

REVISED STANDARD OPERATING PROCEDURE FOR IDENTIFICATION OF BONDED LABOURERS AND PROSECUTION OF OFFENDERS

1. Complaints

- 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, information or complainant at any stage.

2. Pre-Rescue Protocol

- 2.1 The DM, SDM or police shall ensure that the Rescue Team shall be multidisciplinary and shall be comprised of the following members:
 - a) one representative of the District Magistrate (DM) from Revenue Department having jurisdiction not below the rank of Executive Magistrate to enable such representative to fulfil such duties as provided under BLSA and Central Sector Scheme for Rehabilitation of Bonded Labourers — 2021, as amended from time to time.
 - 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 organization or social workers for rescued labourer support including counselling and other roles; and
 - j) Member/s of the Vigilance Committee or Sub-Division Vigilance Committee as constituted by the concerned districts.
 - k) any other necessary person.
- 2.2 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.
- 2.3 The DM, SDM or police shall rescue the labourer as soon as possible within 24 hours from the receipt of complaint.

3. Rescue & Inquiry Protocol

- 3.1 The rescue must be done in a manner that assures all victims of their safety and dignity. 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.
- 3.2 The rescued victims must be separated from the accused and the rescued victims should be taken to the DM/SDMs office.
- 3.3 The officials must, subsequent to separating the accused from the victims, conduct an immediate preliminary inquiry under the supervision of the DM/SDM.

- 3.4 Any other government records/forms filled in by any other Government Department (viz. Labour Department/CWC/Vigilance Committee etc.) must be counter-signed by the SDM/DM.
- 3.5 The preliminary inquiry and other requisite government forms pertaining to the rescued victims and the accused must be completed within 24 hours of the rescue.
- 3.6 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 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.
- 3.7 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.
- 3.8 All police officers and Executive Magistrates shall be competent to make arrest without warrant in accordance with Section 35 and 41 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
- 3.9 The DM or SDM shall ensure that the labourers 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.

4. Prima-facie finding/report

In cases where the Summary Trial under Section 21 of the Bonded Labour System (Abolition) Act, 1976 has not been concluded as per Rules, but the DM/SDM has arrived at prima facie finding and proof of bondage, then the proposal for the release of final rehabilitation assistance shall not be stopped for want of details of conviction. In such cases, the DM/SDM must make a prima-facie finding/report concluding that the case is one of bonded labourers and involves the violation of the Bonded Labour System (Abolition) Act, 1976.

5. Post-Rescue Protocol

- 5.1 In case the DM/SDM is of the view that the rescued victim, prima facie, appears to be a bonded labourer based on his preliminary inquiry then the following procedure is to adhered to:
 - a. The DM/SDM shall issue a Release Certificate, as per Annexure-A of Central Sector Scheme for Rehabilitation of Bonded Labourer-2021, as amended from time to time, within 48 hours of the rescue.
 - b. The DM/SDM shall ensure that victims, who do not have any identification, are assisted with applying for an Aadhar card within 48 hours of the rescue and shall ensure that the same are received as soon as possible. [The concerned Vigilance Committee shall assist the DM/SDM in this process].
 - c. The DM/SDM shall also ensure that the details of the rescued victims are entered into the rehabilitative database. The database shall be created and maintained by each DM.
 - d. DM/SDM shall ensure to collect and verify the Aadhaar Linked bank account details of the victims

If the Bank Account of the Rescued victim is already operational:

- 5.2 The concerned DM/SDM must grant the rescued Bonded Labourer the Immediate Financial Assistance as per relevant clause of the Central Sector Scheme for Rehabilitation of Bonded Labourer-2021 as amended from time to time within a week from the date of rescue through DBT.

In case the Rescued victim does not have a Bank Account:

- 5.4 The concerned Vigilance Committee under the directions of the concerned DM or SDM may assist the victims in opening a bank account expeditiously and make DBT of the immediate financial assistance.

