



LOV VERMA, IAS
Member Secretary

भारत सरकार
GOVERNMENT OF INDIA

राष्ट्रीय बालक अधिकार संरक्षण आयोग
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

जनपथ, नई दिल्ली-110 001
JANPATH, NEW DELHI - 110 001

F. No. OR/26011/24536-2011/Comp

Date: 22nd July 2011

Dear Sir,

An investigation team headed by Dr. Yogesh Dube (Member, NCPDR) along with Shri Rabi S. Misra (former District Judge and former Chairperson CWC, Bhubaneswar) and Shri Jayaprakash Rao, (Social activist and retired Professor of Sociology, Hyderabad) visited Jagatsinghpur District of Odisha between 3rd and 5th July 2011 to assess the safety and security of children in the POSCO area, as desired by the Chairperson of this Commission. The Commission constituted the investigation team to look into the alleged misuse of the children in the anti-Posco movement, pursuant to the complaint received from the Delhi Odia Student Association (DOSA) and All India Student Federation (AISF).

2. We sincerely thank the Collector and the District Administration for extending necessary co-operation to make this visit fruitful and secure.

3. Based on the interactions and filed observations of the investigating team the following concerns listed below have been identified that need immediate attention:

4. Issues/Feedbacks/Observations

VISIT TO THE TRANSIT CAMP AT BADAGABAPUR

The transit camp constructed by the POSCO in village "Badagabapur" under "Dhinkia Panchayat" has been providing shelter since 2008 to 52 families who left their native village, "Dhinkia", because of the stand-off between supporters and opponents of the POSCO project. The nearest Middle-School (up to class VII) is about 1½ k.m. away from the transit camp. There is another Middle-School at a place called Manapur, at equidistance in the opposite direction. A dispensary and a High-School are situated at Balitutha, about three k.m. away.

It was learnt that the POSCO project Authority provides Rs.20/- per day per person towards their subsistence and it would continue till they are shifted to the resettlement colony. Adult members have been getting employment under the NREGS scheme for

more than two months in a year. They are BPL cardholders of their native village and get rice and wheat through PDS system in the camp. Some of them at times work as daily labourers, depending on availability of work.

The camp consists of rows of single roomed accommodations having asbestos roof, which are of poor quality. There are 12 common toilets-cum-bath rooms for all the families, out of which 8 are in filthy and unhygienic condition, with open pits and leakages in the cesspool tank. The houses and toilets in the transit camp are never repaired or maintained. There is no open space to be used as playground by children.

Before being brought to this transit camp, the families had been kept at some other place for about 8 months. Currently there are 35 children including adolescent girl children, in the camp. In the whole process, education of the children more particularly of the girl children has been greatly affected. Some of the girl children even have left study. Some of the children have been admitted in the middle schools at Badagabapur and at Manapur. But their study has been disrupted for one or two years in the process of shifting to the transit camp and acclimatization at that place. The parents are highly concerned about the study of their children and sometime they entrusted an adolescent girl to teach the small children on voluntary basis.

There is absolutely no meeting between the teachers of the middle school either at Balitutha or at Manapur and parents of the children, as contemplated in Section 24 (e) of the Right of Children to Free and Compulsory Education Act, 2009 (*henceforth referred to as RTE Act*), for appraising the parents about the attendance and progress made in learning by the children. The teachers appear to be oblivious of this responsibility and the concerned D.I. of Schools stationed at Tirtol also seems to be unaware of his responsibility of supervision on this aspect. Benefits of ICDS programmes are not at all extended to the girl children in the transit camp. So also no Anganwadi centre for the small children there. The DSWO has never visited this transit camp.

