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GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
DIRECTOR GENERAL LABOUR WELFARE

Jaisalmer House, 26, Mansingh Road
NEW DELHI,
Dated the 17th Aug, 2017

Office Memorandum

Sub: Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender

The undersigned is directed to forward herewith a brief handout containing Standard Operating Procedures (SOP) for Identification and Rescue of Bonded Labourer and Prosecution of Offenders which has been developed to help implementing agencies in implementation of the BLSA Act and the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016.

It is requested to kindly ensure that SOP may be made available to all District Magistrates/Collectors/Sub-Divisional Magistrates in the State/Union Territory.



(A.K. Singh)

Under Secretary to the Govt. of India

Chief Secretary (all State Governments)

Administrator (all UT Administrations)

Copy to:

Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,
Comptroller & Auditor General of India, National Human Rights Commission.

STANDARD OPERATING PROCEDURES

1. Complaint

- 1.1 The DM, SDM or police on receipt of a complaint, whether oral or written, by any person or facts constituting the commission of an offence under the Act, shall reduce it to writing and record, in writing, the time and date of receipt of such a complaint.
- 1.2 The DM, SDM or police shall issue a receipt to the complainant acknowledging that the complaint was recorded.
- 1.3 The DM, SDM or police shall ensure that there is no tip-off or leak of information regarding the rescue, informant or complainant at any stage.

2. Rescue

- 2.1 The DM, SDM or police shall rescue the labourer as soon as possible within 24 hours from the time of complaint received.
- 2.2 The DM, SDM or police shall ensure that the Rescue Team shall be multi-disciplinary and shall be comprised of the following members,
 - a) one representative of the District Magistrate (DM) having jurisdiction not below the rank of Tehsildar to enable such representative to fulfil such duties as provided under BLSA and Central Sector Scheme for Rehabilitation of Bonded Labour – 2016;
 - b) one police officer nominated by the Superintendent of Police;
 - c) the Labour Officer(LO) having jurisdiction to inquire into, enforce and compensate under various labour laws including Minimum Wages;
 - d) adequate number of police officers to secure the premises;
 - e) two or more women officers;
 - f) one police photographer;
 - g) two independent witnesses, at least one of whom should be a woman;
 - h) the complainant;
 - i) members of a civil society organisation or social workers for rescued labourer support including counselling and other roles; and
 - j) any other necessary person.
- 2.3 If the DM, SDM or police has reason to believe that it is necessary to conduct the search and rescue operation without delay for any reason, including danger to the rescued labourer and likelihood of interference with potential evidence, notwithstanding that any member of the rescue team may be unavailable, the DM or SDM shall carry out the search and rescue operation, and intimate any missing member without delay.
- 2.4 The DM or SDM in coordination with the police shall ensure that the rescue location is secured, and separate and protect the labourer from the offender and his associates.
- 2.5 The DM or SDM shall ask brief questions to the labourer in the absence of the offender and in the presence of a member of a civil society organisation 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, wage payments and ability of the labourer to leave or work elsewhere.

- 2.6 The DM or SDM shall ensure that the all relevant evidence, such as phone books (directories with the numbers 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 agreements, 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").
- 2.7 The DM or SDM shall ensure that the police prepare a seizure list and rescue memo detailing the identities of the rescued labourer and his contact details, and cause it to be signed by independent and local witnesses.
- 2.8 All police officers and Executive Magistrates shall be competent to make arrest without warrant in accordance with Section 41 and 44 of the Code of Criminal Procedure, 1973 ("CrPC").
- 2.9 The DM or SDM shall ensure that the labourer are removed from the rescue location, are separated and given adequate protection from the offender and his associates, and are brought to a safe location. The DM or SDM shall also ensure that no bonded labourer is left behind.

3. Inquiry

- 3.1 The DM or SDM shall provide the labourer with immediate assistance, including food, shelter and protection;
- 3.2 The DM or SDM shall ensure that the labour officer initiates proceedings under the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 where applicable.
- 3.3 In order to issue a release certificate, the DM or SDM shall conduct an inquiry in a free and fair environment, in respect of each labourer separately or with his family, in the absence of the offender and in the presence of a member of a civil society organisation or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked the labourer should include questions regarding advance or other obligations, wage payments, freedom to travel, seek alternative employment, and sell or purchase goods at market value, and questions regarding other offences against schedule castes or tribes, offenses against children, etc. It shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedures for criminal trials do not apply to such an inquiry.
- 3.4 The DM or SDM shall issue immediately and definitely within 24 hours, a release Certificate to each rescued labourer, including children, found to be bonded labourer even if they are accompanied by families.