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CASE ANALYSIS OF BANDHUA MukTI MORCHA V THE UNION OF INDIA

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.ABSTRACT

This case law gives us more clarity on Inherent Powers of the Hon'ble Supreme court its power to appoint impartial commissioners for thorough investigation just to maintain balance justice weight between poor and rich sections of the society evolving towards egalitarian society hence for a diverse country like India the importance of no rigid formula of proceeding for enforcement of a fundamental right, and the importance of writ its role in protecting fundamental right the lesion to state and

central government to acknowledge the res ipsa loquitur matters rather than quibble on these fundamental issues, the real condition of bonded labour 'serf' after decades of Independence

KEYWORD

Supreme court, fundamental right violation, Article 32, writ, Bonded labour, Article 21, Article 23, Migrant workers, Thekedar, exploitation

CASE DETAILS

Case Title	Bandhua Mukti Morcha v The Union of India, The State of Haryana, Mine Lessees, Owner of Stone crushers
Court	Hon'ble Supreme court of India
Case No	Writ Petition No 2135 of 1982
Date of The Order	16 th December, 1983
Citation	Bandhua Mukti Morcha v The Union of India & Others 1984 AIR 802
Quorum	Bench comprise of P.N. Bhagwati , R.S. Pathak, Amarendra Nath Sen J
Author of Judgement	Hon'ble Justice P.N. Bhagwati
Petitioner	Bandhua Mukti Morcha
Respondent	<ul style="list-style-type: none">• Respondent No 1 Union of India• Respondent No 2 The state Government of Haryana• Respondent No 3



	Mine Lessees, owners of Stone Crushers
Acts and Sections Involved	<ul style="list-style-type: none"> • Constitution of India 1950 Article 21 Article 23 Article 32 Article 226 • Civil procedure law 1908 Order XXVI • Mines act 1952 Section 2,3,18 • Inter State Migrant Workmen Act 1979 Section 2,4,8,12,14,15,16,18,21,30,35 • The contract Labour Act 1970 Section 2,16,17,18,19,20 • Bonded Labour System (Abolition) Act 1976 Section 2,4,7,8,9,10,11,12,13,15,23 • The payment of Wages act 1936 • The Minimum Wages Act 1948 • The employee State Insurance act 1948 • The maturity Benefit Act 1961

Emancipating Bonded Labourers, Applicability of Article 32 'writ' and its enforcement

I. INTRODUCTION

- A. According to Architect of the Indian constitution Dr. B.R. Ambedkar right to Constitutional remedies 'Article 32' is known as the 'Heart and soul of the Indian constitution'
- B. Supreme court is regarded as the guardian of fundamental right and works in evolving the feudal mindset to egalitarian order
- C. The case Bandhua Mukti Morcha v. Union of India & Others is considered as a landmark judgement on the issue of

- D. Justice P.N. Bhagwati has very well uprooted the relevant case of Ranga Reddy District of Andhra Pradesh ¹⁵⁶ 'where the district administration emancipated 3000 bonded labourer from the hands of contractors' and cited a unambiguous landmark Judgement in this instance

¹⁵⁶ Writ no 1574 of 1982

II. BACKGROUND OF JUDGEMENT

Background of Judgement will be constituted by these following backgrounds.

- A. Background of Petitioner
- B. Background of Respondent
- C. Background of existed acts on bonded labours

A. BACKGROUND OF PETITIONER

1. The Petitioner 'Bandhua Mukti Morcha' is an organization committed to emancipate the bonded labours in the country
2. Petitioner visited some of the stone quarries in Faridabad district, Haryana and submitted all their ordeal in a letter to the Hon'ble Supreme court and at the end even prayed that a writ be issued for immediate enforcement of fundamental rights of these 'serf' bonded labours and end their further more exploitation

B. BACKGROUND OF RESPONDENT

1. The Respondent on the first hand were not accepting that their exist bonded labours in their territories and even when their exist incontrovertible evidence of their existence
2. The Respondents were not ready to accept that it is their administration failure to prevent the bonded labours and their exploitation

C. BACKGROUND OF EXISTED ACTS ON BONDED LABOUR

1. After Independence in 1976 government introduced 'Bonded

labour system (abolition) Act 1976', and its Section 13 provides for constitution of a vigilance committee in each district and each subdivision of a district whereas its Section 10 to 12 make a duty on every District magistrate to enquire about the existence of any bonded labour in their region and make an obligation on state government too to create one and take all measures to prevent the bonded labour

2. 'Mines Act 1952' passed with the objective to take all precautionary measures to prevent any exploitation of any mine worker, 'Mines rules 1955' chapter V dealing with provisions of health and safety
3. 'Inter-state migrant workmen Act 1979' was brought into force in the Haryana state with the objective of more strict contractor licence and stop any exploitation of inter-state migrant worker

III. FACTS

A. The Petitioner, the Bandhua Mukti Morcha, a NGO, committed to emancipate the bonded labours in India, inspected various stone quarries in the Faridabad district near Delhi and discovered many workers from Maharashtra, Madhya Pradesh Uttar Pradesh, and Rajasthan were in a miserable situation¹⁵⁷. On February 25, 1982, the petitioner wrote a letter to the Honourable Justice P. N. Bhagwati.