Recommendations

Ensure at the earliest that the families in transit camp of Badagabapur are not deprived of their right to survival and their needs for sanitation, healthcare & nutrition are addressed;

Ensure functioning of the ICDS Programme and Anganwadi centre in the village, particularly for the girl children and children below 6 years;

Ensure that the right to development including education and recreation of the children in the transit camp is not violated and the teachers of Middle schools at Badagabapur & Manapur hold meeting with parents as required under Section 24(e) of the RTE Act; and

Ensure that the District level officers of the W&CD Department and School & Mass Education Department should not pretend ignorant about the laws and appear to be oblivious of their responsibilities in respect of these children.

VISIT TO THE PRIMARY SCHOOL AT BALITUTHA

The school building consists of two blocks in "L" shape. In one block, there are three rooms which are now under occupation by 150 armed police persons as their temporary camp/ barrack. In the other block, there are two rooms, one used as office-cum-class room and the other used only as class-room. The open bathing space for the police persons is also inside the premises and towards the front of the class-rooms. There is one separately constructed room, sandwiched between both the blocks, being used as Anganwadi centre. The verandah of the rooms under occupation of police persons almost adjoins the Anganwadi centre. During the visit all police persons were not present, because some had been requisitioned for duty at Puri on account of the "Car Festival". Some of the police persons were found moving inside the campus, wearing only under-wears.

Interacting the Team-Members, the school Head-Master (Mr. Krushna Chandra Jena) confirmed that the Collector has ordered the D.I. of Schools, Tirtol to permit the police persons to make the classrooms as their temporary camp/ barrack only during summer vacation. However, till date they have been occupying the same.

All three teachers (including the Head-Master) were present in the school. It is a requirement under RTE Act that at least one classroom should be available for each of the five classes. But due to prolonged occupation of three classrooms by the police force, only two classrooms are available for study in the school. That apart, use of the classrooms as accommodation for the police force violates the provision in the RTE Rules that school buildings should not be used for any purpose other than Education. It is learnt that the D.I. of Schools, Tirtol and the C.I. of Schools have not brought these facts to the notice of either the Director, Elementary Education or the Secretary, School & Mass Education Department. They have obviously failed in their duty to take notice of these facts and to otherwise ensure functioning of the primary school, in right sense.

The Anganwadi centre was locked and not functional due to presence of the armed police persons in the adjoining place. They also occupy the open space meant for activities of the Anganwadi centre. The presence of so many armed police personnel inside the premises of the school & the Anganwadi centre has been creating a sense of fear in the minds of tender children. There is no report from the D.S.W.O. to the Director, Social Welfare, W&CD Department, about the detrimental effects on functioning of the Anganwadi centre due to continued presence of police persons inside the given premises. The D.S.W.O. seems to have failed in her duty to ensure its proper functioning.

The school was open and 10 out of 100 children enrolled for all the five classes were present. Activities for the mid-day meals could not also be noticed. Explaining the cause of absence of such a large number of children, the Head-Master told that it is on

account of festive days for the Car Festival. The low attendance and the physical atmosphere of the school clearly exposed loss of motivation on the part of the parents to send their children to school, which is a failure of the teachers in their responsibility under Section 24 (e) of the RTE Act, to hold regular meetings with parents and guardians for appraising them about attendance/ progress in learning by the children.

Recommendations

- (i) Ensure early vacation of the school premises occupied by the armed police forces for smooth functioning of school as well as Anganwadi centre;
- (ii) Mid-day-meals are functioning regularly as per the prescribed standard and menu;
- (iii) Respect and comply with the provisions of RTE Act and Rules, ensuring non-use of the school building for other than education purpose;
- (iv) The district level officers of the W&CD and School & Mass Education Departments should take remedial steps to ensure proper functioning of the school and the Anganwadi centre and report to their respective Secretaries, in case there is halt in functionin in future; and
- (v) Ensure that the W&CD and School & Mass Education Departments supervise and monitor the ground level activities on routine basis and are punished by their higher Authorities if they found to be oblivious of their responsibilities.

