

Campaign Against Child Labour*

The Child Labour System (Abolition, Prevention and Rehabilitation) Bill 2017

An Act to abolish child labour system in all its forms and ensure physical, mental, spiritual, moral and social development of every child up to the age of 18 years and also to provide for the right of the child to the highest attainable standard of health, education, safety, security, protection from economic exploitation, sexual abuse and to rest and leisure.

WHEREAS, the provisions of the Constitution confer powers and impose duties under Clause (3) of Article 15, Clauses (e) and (f) of Article 39, Article 45 and Article 47 on the State to ensure that all the needs of children are met and that their basic human rights are fully protected;

AND WHEREAS, the Government of India has acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of United Nations, which has prescribed a set of standards to be adhered to by all the State parties in securing the best interest of the child;

AND WHEREAS, it is expedient to enact the Child Labour System (Abolition, Prevention and Rehabilitation) Act, 2017, to make comprehensive provisions for the abolition of child labour system in any form, taking into consideration the standards prescribed in the Convention on the Rights of the Child and International Labour Organisation Conventions.

1. Objects and Reasons:

- (i) To abolish the child labour system upto the age of 18 years in all forms of employment including family and home-based employment and to facilitate their enrolment in school;
- (ii) To ensure Free, Compulsory, Quality and Equitable Education upto Higher Secondary Education;
- (iii) To provide for enforcement of rights of all children to the enjoyment of the highest attainable standard of health, education, safety and security;
- (iv) To protect children from economic exploitation and all forms of child abuse;
- (v) To provide the child special care and assistance to attain normal growth and enjoyment of his childhood;
- (vi) To provide for the full and harmonious development of a child's personality, talents, mental and physical abilities to his fullest potential and to grow up in a family environment, in an atmosphere of happiness, love and understanding;
- (vii) To provide for penalties to employers engaging in child labour system and ensure strict implementation of the Act;
- (viii) To provide uniformity in the definition of "child" in all laws related to children;
- (ix) To provide for rehabilitation of children freed from child labour system;

- (x) To provide accountability of the authorities; and ensure participation of stakeholders including civil society, for the effective implementation of the Act;
 - (xi) To ensure transparency in the implementation of the Act towards abolition of the child labour system;
2. The Act seeks to achieve the above objectives

CHAPTER – I

PRELIMINARY

1. Short title, extent and commencement

- (i) This Act may be called the Child labour System (Abolition, Prevention and Rehabilitation) Act, 2017
- (ii) It extends to the whole of India
- (iii) The Provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions:

- (i) **“Appropriate Government”** means, in relation to an establishment under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government;
- (ii) **“Artist Work”** involves exploitative performances or practices by any child as a profession directly involving him as an actor, singer or in such other activity as may be prescribed relating to entertainment that interferes with education, health and development of the child;
- (iii) **“Child”** means a person who has not completed eighteen years of age.
- (iv) **“Child labour”** means;
 - a. *employment / engagement of a child* in any work or in any place of employment directly by an employer or through contractor, agent or any other middlemen;
 - b. work done by a child with materials given by an Employer or a Contractor with or without wages;
 - c. Employment / engagement of a child as an artist, casual labourer or domestic worker or servant, in any factory, occupations, processes, establishments, godowns, workshop, agriculture and other allied activities including home based work / family based work or
 - d. occupations and processes that interferes with the child’s right to education, leisure and that which is dangerous and harmful

to the child's health and its physical, mental, spiritual, moral and social development.

- (v) **“Child labourer”** means a child engaged as ‘child labour’; *children prematurely leading adult lives, working with or without wages under conditions affecting their physical, emotional, intellectual, social and spiritual development; denying their rights to health, education and protection;*
- (vi) **“Child Labour Abolition Officer”** means the officer appointed under section 4....
- (vii) **“Child labour System”** is a system that deprives children of their childhood, their potential to grow and develop and their dignity; *It involves work that:*
- *is physically, mentally, socially harmful and dangerous to children; and*
 - *interferes with their schooling by:*
 - *depriving them of opportunity to attend school;*
 - *forcing them to leave school prematurely;*
 - *compelling them to combine school attendance with long and heavy work and*
 - *that is harmful to physical, mental and moral development.*
- (viii) **“Child Welfare Committee”** means the child welfare committee established under Juvenile Justice (Care and Protection) Act [Act 56 of 2000];
- (ix) **“Committee”** means the Child Labour Monitoring Committee constituted under section 12
- (x) **“Compensation”** means as provided under section 25.....
- (x) **“Employer”** means any person who employs, whether directly or through any other person or on behalf of himself or any other person, one or more children, including the occupier, owner, manager, contractor or their agents, or any person responsible for the supervision and control of the establishment, as well as the person who has the ultimate control over the affairs of such employment and includes the investor;
- (a) in relation to an establishment which is a factory, the owner of the factory, including the agent of such owner, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named’