6. First Information Report

- 6.1 If the DM or SDM prima facie finds that offences under laws other than the BLSA have also been committed, he shall ensure that a complaint is made to the police for the registration of a First Information Report ("FIR"), under all relevant sections and laws for the time being in force, including relevant sections under the BLSA, within 24 hours of the date of rescue.
- 6.2 A complaint to the police alleging offences under the BLSA and other laws for the time being in force may be made by any person, including but not limited to the DM or SDM, the victim, family of the victim, NGO or any other person. Further, on receipt of such a complaint, Section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to apply.
- 6.3 Upon a complaint being made to the police, the DM or SDM shall ensure that all relevant documents in his custody, including the Inquiry Form, Release Certificate and Medical Examination Reports, are supplied to the police at the earliest for effective investigation.
- 6.4 The DM or SDM shall ensure that the police complete all the necessary procedure under the Bharatiya Nagarik Suraksha Sanhita, 2023, the BLSA and herein in relation to the labourer, such as taking of statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, if applicable, as soon as possible, and before the labourer are repatriated / moved beyond the jurisdiction of the said police.

7. Summary Trial

- 7.1 Executive Magistrates conferred by the State Government with the powers of a Judicial Magistrate of the first class to try offences under the BLSA under Section 21(1) of the BLSA ("Designated Magistrate") are empowered to try offences under the BLSA summarily [S. 21(2)].
- 7.2 The summary trial of the offences committed under the BLSA shall be commenced and disposed of by the state from where the bonded labourers have been rescued within three months of date of rescue
- 7.3 Once the SDM/DM issues release certificate and grants the Immediate Financial Assistance to the rescued Bonded Labourer, he shall immediately send the complete file of the released bonded labourer along with all requisite documents to the concerned Executive Magistrate, as prescribed under Section 21 of the BLSA, 1976, enabling him/her to initiate appropriate proceedings of summary trial, the rescued victim is in need of any assistance, it should provide such assistance under any other law or scheme.
- 7.4 The commencement of Summary Trial of offences under the BLSA shall be not later than one week from the date of receiving the file from the SDM/DM. The commencement of Summary Trial shall not be delayed for want of registration of an FIR.

- 7.5 After receiving the file from the SDM/DM, the concerned Executive Magistrate, exercising powers under Section 21 of the Bonded Labour Act, shall conduct proceedings of summary trial of the offences committed under the Bonded Labour Act and shall conclude the same within three months from the date of rescue. The Labour department must immediately initiate proceedings for the recovery of back wages from the accused employers/owners, including wages for overtime, in accordance with the relevant provisions of Labour Codes.
- 7.6 If at any stage during the Summary Proceedings, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall proceed in accordance with the provisions of Section 361 or 362 of BNSS, 2023 as the case may be.
- 7.7 If upon police report, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall commit the entire case along with the case records to the competent court. The procedure specified in BNSS, 2023 shall be followed except as stated otherwise in the BLSA.
- 7.8 The Authorities can take the assistance of Vigilance Committees and NGO's for carrying out this SOP and must keep the complainant/complainant NGO updated about steps being taken under this SOP including the supplying of relevant documents and records pertaining to the rescue.

8. Trial Proceedings

- 8.1 The Designated Magistrate shall ensure that the victim, labourer or any witness to the commission of any offence under the BLSA shall be provided with protection during the pendency of the trial.
- 8.2 Any complaints raised by the labourer, victim or witness in relation to harassment by the accused or his associates shall be acted upon urgently and the Designated Magistrate shall make orders for the protection of the labourer, victim or witness, such as cancellation of bail, or other appropriate orders.
- 8.3 In case the accused is absconding from trial, proclamation and attachment of property may be initiated.
- 8.4 Copies of case documents shall be made available on application.

9. Evidence

- 9.1 In all proceedings herein, the Designated Magistrate shall record the substance of evidence and particulars as per Section 285(1) of BNSS, 2023. Such evidence may include documentary evidence, and when necessary, oral evidence.
- 9.2 The Designated Magistrate must make the record of the case in the appropriate form as per Section 286 of BNSS, 2023.