VISIT TO THE PRIMARY SCHOOL AT DHINKIA

There is one multipurpose cyclone-shelter inside the school premises. The school was open when the team visited the school. However, only 8 children out of the total strength of 208 in all the five classes were present in the school. One male teacher (Maqsud Alli Khan) and the Headmistress (Basanti Devi) present in the school told that children are not coming to the school as they are going to join the agitation against the POSCO project. But they did not say whether they had tried to have any meeting with the parents in connection with attendance of the children in the school, which is a mandatory provision under Section 24(e) of the RTE Act, for the teachers to hold meetings with the parents to apprise them of attendance and progress in learning by children. No activity in connection with the mid-day meals for the children could be noticed.

Recommendations

Ensure attendance of children and teachers for smooth functioning of schools through involvement of the parents and community;

The mid-day meals programme is implemented effectively in the school as per the prescribed quality and quantity and supervised regularly to attract the children and supplement nutritional their requirement,;

THE PRIMARY SCHOOL AT GOBINDAPUR

On account of constraint of time, the Team-Members could not visit the PRIMARY SCHOOL AT GOBINDAPUR. However, they were locally informed that the children of the school had gone to the place of blockade.

Recommendations

- (i) Ensure that the school is functional and the children do not participate in the agitation during with school time.

VISIT TO THE PLACE OF AGITATION INVOLVING CHILDREN

This place is locally called Balitikiria and comes under Gobindapur village. Access to the betel vines grown on Government lands situated in village Dinkia and Gobindapur is through this place. Therefore, the protestors have been squatting at this place to block the access to their betel vines and other Government lands under their occupation, so that police and Government employees cannot go there to take possession of the said lands. The blockade consists of two layers of human-beings the children constitute the front layer and women constitute the second layer behind it. They are accompanied by a number of male persons. The Team was informed that the involvement of children is since 10.06.2011 on daily basis from morning hours to afternoon.

On the day of field visit by the Team-Members there was no action from the side of the Government in taking possession over the lands. At the time of arrival of the Team-Members there, the blockade had been continuing in spite of the rainy weather and the children had been raising slogans against the POSCO project. About 70 to 80 children and equal number of women, mostly from village Gobindapur, were present in the blockade. There were also a good number of men. The children were of the age group of 6/7 to 12/14 years. A few of the women appeared to be more than 50 years old. The children sitting in a row, served the purpose of a human shield for the agitators. The Team-Members interviewed some children (namely Biswambar Mohanty, student of class- VIII in Dinkia High school, Sandeep Mohanty and Rakesh Bardhan), women and men at that place, including a woman leader (Manorama Khatua).

Children interviewed expressed their unanimous apprehension that if their lands are taken away, they would loose their betel vines, main source of comfortable livelihood for years, and would be reduced to homeless labourers either under the Company or elsewhere. Their common apprehension was that displacement (total or only affected) by dispossession from the lands, their parents would not be able to support their study in future and growing into adulthood they too would land into nowhere without any

permanent resource to earn their livelihood. Their common version was that therefore they had been joining with their parents voluntarily and decidedly in this agitation to prevent taking over of their lands by the Government machinery for the POSCO project. *They told that they would not go to school till the POSCO project went away from their village.* The children too submitted a joint memorandum written in Oriya to the Team-Members at that place. The most remarkable sentence in the memorandum is that a few lakhs of Rupees cannot compensate the loss to their future and that for a plant of 30 years' life span, they should not be reduced to penny-less state. One child (Rakesh Bardhan) submitted a short memorandum separately written in Oriya expressing similar anguish.

A child, on being asked, what he would ultimately do if POSCO would set up the project on their land instead of going away, promptly replied that he would prefer to become an illiterate so that he could unhesitatingly become a member of the labourer class, to which status his parents would be reduced on loosing their betel vines providing lucrative income to them.

Finishing cooking early in the morning the women together with the children and male members taking food and going to the place of agitation. Manorama Khatua told that the betel vines provided good income, the spot-price being Rs.50/- for 50 leaves and that they would not allow their lands to be taken away. One Young woman told that she had been volunteering on behalf of the POSCO Pratirodh Sangram Samiti (PPSS) and that she had been supplying drinking water and small quantities of biscuits to the children there, as and when necessary.