B. The letter stated that there exist manifold cases of serious injuries due to accidents with no proper medication or precaution in these mines and also lacks in other basic amenity they were forced to drink water from 'nalah' to live under a thatched roof and they were been

¹⁵⁷ 6th para of judgement

exploited to that level that they didn't even get the minimum wage according to 'the minimum wage act 1948' in add up to that murders and molestation of women is very common¹⁵⁸ they were even not allowed to visit outside world

C. Court observed there were serious allegation with respect to violation of fundamental right Article 21,23 and treated this letter as a writ petition and a day latter even assigned 2 advocates M/s Ashok Srivastava and Ashok Panda as commissioners to submit a report in this regard

D. On 2nd March 1982 they submitted their report to the court which upheld the honesty of the letter inter alia. On 5th March 1982 another writ petition filled by the present petitioner for the release of some of the bonded labours¹⁵⁹ so court appointed Dr. Patwardhan of Indian Institute of technology to carry out a socio-legal study and submit a scheme to help these bonded labour living condition in stone quarries

E. The court even ordered Haryana Government to deposit Rs. 1500 to bear expenses of Dr. Patwardhan in this process

IV. ISSUES RAISED

Following issues were raised after Dr. Patwardhan report submitted

- A. Whether writ petition under Article 32 of Indian constitution is maintainable or not ?
- B. Whether court has power to appoint M/s. Ashok Srivastava and Ashok Panda or Dr. Patwardhan as commissioners taking Supreme court rules 1966 in consideration ?

- C. Whether what was stated in those submitted reports to the court has any evidentiary value without any cross-examination by respondents ?
- D. Whether Bonded labour system (abolition) Act 1976 is maintainable or not is this case ?

V. ARGUMENT FAVOR OF PETITIONER

- A. Their exists bonded labours in the mine stone of Faridabad district of Haryana
- B. The bonded labours were forced to drink from 'nalah',forced to live under thatched roof, breathe under stone-dust pollution and were not even allowed to move out which all were serious violations of fundamental rights Article 21,23 of Indian constitution and contradictory to mines act 1952, Bonded labour system (abolition) Act 1976
- C. It has been also contended that some bonded labours were Inter-State so it also violated Inter-State Migrant workmen Act 1979
- D. Some bonded labour were engaged in shot firing without any mines vocational training rules 1966

VI. ARGUMENT FAVOR OF RESPONDENT

- A. Even if letter is treated as true it will not be maintainable as writ petition under Article 32 of Indian constitution as no fundamental right have been infringed
- B. The court has no power to appoint M/s. Ashok Srivastava and Ashok Panda or Dr. Patwardhan as commissioners
- C. The reports submitted by these commissioners has no evidently value as they were based on ex-parte

¹⁵⁸ 9th para of judgement
¹⁵⁹ 13th para of judgement

statements which was not even tested by cross-examination

- D. It was also contended that by the learned Additional Solicitor general that in the stone quarries there might be forced labour but they were not bonded labour within the Bonded labour system (abolition) Act 1976

VII. JUDGEMENT

- A. Court direct the Haryana Government to constitute a vigilance committee in each district and sub-division of a district within six week time frame and to instruct the district magistrate to identify and look out for bonded labour if any by assigning work to task forces
- B. The central government and Haryana government to mandatory pay minimum wages to all workmen working in their territories by following 'minimum wages act 1948' for currently within six weeks from today
- C. The central government to direct the appropriate officer to measure the capacity of truck in cubic ft. of stone so that adequate wage is received by workmen
- D. The central government will direct the appropriate Inspector officer to do surprise visits at least once a week to check if truck are loaded in excess of true measurement
- E. The central government and Haryana government will take immediate action on to provide safe clean water to workmen as to keep their health as a priority

- F. With this, the Court alluded to guard and protect basic human rights and order standards of the Indian Constitution, that are Article 21, 24, 39 (e) (disallows constraining residents into employments unsuited for their age or quality), Article 39(f) (depicts the State's obligations to shield youngsters from abuse and to guarantee kids the chances and offices to create soundly), and Article 45 (commands the State to give free obligatory training to all children beneath 14 years).¹⁶⁰

VIII. COMMENT

- A. Bandhua Mukti Morchan v. Union of India & others is a landmark judgement case related to Bonded Labourer and It gives out various Important Precedents to be followed in the way towards Egalitarian society
- B. The way Bench appointed commissioners in this case just to get fair justice done with weaker and impoverished section of society was truly the need of the hour and at time of so socio-economic diversity in the country

IX. RELATED CASE LAWS

- A. S. P. Gupta v. Union of India, AIR 1982 SC 149
- B. Frances Mullinv. W.C. Khambra, AIR 1980 SC 849
- C. M.C. Mehta v. Province of Tamil Nadu and Ors. (1996) 6 SCC 756.
- D. Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 803
- E. P. Sivaswamy vs State Of Andhra Pradesh 1988 AIR 1863
- F. Ranga Reddy District of Andhra Pradesh writ no 1574 of 1982

¹⁶⁰ Indian constitution 1950 Articles



X. CONCLUSION

The case of Bandhua Mukti Morcha v. Union of India & others is a landmark case of bonded labour and sets new precedents about enforcement of Fundamental rights by writs Article 32 and the importance of Article 21, 23 in the Indian constitution and a direction to state and central governments to follow the correct procedure of law and that before correcting the problem the government should first start admitting the existence of problem

XI. REFERENCE

- A. Constitution of India, 1950 bare act
- B. Civil procedure Law, 1908
- C. Hon'ble Supreme court rules 1966
- D. Indian kanoon judgement on Bandhua Mukti Morcha v. Union of India & others