

## **Bachpan Bachao Andolan v. Union of India**

**Decided on 18 April 2011 in the Supreme Court of India**

### **Background**

This petition was filed in public interest under Article 32 of the Constitution in the wake of serious violations of the rights of children who are trafficked and forcefully detained into performing in circuses, in many instances without any access to their families and under extremely inhuman conditions. There are instances of sexual abuse, physical abuse as well as emotional abuse of these children. Most of them are trafficked from poverty-stricken areas in Nepal or from backward districts in India. The lives of such children are confined to the circus arena, with no freedom of mobility and choice. They are entrapped in the world of circuses for the rest of their lives.

### **Observations of the court regarding children employed in circuses**

The court recognised that the work and living conditions of the children employed in circuses were appalling. The children face conditions such as:

1. **Lack of space:** The children are forced to live in cramped areas, with 5-10 persons sharing a single tent.
2. **Lack of food:** They are provided only two meals a day, the quality and quantity of food being insufficient for their needs.
3. **Insufficient sleep:** The children are unable to get sufficient sleep – they are woken up at dawn for training and are able to go to bed only once the last show is over, at around midnight.
4. **Lack of hygiene and sanitation:** No proper bathing and toilet facilities are made available.
5. **Lack of healthcare and emergency facilities:** There is absence of healthcare personnel to look after the day-to-day healthcare needs of circus artists, as well as for emergencies.
6. **High risk:** The risk factor involved in circuses endangers the lives of children, especially those involved in high-risk performances, constituting 10 per cent of the children employed in circuses. Lack of precautionary measures also endangers

the lives of children employed in medium-risk ventures, constituting 60 per cent of the children employed in circuses.

7. **Exploitative wages:** The children are paid meagre salaries. Some circuses hold back the salaries of children saying these would be paid only to the parents.
8. **Children bound by contract:** The child artists in circuses are contracted for 3 to 10 years by their parents or guardians. These young ignorant children are thereby bound to the circus and are unable to break away even if they wish to.

The court recognised the legal complications surrounding the employment of children in circuses, including:

1. Violation of the right to education enshrined under Article 21A of the Constitution
2. Violation of the fundamental right to freedom of expression (enshrined in Article 19 of the Constitution)
3. Violation of the provisions of Children (Pledging of Labour) Act, 1933, The Child Labour (Prohibition and Regulation) Act, 1986, Minimum Wages Act, 1976, Immoral Traffic (Prevention) Act (ITPA), 1956, Equal Remuneration Act, 1976, and rules made thereunder, and the Bonded Labour System (Abolition) Act, 1976, read with rules made thereunder, Factories Act, 1948, Motor Transport Workers Act, 1961, etc.

#### **Directions given by the court regarding children employed in circuses**

The court gave the following directions regarding children working in circuses in India:

- (i) The Central Government must issue suitable notifications prohibiting the employment of children in circuses within two months from today.
- (ii) The Central Government must conduct simultaneous raids in all the circuses to liberate the children and check the violation of the fundamental rights of the children. The rescued children must be kept in care and protective homes till they attain the age of 18 years.
- (iii) The Government must talk to the parents of the children and in case they are willing to take their children back to their homes, they may be directed to do so after proper verification.
- (iv) The Government must frame proper schemes for the rehabilitation of rescued children from circuses.

**Comment [P1]:** Please check

(v) The Secretary of Ministry of Human Resources Development, Department of Women and Child Development, must file a comprehensive affidavit of compliance within ten weeks from the date of the order.

### **Child trafficking**

While the original petition was concerned with child labour in circuses, the Solicitor General broadened the scope of the petition to deal with the larger problem of child trafficking. Child trafficking is conducted for many purposes, including domestic work, prostitution and the entertainment industry. It is a lucrative criminal activity worldwide.

### **Suggestions of the Solicitor General to combat child trafficking**

The Solicitor General observed that intervention in the case of child trafficking must be a joint initiative of government and non-governmental organisations. An effective intervention must ensure effective protection of children from exploitation and abuse.

The Solicitor General thereby made the following suggestions:

1. Each state government must constitute committees for the purpose of preventing child labour.
2. Victims of child trafficking must be rehabilitated with the help of child welfare committees. The police and the magistrate must also fulfil their responsibilities under various child protection legislations in this regard.
3. Monitoring mechanism: The child welfare committees must be supervised by the courts as well as by the district magistrate. For every juvenile home, a district judge or a judge nominated by the chief justice of the High Court should be a visitor. Periodic internal reports must be given to the High Court and the district magistrate.
4. Child protection schemes such as the Integrated Child Protection Programme for Street Children, Childline services for children in distress, and Shishu Griha to promote in-country adoption must be strengthened.
5. A government and civil society partnership must be established to ensure active involvement of the voluntary sector, research and training institutions, law college students, advocacy groups and the corporate sector.

### **Directions given by the Supreme Court**

The Supreme Court directed each state to issue a circular effectively indicating how the recommendations of the Solicitor General would be implemented within four weeks from

the date of the order, and also required a compliance report to be filed by the chief secretary of each state to the Supreme Court.