On request by the Team-Members, Mr. Abhaya Sahoo, the leader of the organization named POSCO Pratirodh Sangram Samiti (PPSS), came to that place and presented his version before the Team-Members. While he was narrating in detail the alleged harassments and violence to the local people and destruction of their betel vines by police and goons, the Team-Members asked him to confine to their concern, as the children remained absence from school on account of their involvement in the blockade. The only allegation by him against police, coming within the action-sphere of the Team-Members, was that some months back while arresting one Basudev Behera, police illegally took also his three children into custody. It was taken up by the Team-Members as an item for discussion with the Collector.

Mr. Abhaya Sahoo categorically admitted that the strategic purpose of involvement of children to constitute a human shield in the blockade was to thwart any attempt by police from using physical force against the squatters in the blockade for dispersing them, so as to clear the access to the encroached government lands and to the betel vines on the said lands. He said that in future, children from four villages such as Dthinkia, Gobindapur, Nuagaon and another village would get involved in the barricade, rotation wise once in four days; and that if any occasion would need, all would congregate together. When confronted with the Indian culture of not exposing children

to hazards and insecurity, he could not deny the impropriety in involvement of children as human shield in the blockade. He however proposed that if armed police force would be totally withdrawn from the entire scene, the children might be persuaded to go back to schools. But it was not guaranteed that the people would not create any law & order problem for the District Administration while taking over possession of the of the project lands.

As per the information obtained from the Rehabilitation Officer, compensation packages for the encroached lands included, Rs.11,50,000/- for betel vines, Rs.2,00,000/- for fishing tanks and Rs.75,000/- for agriculture. It is discernible that parents of the children are under anxiety due to apprehension of displacement and loosing their stable source of lively-hood and the associated free life style. Grievances of non-recognition of legal rights to their so-called encroached lands and of inadequacy of the compensation package coupled with the perception of benefit to industry owners and others, at the cost of their own livelihood support, is bound to create also frustration and anger in the minds of people. Children do tend to get emotionally involved in apprehension, anxiety and frustration of their parents concerning the livelihood of the family. Naturally the children would question why their parents are put to this kind of situation and they would carry a strong conviction of injustice to their parents.

Recommendations

- (i) The police should assure and ensure that physical force against the squatters is not used to disperse them, so that the involvement of children in the blockade to constitute a human shield is not ensured;
- (ii) The negotiation should be rational and the women are part of the same as displacement largely affects the women and children;
- (iii) The anxiety/ apprehension on account of the prospect of displacement and loss of the source of livelihood for their families, has been apparently affecting the minds of the children. So ensure that the children are engaged meaningfully and not affected by the process of displacement and dispossession;
- (iv) The PPSS and its supporters are assured that the process of industrialization will be through negotiation and not by force/coercion;
- (v) Early efforts are made by the ground level functionaries of the School & Mass Education Department and the W&CD Department to motivate the parents and attract the children for coming to schools;
- (vi) Ensure supply of mid-day meals, functioning and extension of ICDS programme, effective contact between Anganwadi workers with the mothers of children and meeting between teachers and parents; and
- (vii) There should be effort from District Child Protection Committee under the ICPS and the Child Welfare Committee or through NGOs to mobilize and motivate the parents for sending their children to school.

MEETING WITH THE DISTRICT COLLECTOR ON 04.07.2011

The Team-Members met the District Collector, Jagatsinghpur and his team (such as Superintendent of Police, ADM, Paradip, DSWO, Rehabilitation Officer, BDO, Ersama, and the D.I. of Schools, Tirtol) in the guest house of the Paradip Port Trust at 4.30 p.m. on 04.07.2011.