- (b) in relation to any other establishment, the person who, or the authority which has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;
- (xi) “**Establishment**” means any place where any industry, trade, business, manufacture, occupations or *other* processes is carried on and includes a shop, commercial establishment, work-shop, *warehouse*, farm including agriculture and allied activities, residential hotel, restaurant, eating-house, dhabas (roadside eateries), motels, resorts, spas, recreational centres, theatre or other place of public amusement, entertainment / or home **or** family based work, (processes or occupations).
- (xii) “**Factory**” means a factory as defined under the Factories Act 1948.
- (xiii) “**Family**” in relation to an Employer means the individual, the wife or husband as the case may be of such individual and his children, brother, sister, maternal or paternal uncle, aunt, cousin or any other relative of such individual;
- (xiv) “**Family based work**” includes family enterprise and is any work, manufacture, business, trade, profession, occupations or other processes which is performed by the members of the family or others;
- (xv) “**Fund**” means the Child Labour Rehabilitation and Welfare Fund established under sub-section (1) of section (26)...
- (xvi) “**Home based work**” means any work where raw materials are given by an employer or a contractor or an agent for making, finishing or packing or otherwise treating any article or substance at home with a view to its use, sale, transport, delivery or disposal;
- (xvii) “**Rehabilitation**” means measures and a process for the physical, psychological and social well-being of the child labourers including access to education and health care, psychological and physiological support, medical services, monetary compensation, legal aid, safe and secure accommodation;
- (xviii) “**Special Court**” means a court designated as such under section 8....
- (xix) “**Special Public Prosecutor**” means a Public Prosecutor appointed under section 10....
- (xx) “**Workshop**” means any premises (including the precincts thereof) wherein any occupation and or process is carried on for purpose of trade or business;

CHAPTER - II

ABOLITION OF CHILD LABOUR SYSTEM

3. Abolition of Child Labour System:

- (i) After the commencement of this Act, the child labour system shall stand abolished and no child shall be engaged in any form of employment and or occupation;
- (ii) After the commencement of this Act, all children in the child labour system shall be enrolled in the age appropriate class in the nearest regular school;
- (iii) *No employer and or occupier shall engage any child in any factory, occupation, process, establishment, godown, workshop, agriculture and allied activities, including home based work or family based work or artist work that interferes with the child's right to education, leisure; that is dangerous and harmful to the child's health, physical, mental, spiritual, moral and social development;*

CHAPTER – III

4. Appointment of Child Labour Abolition Officer:

- (1) The State Government shall by notification appoint such number of Child Labour Abolition Officer *not below the rank of Assistant Commissioner of Labour in each Taluk and confer power upon him to discharge such functions and exercise such powers as may be prescribed* for the entire Taluk having jurisdiction over such area.
- (2) The State Government may, by notification in the Official Gazette, subject to such conditions and limitations, invest the Child Labour Abolition Officer with such powers of a police officer as may be specified in the notification and the Child Labour Abolition Officer shall exercise such powers subject to such conditions and limitations, as may be specified in the notification

5. Duties and Functions of Child Labour Abolition Officer

- (1) It shall be the duty of the Child Labour Abolition Officer
 - (a) Either on his own or on receipt of an information about the prevalence of child labour system within the Taluk, to visit the place, rescue the child labourers and file a complaint before the concerned police station about the prevalence of child labour system in the said area;

- (b) To assist the appropriate prosecuting authority for the effective prosecution of persons contravening the provisions of this Act;
- (c) To take all necessary steps to place the child labourer with his/ their parents and if the whereabouts of the parents are not known, the officer shall produce the child labourer before Child Welfare Committee;
- (d) To admit the child labourer, taken out of employment, into a regular school / vocational training / ITI, appropriate to their age and interest in consultation with Child Welfare Committee;
- (e) To ensure that the monetary relief under section 26.... is complied with and executed, so as to benefit the child labourer, in accordance with the procedure prescribed in this Act;
- (f) To furnish such periodical reports and statistics as the State Monitoring Committee may direct; the report should necessarily include the number of cases pending before the special courts and complaints before the police; with specific details relating to age, sex and particulars of employment of the rescued child labourer;
- (g) To ensure rehabilitation of child labourer rescued from child labour system as provided under section 22.... and
- (h) To discharge such other functions and duties as may be assigned to him by the State Government in accordance with the provisions of this Act.

