th respondent ought to have taken up appropriate investigation and ascertained as to whether there is violation of the Contract Labour Act and the Inter-State Workers Act, referred to above. I am afraid that the statement of objections filed discloses that the 4th respondent has not completely examined the case and the matter requires serious attention.

19. I am constrained to state that this case discloses how casually the labourers are dealt with by the administration. The 3rd respondent has not even attempted to ascertain the true position. One wonders how he failed to notice all that was noticed by the Advocate-Commissioner when he visited. After seeing the pathetic condition of the workers, one fails to see how the 3rd respondent sent a letter as in the nature of one dated 1-2-1997, instructing the Government Advocate to oppose the writ application. I also do not know how without any compunction, the 3rd respondent states that the action on the complaint dated 30-12-1995 was not pursued as the file was lost. Likewise, it is really strange that the 4th respondent maintains that there is no violation of the law dealing with contract labour and migrant labour even after perusing the Commissioner's report in this case. To say the least, these officers have not attached any value to the provisions of Article 23 of the Constitution. They might have thought that these provisions are merely to be ornamental provisions in our Constitution not to be taken serious note of.

20. We have thus seen that due to the apathy of the Administration the labourers are denied of even their minimum amenities. Such recurrence should be avoided as far as possible in future. It is necessary that the State should take effective measures to see that the employers conform to the requirement of law. For that purpose, the State shall issue directives to all the Heads of the District to ensure that the labour legislations are scrupulously implemented. To achieve this the following measures be taken by the Commissioner of Labour:-

1. Adequate and frequent inspections should be made of work site by the Competent Authorities;
2. The District Administration in collaboration with the Labour Department should be directed to frequently monitor the performance of work by various establishments who have taken registration/permission/licence under various labour legislations and see whether there is compliance of the requirement of law;
3. At least a fortnightly thorough inspection by the Officials of the Labour Department of the above premised should be carried out;
4. The Commissioner of Labour and the District Administration with mutual understanding should oversee these inspections;
5. There should be surprise inspection by authorities of work-sites, project areas, etc., as directed by the Senior Officials of the Labour Department;
6. It is not sufficient that periodic perusal of muster rolls are carried out by these officials;
7. They should also interact with the workers whenever feasible and ascertain whether they have any grievances;
8. The authorities should check whether the minimum wages are paid to all the workers and if not ensure that it is so paid;
9. The District Administration should also ensure that Medical Officers of the State or that of the E.S.I. Corporation make routine examination of the labourers at work site.

21. These may be treated as broad guidelines. The details thereof may be worked out by the State Government. The State Government shall convene a meeting of the officials of the Labour Department heading each revenue District and chalk out the ways and means to see that effective steps be taken to implement the provisions of the various labour legislations more particularly the law dealing with bonded labour and intended to safeguard the welfare and overall facilities extended to the labourers.

22. This case has demonstrated one instance where the labourers have been denied of their rights and are kept as captives. Because the petitioner brought this to the notice of this Court, I am informed that most of the workers have been relieved. There may still be hundreds and hundreds of similar workers all

over the State who are still groping in the dark. Unless the persons at the helm of District Administration are sensitive to these problems and come alive to uphold of the spirit of the constitutional guarantee contained in Article 23 of the Constitution, no amount of directions from this Court can achieve anything. Let us hope that this case will be an eye opener and henceforth the Administration would act more responsibly. As we have seen from the pleadings and reports of the Advocate-Commissioner, serious injustice and hardship has been caused to the poor workers. Had the 3rd respondent been more alert, their grievances could have been, to some extent, abated. Instead of realising the real situation and acting in accordance with law, the respondents have made it appear that the allegation made by the petitioner is false and he be mulcted with exemplary cost. This conduct is certainly unjustified.

23. I am of the view that the petitioner has proved his case and the allegations made by him stand vindicated. As such, the petitioner is entitled to his costs from respondents 1 to 5 which is fixed at Rs. 2,600/-.

24. The writ petition is disposed of as indicated above.

25. Before parting with the case, I desire to place on record the sincere gratitude of this Court to Sri V.S. Naik, learned Counsel who assisted the Court as Amicus Curiae and Sri V. Gopala Gowda, who, at the request of the Court, visited the disputed site and submitted a detailed report.