Sharing the observations they made during their visit to transit camps, Dr. Yogesh Dube expressed concern over the allegations of misuse of children of village Dthinkia and Gobindapur for protest against the POSCO project and their continued absence from school. He also strongly registered the concerns with regard to presence of armed police force in the school premises, thin attendance of children in schools, absence of protective measures for the children joining the blockade, alleged illegal arrest of small children, role of CWC Chairperson in taking up the cases, lack of ICDS programmes in the Transit camps, violation of the provisions in the RTE Act, etc.

The Collector agreed to the need for ensuring availability of ICDS programmes to the children in the transit camp, improving conditions of health and hygiene there and more employment opportunity to persons residing there. As regards schooling facility, he expressed that the children of the camp had been going to the primary schools at Badagabapur and Manapur and the High school at Balitutha, only 3 k.m. away. He also agreed that teachers should have meetings with parents of children and that they could try to motivate the parents to send the children to school. Both the Collector and the SP initially tried to justify accommodation of police force inside school building. However the collector ultimately agreed to the desirability of removing the police force from school premises; but he told there was need for 1 or 2 months to make the alternate arrangement.

As regards alleged arrest of three children of Basudev Behera, the SP replied that he was arrested under the preventive provision U/s 151 Cr.P.C. The children were not at all arrested, but Basudev Behera took the children with him inside the police van on the pretext that they needed his presence. He was released shortly afterwards at a different place. The clarification could not convince the Team-Members as there was no consistency. If the proposal was to make only preventive arrest under section 151 Cr.P.C. and if in the given situation the children were not separable from the person to be arrested, police should have deferred the arrest.

As regards involvement of children in the agitation, the Collector raised the counter grievance that on instigation by Abhaya Sahoo, entry by him and his officers to village Dthinkia and Gobindapur had been opposed by his supporters. Expressing his anguish further he said that given one chance to go inside the said villages and to talk with the people, he would definitely convince the parents to send the children to schools. The Team-Members, in their wisdom, did not like to give any comment on the aforesaid anguish of the Collector.

Recommendations

- (i) Ensure that the armed police forces vacate the school building with immediate effect and are alternatively accommodated in Panchayat Headquarters building Balitutha for time being;
- (ii) Ensure meetings of teachers with parents of children to motivate the parents to send their children to schools;
- (iii) The SP should direct the subordinate police personnel to ensure that no child is arrested or taken to police station along with parents, which would encourage the agitators to involve the children in the agitation as human shield;
- (iv) Popularize the RTE Act, 2009 and comply the same in all schools (Government and Private); and
- (v) Ensure that the District level officials visit the villages and interact with the community regularly.

MEETING WITH THE CHIEF SECRETARY on 5.7.2011 at 11 a.m. in Secretariat

The visiting Team brought the following issues before the Chief Secretary, Government of Odisha, who was accompanied by the (i) Revenue Divisional Commissioner, Southern Division, Cuttack, (ii) Commissioner-cum-Secretary, W&CD Department, (iii) the Collector & District Magistrate, Jagatsinghpur, (iv) the Additional Secretary, School & Mass Education Department and (v) Joint Secretary W&CD Department and other officers at Secretariat.

- (i) The safety and security of children being used by the agitators as human shield against land acquisition;
- (ii) Improve the health, sanitation and drinking water availability in the transit camp for 52 families;
- (iii) Immediate withdrawal of police force from the school buildings of Balitutha, Bijipur, and Kujanga villages;
- (iv) Involvement of civil society members, Child Welfare Committee, District administration to bring back the children to the schools;
- (v) The Anganwadi Centre should start functioning immediately in the premises of Balituth School;
- (vi) Strengthen safety and security measures in all Ashram Schools in the area; and
- (vii) Filling all vacant posts of teachers in the schools in the area and create favourable conditions for enrolment of children who are outside the school.