10. Judgment and Sentence in Summary Trial

- 10.1 The Designated Magistrate shall record a judgement including a brief statement of the reasons for the finding.
- 10.2 Punishment under this procedure shall be as per S. 9, 16-20 of the BLSA.
- 10.3 Essential elements of a judgment upon Summary Trial under the BLSA shall be the following:
 - a. Serial number of the case;

- b. Date of the commission of the offence;
 - c. Date of the report or complaint;
 - d. Name of the complainant (if any);
 - e. Name of the bonded labourer(s);
 - f. Name, parentage and residence of the accused;
 - g. The offence complained of and the offence (if any) proved;
 - h. Plea of the accused and his/her examination (if any);
 - i. The finding with reasoning;
 - j. Sentence or other final order with reasons (Sec 9, 16-20 of the BLSA);
 - k. Amount of debt extinguished (if any) (Sec. 6 of BLSA)
 - l. Extent of mortgage freed (if any) (Sec.7 of BLSA)
 - m. Date on which proceedings concluded/terminated.
 - n. Order of committal (if any)
- 10.4 Proceedings shall be in addition to other civil and criminal proceedings, such as but not limited to proceedings under Minimum Wages Act.
- 10.5 In addition, the DM or SDM shall ensure that the rescued labourers are provided with other benefits and are repatriated as stated below:

11. Benefits to Labourer

- 11.1 The DM or SDM shall coordinate with relevant authorities to expedite provision of existing benefits due to the labourer such as benefits under central or state schemes including issuance of the following to the labourer,
- a) Aadhar Card,
 - b) Ration Card,
 - c) Caste Certificate,
 - d) Voter ID,
 - e) MNREGA Card
 - f) Government Health Insurance and
 - g) Any other relevant or required document.
- 11.2 Release Certificates shall be considered as Identity Proof for the labourer.
- 11.3 The DM or SDM shall provide the labourer or their representative with receipt of any application for provision of any benefit due to the labourer including benefits not included under the BLSA, herein or benefits that are specific to bonded labourer.
- 11.4 The DM or SDM shall ensure that the local primary health centre of the rehabilitation location medically screens the labourer.

12. Repatriation

- 12.1 Repatriation shall be subject to the consent of the labourer. The rescuing DM or SDM shall be responsible for repatriation, which must be done at the earliest possible time and in any case, no later than the release of immediate financial assistance.
- 12.2 The DM or SDM shall coordinate with both rehabilitation and rescue location's police and District Administration ("DA") for quick and safe transfer, protection and rehabilitation, including,
- a) fooding, shelter, transport and protection,
 - b) sending a written request to the local police of the rehabilitation location for protection of the rescued labourer against possible harassment and intimidation by the offender or his associates, and
 - c) sending a written request for rehabilitation of the rescued labourer to the relevant officials of the DA, including the DM, of the rehabilitation location, including,

- name(s), final address(s), contact detail(s) of the labourer(s),
 - name(s) of the offender(s), if available
 - certified copies of the Identification Form(s) and Release Certificate(s),
 - identity card(s) of the labourer(s), and
 - receipt(s) of any rehabilitation given to the labourer(s).
- 12.3 DM or SDM shall ensure that his representative along with the police accompanies the labourer during such repatriation. At all times, the DM or SDM shall ensure that the offender is not allowed to come into contact with the labourer.
- 12.4 The pendency of investigation or trial in relation to commission of offences under the BLSA shall not stand in the way of repatriation of the labourer and / or his family at any stage.
- 12.5 Where a labourer has been repatriated but, in the opinion of the Designated Magistrate, is later required to be summoned for evidence, the Designated Magistrate should ensure that any expenses incurred by the labourer or witness in this regard are met and that such labourer or witness is given adequate protection during and post-trial.
- 12.6 For offences under laws other than BLSA, where statements under Section 180 of BNSS, 2023 are required to be recorded, the DM or SDM shall ensure that the same is done at the earliest, prior to repatriation.
- 12.7 The amount of Immediate financial assistance as well as final rehabilitation, on the basis of summary trial, shall be provided to the rescued bonded labourer by the state from where the bonded labourer has been issued Release Certificate, irrespective of repatriation of bonded labourer.