

## CHILD LABOUR - HEAVEN OF FREEDOM

*Special Reference to Sivakasi*

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### Abstract

India has the largest child labour force in the world. The first Indian match units were set up in 1894-95 in Bilaspur and Ahmedabad. However, till 1920 most safety matches were being imported from Sweden, Japan and Czechoslovakia. Sivakasi, an industrial town in Tamil Nadu, houses the world's largest concentration of child labour in its various units. Out of a total population of 100,000 workers in the match and fireworks industries, the child worker population is around 45,000, mostly below the age of 14. In Sivakasi, the Nadars, who had started match factories in 1923, rapidly expanded their activities to captive printing presses and the manufacture of fireworks. A major reason for the Nadar community's cohesion is the Nadar Mahayana Sangam, formed in 1910, which has master-minded the social, economic and intellectual development of the community. The town of Sivakasi in Tamil Nadu was infamous for being one of the worst-affected areas by child labor in India. The solicitous advocate MC Mehta, deeply troubled by the appalling conditions of child labor in Sivakasi, filed a petition under Article 32 of the Indian Constitution. The Harbans Singh report accepts that banning child labour would not effectively halt the practice; instead, it suggests, working hours should be reduced, wages increased and coupled with incentives for production. MC Mehta's petition highlighted the plight of children working in dangerous conditions, which garnered immediate attention. One of the primary issues raised in the *MC Mehta V. State of Tamil Nadu* case was whether the employment of child labor in hazardous industries, such as the matchstick factories in Sivakasi, constituted a violation of the fundamental right.

Keywords: *Indian Constitution, Sivakasi, Child labour, Hazardous*

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The child of twenty-first century fined himself into that "heaven of freedom" of which our poet laureate Rabindranath Tagore has spoken in Gitanjali.

### **Sivakasi: an industrial town in Tamil Nadu**

Sivakasi, an industrial town in Tamil Nadu, houses the world's largest concentration of child labour in its various units. Out of a total population of 100,000 workers in the match and fireworks industries, the child worker population is around 45,000, mostly below the age of 14. A member of the People's Union for Civil Liberties investigated the continuing evil of child labour. Girls outnumber boys in every factory, for they are considered more dextrous, working at filling match frames, making matchboxes, counting sticks, or pasting labels, while in the fireworks factories they dye newsprint with the distinctive red of the crackers, roll gunpowder, and package the final product.

#### **First Indian match unit**

The first Indian match units were set up in 1894-95 in Bilaspur and Ahmedabad. However, till 1.920 most safety matches were being imported from Sweden, Japan and Czechoslovakia. Initially raw materials like splints and veneers had to be imported from Japan. Later indigenous resources particularly soft wood trees like Pollai, Palai, Matti and Àmbalam found in Kerala and Mysore were used. Bengal was one of the first places where matches were manufactured in the cottage sector. In the 1910s, some entrepreneurs brought some Japanese families to Calcutta to teach their skills to the local people employed in these small factories. However, these units could not sustain competition from the Swedish match company which was importing matches into India. To protect indigenous manufacturers, in 1921, a tariff barrier was imposed on the imported goods. Subsequently, to avoid these duties, the Swedish match company decided to set up its own manufacturing units in India. WIMCO thus came into being. Mechanized units with imported machinery and raw materials were set up all over the country. Three distinct market interests evolved: Indian machine-made, with mainly Japanese machinery, Indian hand-made and WIMCO. In the ensuing triangular contest to meet the indigenous market for matches, WIMCO had a distinct advantage owing large capital resources and sophisticated machinery for mass production and, as a result of an extensive market structure, by 1927 it had acquired nearly 30 per cent of tipe market share in the country.