The Chief Secretary thanked the visiting team and assured that the State Government will take all necessary measures to protect the rights of the children and enroll them into the schools. Further he has assured that measures would be taken immediately on following issues:-

- (i) Effect to functioning of Anganwari Centres;
- (ii) Withdrawal of police force within the time frame given by the District Administration from the schools;
- (iii) Motivate the parents to send their children to schools by activating the Child Protection Units, Child Welfare Committee and the District Child Protection Committee of Jagatsinghpur District;
- (iv) Improve sanitation and hygiene in the transit camp.
- (v) Appoint lady Wardens and teachers in the residential Ashram Schools for girls;
- (vi) The Collectors of Bolangir, Kalahandi, Nuapada and Bargarh directed to implement all rehabilitative measures to migrant families and children rescued from Nalgonda district of Andhra Pradesh.

SUMMARY OF RECOMMENDATIONS

- (i) Withdraw police personnel accommodated in all the Schools in the area immediately.
- (ii) Strengthen ICPS, ICDS and Mid-Day-Meal schemes to attract children to the schools.
- (iii) Activate State/District child Protection Committees, Child Welfare Committee to motivate the parents to send children to the school.
- (iv) Fill up all vacant posts of teachers in the schools and improve infrastructure facilities to ensure quality education.
- (v) Fill up all vacant posts of Wardens and other support staff in residential (Ashram) schools. Recruit female wardens and support staff for girls' residential schools.

5. We therefore request you to please look into the recommendations and ensure the same are implemented at the earliest.

With regards!
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Yours sincerely,



(Lov Verma)

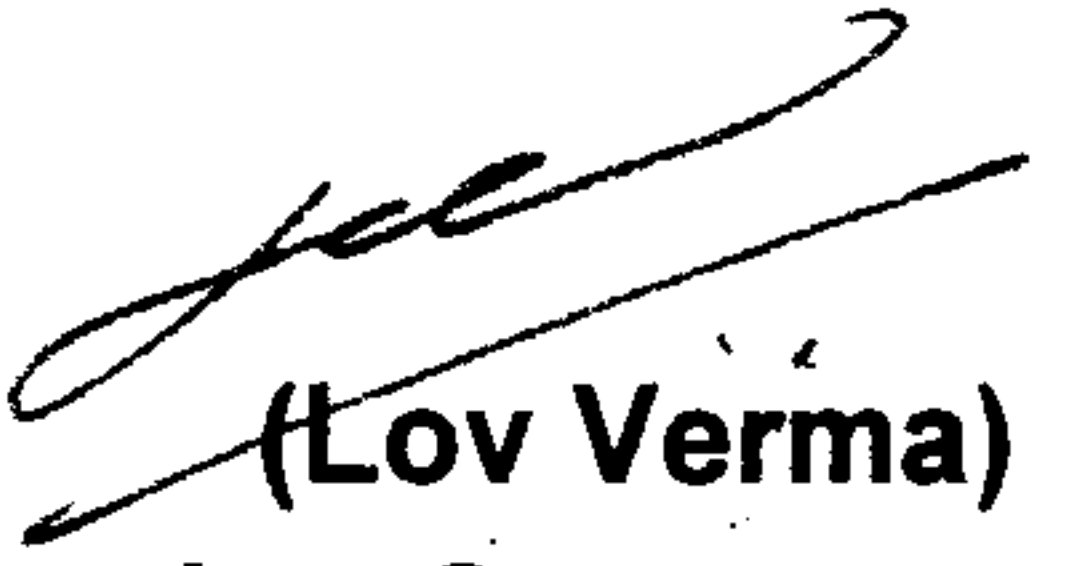
Member Secretary

To,

Shri B.K. Patnaik,
Chief Secretary,
Government of Odisha,
Secretariat Building,
Bhubaneswar – 751 001, Odisha.
Fax: 0674- 2536660

Copy to for necessary action:

1. Shri Narayana Chandra Jena, District Magistrate, Jagatsinghpur, Odisha, PIN-754103, Phone: (06724) 220379 (Off), 220199 (R), 220299 (FAX)


(Lov Verma)
Member Secretary