

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 2069/2005 and CrI. M.A. No.10762/2009

SAVE THE CHILDHOOD FOUNDATION Petitioner

**Through: Mr. H.S. Phoolka, Sr. Adv. with Mr. Bhuwan Ribhu and Mr. Anand
Kumar, Advs.**

Versus

UNION OF INDIA and ORS. Respondents

Through: Mr. Sachin Datta and Mr. Abhimanyu Kumar, Advs. for UOI.

Ms. Meera Bhatia, Adv. for UOI.

Ms. Monika Garg, Adv. for NCPCR.

Mr. Pawan Sharma with Mr. Harsh Prabhakar and Mr. Jaikush Hoon, Advs. for

R-3.

AND

W.P.(CRL) 82/2009 and CrI. M.A. No.10391/2011

BACHPAN BACHAO and ORS. Petitioner

**Through: Mr. H.S. Phoolka, Sr. Adv. with Mr. Bhuwan Ribhu and Mr. Anand
Kumar, Advs.**

Versus

UOI and ORS. Respondents

Through: Ms. Meera Bhatia, Adv. for UOI.

Mr. Baldev Malik and Mr. Arjun Malik, Advs. for UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

O R D E R: 28.05.2012

1. Status report dated 27.01.2012 is filed by the Labour Department.

In this, it is mentioned that certain issues have remained unresolved and further directions are sought. In the first instance, Mr. Pawan Sharma, learned counsel for respondent No.3 points out that in the order dated 27.04.2011, the Court had given the following directions:

The MCD/GNCTD shall publish advertisements in prominent newspapers that if establishment is found employing children as labourers, their licenses would be cancelled. Let advertisements be published in widely circulated newspapers within two weeks hence?.

2. The suggestion of the Labour Department is that where the licences issued are withdrawn, it would lead to unemployment of the existing

workers in that unit also. Further the order did not lay down the circumstances and modalities for revoking of the cancellation. In view of difficulties faced in the implementation of the afore quoted directions, it is suggested that an establishment which is found employing child labour should be sealed. The aforesaid direction is modified and the modified direction would read as under:

Notwithstanding any other law being in force, if an establishment is found employing child labour, the establishment may be sealed and / or its registration or licence issued by any authority, to conduct business, may be suspended or cancelled till such time that it pays all the dues including `20,000/- as rehabilitation compensation in accordance with the judgment of Hon?ble Supreme Court of India in M.C. Mehta Vs. State of Tamilnadu and other dues including minimum wages, in respect of the children so rescued.

3. The other suggestion which is made is that **the arrears of minimum wages and other dues would be paid to the parent / guardian of the respective child. In case the child is a destitute and is given shelter in the shelter home run by the government, the money would be placed in a fixed deposit in the name of the child in a nationalized bank by the Delhi Child Labour Rehabilitation-cum-Welfare Society to be paid to the child on attaining the age of 18 years.** The difficulty in carrying out

this direction is mentioned by the Labour Department stating that parent / guardians of most of the children rescued in the NCT of Delhi live in other states and after they are rescued the children are to be sent back to their parents / guardians in the other states for rehabilitation. Sometimes delay takes place in repatriation of the child and in these circumstances, it is proposed that if a child is not restored to the parent / guardian, within one month of the child's arrival in the shelter home, the Child Welfare Committee constituted under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 should initiate steps for repatriation of the child within 15 days thereafter through the Resident Commissioner of the respective State posted in the NCT of Delhi. We consider this suggestion to be reasonable and give direction in terms thereof.

4. The latest status report as directed on the last date of hearing shall be filed in the meantime.

5. Crl.M.A. No.10762/2009 also stands disposed of.

List again on 30th July, 2012.

W.P.(CRL) 82/2009

Renotify on 30th July, 2012.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

MAY 28, 2012