#### **Nadar Community**

In Sivakasi, the Nadars, who had started match factories in 1923, rapidly expanded their activities to captive printing presses and the manufacture of fireworks. The Nadars were traditionally communities of teddy-tappers. They were forbidden entry into Hindu temples and prohibited the use of public wells. Above the lowest untouchables, they could have access to the Brahmin household, but shared with the other untouchables the prohibition of spatial

distance from the Brahmins. In Ramanathapuram, the Brahmin population was relatively small, mostly members of the Vellala community. Below them ranged the 'clean' castes of Telugu Naickers, Reddiars and Maravas and lastly after them came the Nadar caste. By the early nineteenth century, nearly 5,000 Nadars' of Tirjinelveli were converted to Christianity. As a result, Nadars started going to church- run schools, thus acquiring an English- language education. Some Nadars migrated to Ceylon and Malaya and their remittances were used for profitable investment. Initially most of the money was invested in land but later, it was used to start trading activity. The organizational base provided by the Church brought a new unity among the Nadars.

### **Nadar Mahayana Sangam**

A major reason for the Nadar community's cohesion is the Nadar Mahayana Sangam, formed in 1910, which has master-minded the social, economic and intellectual development of the community. The Sangam has founded schools, colleges, cooperative banks and has a virtual monopoly in foodgrain and grocery distribution in the region. Today, the Nadars' empire extends over 730 small-scale and 1,330 cottage units in the match and fireworks industries. They also control the lucrative Sivakasi litho printing industry, which turns out everything from match labels and calendars to posters and books.

### **Keerayan Alagar Dam**

The British evolved a plan in 1937 to solve Ramanathapuram's acute water-shortage, which involved the construction of the Keerayan Alagar Dam in the Western Ghats to irrigate 3.5 lakh acres of land in the drought-prone district. Since Independence, the plan has been reviewed five times, but no dam has been built.

The Tamil Nadu Vivasai Sangham (Farmers' Association) led by C. Narayanaswamy Naidu, has been gathering considerable support in the district from the poorer farmers because of its demands for lower electricity charges for small landowners, eradication of loans totalling Rs 440 crore, proper compensation payments when labourers die at work, and the fixing of equitable procurement rates.

### **Indian Peoples Front**

Another organisation working among the poor villagers of the district is the Indian Peoples Front (IPF). Says U.G. Narainswamy Naidu, president of the Tamil Nadu branch of the IPF: "Child labour continues in the district because drought and lack of employment forces parents to send their children to work. There is also a strategy on the part of the state Government not to develop this area. Ultimately, children cannot be organised, so child labour favours the employers."

Recommendations: “A community of interest has developed between the employers and employees, as a result of whom employment of children continues without protest,” says the Harbans Singh report, “and the government agencies have also been partly responsible for this.”

### **Harbans Singh report**

The report accepts that banning child labour would not effectively halt the practice; instead, it suggests, working hours should be reduced, wages increased and coupled with incentives for production.

Stating that "the minimum wages for the match industry have not been revised since 1968", the report recommends that the piece rate be abolished and wages linked to the cost of living index. Recommending that non-formal education be given to children in the factories, the report adds: “School attendance should be made compulsory and should be a condition precedent for employment in factories.”

Such sentiments have, however, been suppressed by the interested parties. The Nadar community received a tremendous boost when K. Kamaraj, himself a Nadar, became the state's chief minister in 1953 - and ever since, its growing political clout has helped it conceal and perpetuate child labour. In Ramanathapuram's villages and towns, thousands of children continue to work at jobs that have only cruelty, danger and indifference as their conditions. Worse still, the children's utility as workers peters out as they grow older - and their places are taken by younger children whose un-protesting dexterity helps their parents eke out a living. Only when millions of people all over the country light a match, buy crackers for Diwali, or read small news items about a few children dying in accidents, does Sivakasi flash briefly on their subconscious.

Later in the failing light of the evening in Sivakasi, watching hundreds of children packed like sardines into ramshackle buses travel home from the factories, the nation's lack of conscience settles like a funereal shroud over the mind.

