

(1982) 01 SC CK 0041

In the Supreme Court Of India

Case No : Writ Petition (Criminal) No. 7 Of 1982

Ram Pal

APPELLANT

Vs

Maishi Lal Raj Kumar and Others

RESPONDENT

Date of Decision : 19-01-1982

Acts Referred:

Constitution of India, 1950 — Article 23

Citation : (1982) 2 SCC 349

Hon'ble Judges : R. S. Pathak, J;P. N. Bhagwati, J

Bench : Division Bench

Final Decision : Allowed

Judgement

P.N. Bhagwati J.-We are informed by Mrs Shobha Dikshit, learned counsel appearing on behalf of the State of Uttar Pradesh, that as soon as an order was made by this Court requiring the District Magistrate to visit the brick kiln where the persons whose names are given in the Annexure to the writ petition were alleged to be held as bonded labourers, the District Magistrate immediately proceeded to the brick kiln and recorded the statements of those persons. These statements have been produced before us and they show that these persons want to leave the brick kiln premises but they do not wish to take any assistance from the Government by way of rehabilitation or otherwise and they intend to go to some other place for employment. Since these persons do not want any assistance from the Government and do not wish to be rehabilitated as provided in the Bonded Labour System (Abolition) Act, 1976, we cannot compel them to take assistance for the purpose of rehabilitation nor can we mandate the Government to provide such assistance. We do apprehend that these persons who are set free as a result of the Order of this Court may again slide into bonded labour, but since they do not wish to be rehabilitated and want to find their own employment, we are helpless in the matter and all that we can do is to direct the respondents to allow these persons to leave the brick kiln premises. We do not know whether there is any amount due and owing from these persons

to the brick kiln-owner, but even if there is, that cannot provide any justification for the detention of these persons in the brick kiln premises, because forced labour or begar is expressly prohibited by Article 23 of the Constitution.

2. We accordingly direct that the persons whose names are given in the Annexure to the writ petition as also others who do not wish to work in the brick kiln may be allowed to leave the brick kiln premises and the brick kiln-owner shall not restrain them from doing so by threat of force or otherwise. If these persons want any assistance by way of rehabilitation, they may apply to the District Magistrate, Saharanpur and the District Magistrate will in that event give them whatever assistance is required by way of rehabilitation under the provisions of the Act. The District Magistrate or some other responsible officer deputed by him will inform these persons as to what are their rights under the Act, point out to them that they are entitled to assistance from the Government under the provisions of the Act if they so wish and also explain to them the danger of getting back into the system of bonded labour once again. The District Magistrate will also enquire whether there are other brick kilns in his district where persons are held as bonded labourers and if there are any such bonded labourers, he will take immediate steps to free them from such bondage. The District Magistrate will also depute some responsible officer in his district to enquire and investigate as to what was the mode of payment of wages to these persons as also to other persons working in the brick kiln, what loans, if any, were advanced by the brick kiln-owner and to whom insofar as these persons are concerned, and what is the state of account between these persons, the middleman MamRaj and the brick kiln-owner. The District Magistrate will submit his report in regard to these matters within two weeks from today.

3. The writ petition is adjourned to February 5, 1982 to enable the State Government and the District Magistrate, Saharanpur to comply with the above directions as also with the other directions given by us in our earlier Order.