### LEGISLATION: *letter of the law*

India has the largest child labour force in the world. In 1971, there were over 10 million child labourers; the number has increased since then, but no precise estimate exists. The National Sample Survey (1972-73) cites a figure of 16.3 million child labourers in the age group 5-15 years. The Rural Labour Enquiry Committee calculates that an average child is employed in the countryside for 280 days every year, and earns roughly half the adult wage.

## **Tamil Nadu under President's Rule**

In 1976, when Tamil Nadu was under President's Rule, the Central Government set up the Harbans Singh Commission to investigate the "problem of child labour in various factories and industries in Ramanathapuram district". The report was submitted in 1977, but has not so far been made public, when a fireworks factory near Sivakasi town - the centre of the nation's handmade match and fireworks industry - went up in flames, killing six children, Smitu Kothari of the People's Union for Civil Liberties decided to investigate the continuing social evil of child labour in and around Sivakasi.

Children have always been used in economic activities. In precapitalist societies including India, children had been employed in guilds and in trade occupations. In these societies, their workplace was an extension of the home and work relationships were in- formal relationships, the child grew, up and found work within the family environment -r- where the child was not given hazardous and difficult tasks. Work was a central aspect of their socialization and training. Within the advent of capitalist industrialization the situation changed. The new economic forces unleashed by capitalism destroyed the family based economy, a large number of labourers were displaced due to me- chanisation of agriculture - thè far- mer was alienated from the land and drafts , people from their home-based workplace. They became wage earning labourers. Extreme poverty made possible à situation in which the child had to be introduced in the labour market, tack of alternative employment for adults and lack of education for children reinforcing this' process.

### *Historical Context & Facts of MC Mehta V. State of Tamil Nadu*

The town of Sivakasi in Tamil Nadu was infamous for being one of the worst-affected areas by child labor in India. The solicitous advocate MC Mehta, deeply troubled by the appalling conditions of child labor in Sivakasi, filed a petition under Article 32 of the Indian Constitution. He argued that the employment of children in the hazardous matchstick factories was not only morally reprehensible but also constitutionally invalid.

### **Initial Petition and Government Response**

MC Mehta's petition highlighted the plight of children working in dangerous conditions, which garnered immediate attention. The respondent government did not oppose his claims and instead submitted proposals to address the issue. Consequently, the court issued several directions aimed at improving the lives of the affected children. However, following this initial order, an unfortunate accident occurred in one of Sivakasi's fireworks factories, prompting the court to take suo moto cognizance of the incident.

### Committee Formation and Report

During the hearings, the court appointed a committee of advocates to visit Sivakasi and compile a comprehensive report on the matter. This committee, formed on August 14, 1991, consisted of Shri R.K. Jain, Ms. Indira Jaisingh, and Shri K.C. Dua. The committee's findings, submitted on November 11, 1991, included several recommendations aimed at addressing the grave issues faced by child laborers in Sivakasi.

### *Issues Raised in MC Mehta V. State of Tamil Nadu*

Raised issues in this case regarding the violation of fundamental rights of children employed in hazardous industries. Key concerns included the breach of Article 24 of the Indian Constitution, inadequate enforcement of the Child Labour (Prohibition and Regulation) Act, 1986, and the State's responsibility to protect children from exploitation and ensure their right to education and a dignified life.

### Violation of Fundamental Rights

One of the primary issues raised in the MC Mehta V. State of Tamil Nadu case was whether the employment of child labor in hazardous industries, such as the matchstick factories in Sivakasi, constituted a violation of the fundamental right against exploitation as enshrined in Article 24 of the Indian Constitution. Article 24 explicitly prohibits the employment of children below the age of fourteen in any factory or hazardous employment. The presence of young children working under dangerous conditions in Sivakasi's matchstick factories was a clear breach of this constitutional safeguard, raising serious concerns about the state's commitment to protecting children's rights.

### Compliance with the Convention on the Rights of the Child

The case also questioned India's adherence to the Convention on the Rights of the Child (CRC), which it ratified in 1992. The CRC mandates the protection of children from economic exploitation and hazardous work. The employment practices in Sivakasi starkly contrasted with the provisions of the CRC, highlighting a gap between international commitments and on-ground realities. This issue raised the need for stronger enforcement of international norms within the domestic legal framework to ensure the well-being of children.

### Measures to Address Child Labor

The case also raised questions about the measures that could be taken to address the issue of child labor effectively. The case highlighted the need for stricter enforcement of existing laws,

such as the Child Labour (Prohibition and Regulation) Act, 1986, to ensure that children are not employed in hazardous industries. Additionally, the role of government agencies in monitoring and preventing child labor practices needed to be significantly enhanced. The importance of education and vocational training for rescued children was emphasized, to provide them with opportunities for a better future and to break the cycle of poverty and exploitation.

This Act regulates the working condition of children in most of the employments and specifies the employments and occupations and processes in which employment of children should be banned. The Article however, does not prohibit their employment in any innocent or harmless job or work. Protection of children against moral and material abandonment is yet another Constitutional goal contained in Article 39(f) which has to be achieved before all children are given the right to live with human dignity. Children should be given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity.

### **Child Labour Abolition Case**

In a landmark judgment in *M.C. Mehta V. State of Tamil Nadu* AIR 1997 SC 699 the Supreme Court has held that children below the age of 14 years cannot be employed in any hazardous industry, mines, other work and has laid down exhaustive guidelines how the state authorities should protect economic, social and humanitarian rights of millions of children, working illegally in public and private sectors.

The Court directed setting up of Child Labour Rehabilitation Welfare Fund and asked the offending employer to pay for each child a compensation of Rs. 20,000/- to be deposited in the fund and suggested a number of measures to rehabilitate them in the phased manner.

The Court made it clear that the liability of the employer would not cease even if he would desire to discharge the presently employed and asked the Government to ensure that an adult member of the child's family get a job in a factory or anywhere in lieu of the child.

However, the Court did not issue direction about the job in every case under Articles 21 and 41 about the right to work within the limits of economic capacity and development of the State. Instead Court said that matter has to be sorted out by the appropriate Government. In those cases where it would not be possible to provide jobs, the appropriate Government would, as its contribution deposit Rs.5,000/- in the Fund for each child employed in a factory or mine or in any other hazardous employment. The authority concerned has two options either it should ensure alternative employment for the adult whose name would be suggested by the child concerned or it should deposit a sum of Rs. 25,000/- in the Fund.



The Court made it clear that in case of getting employment for an adult, the parent or guardian shall have to withdraw the child from the job. Even if no employment would be provided, the parent shall have to spare the child from the requirement of job as an alternative source of income and shall send to the school up to the age of 14 years. However the interest from deposit of Rs.25, 000/- would become available to the child's family till the child continued his studies up to the age of 14 years. The benefit of Fund will cease, if the child is not sent to school.

The State shall provide free education to the children up to the age of 14 years as required by Article 45 of the Constitution. It further stated that it would be the duty of the Labour Inspectors to see that the call of Constitution is carried out.

It further advised that Ministry of Labour, Government of India, would set up a separate cell in the labour department to monitor the magnitude of task. For success of the every child in life, it is necessary that he should not be denied opportunity of education. Article 45 of the Constitution expected the State to provide free and compulsory education for all children till they attain the age of 14. But the mandate of the Constitution has remained mostly as a dead letter and million of children were denied this opportunity to develop with human dignity. The judiciary has shown its deep concern for providing free and compulsory education to all children below the age of 14.

Therefore there is only a political solution to the problem. Solutions have to be conceived and activated outside the present framework. Meanwhile, only a major movement by action groups and or trade unions, which agitate for the children's rights, can change the plight of child labour not only in Sivakasi but all over the country. Till then, while we can gradually improve the working conditions and help create public opinion, children will continue to face shortened lives of drudgery.

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