6. Child Labour Abolition Officers to be public servants. – The Child Labour Abolition Officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

7. Protection of action taken in good faith. – No suit, prosecution or other legal proceedings shall lie against the Child Labour Abolition Officer in respect of anything in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

CHAPTER IV Special Courts

8. Designation of Special Courts;

- (1) For the purpose of providing a speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, designate for each district, a court of session to be a Special Court to try the offences under the Act;

Provided that if a Court of Session is notified as a Children’s Court under the Commission for Protection of Child Rights Act, 2005 or a Special

Court designated for similar purposes under any other law for the time being in force, then, such Court shall be deemed to be a Special Court under this Section;

- (2) While trying an offence under this Act, a Special Court shall also try an offence other than the offence referred to in Sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.
- (3) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.
- (4) In every trial in the Special Court, the proceedings shall be continued from day to day until all the witnesses in attendance have been examined, unless the Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the day of filling of the charge sheet.

9. **Application of Code of Criminal Procedure, 1973** to proceedings before Special Courts: Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Courts, shall be deemed to be a Public Prosecutor.
10. **Special Public Prosecutors** (1) The State Government shall, by notification in the Official gazette, appoint a Special Public Prosecutor for every Special Court for conducting cases only under the provisions of this Act.
 - (2) A person shall be eligible to appointed as a Special Public Prosecutor under sub-section (1) only if he had been in practice for not less than seven years as an advocate.
 - (3) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provision of that Code shall have effect accordingly.
11. **Appeals** – (1) Notwithstanding anything contained in the Code Of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court, to the High Court;

- (2) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

CHAPTER - V

Monitoring Committees

12. National Monitoring Committee.-

- (1) The Central Government shall appoint, by notification in the Official Gazette, National Monitoring Committee comprising the following members :

- (2) The Committee shall consist of—

- (a) the Secretary to the Union Government from the Ministry or Department of Labour and Employment, who shall be the Chairman, ex-officio;
- (b) the Secretary to the Union Government in charge of the Department of Women and Child Development, who shall be the Vice-Chairman, ex-officio;
- (c) two members to be appointed by the Central Government to represent the Ministries of Social Justice and Empowerment, and Law and Justice, ex-officio;
- (d) the Director General of Health Services of the Central Government, ex-officio;
- (e) Member of the National Human Rights Commission;
- (f) Member of the National Commission for the Protection of Child Rights;
- (g) Member of the National Women's Commission;
- (h) Member of the National Commission for Scheduled Caste;
- (i) Member of the National Commission for Scheduled Tribes;
- (j) Member of the Minority Commission;
- (k) ten members to be appointed by the Central Government, two each from amongst—
 - (i) eminent Child Rights Activists;
 - (ii) eminent Women's Rights Activists;

- (iii) two Trade Union Representatives;
- (iv) eminent social scientists; and
- (v) two representatives of Child Rights organisations;
- (vi) three Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States;

(3) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order: Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;

(4) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Labour Department, who shall be the Member-Secretary, ex-officio.

13. Terms of office of members of National Monitoring Committee.-

- (1) The term of office of a member, other than an ex-officio member, shall be,-
- i. in case of appointment under clause (i), (ii), (iii), (iv), (v) of clause (k) of sub-section (2) of section 12 three years;
 - ii. If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.
 - iii. The Vice-Chairman shall perform such functions as may be assigned to him or her by the Chairman from time to time.
 - iv. The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

14. Meetings of the National Monitoring Committee.-

- (1) The Committee shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations:
Provided that the Committee shall meet at least once in six months.
- (2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Committee.
- (3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Committee, any other member chosen by the members present at the meeting shall preside at the meeting.
- (4) All questions which come up before any meeting of the Committee shall be decided by a majority of the votes of the members present

and voting, and in the event of an equality of votes, the Chairman, or in his or her absence, the person presiding, shall have and exercise a second or casting vote.

- (5) Members other than ex-officio members shall receive such allowances, if any, from the Committee as may be prescribed.
- (6) Vacancies, etc., not to invalidate proceedings of the Committee.

15. No act or proceeding of the Committee shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Committee; or
- (b) any defect in the appointment of a person acting as a member of the Committee; or
- (c) any irregularity in the procedure of the Committee not affecting the merits of the case.

16. Temporary association of persons with the Committee for particular purposes.

- 1) The Committee may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.
- 2) A person associated with the Committee under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Committee and shall not be a member for any other purpose.

17. Functions of the National Monitoring Committee.-

The Committee shall have the following functions, namely:—

- (i) to advise the Central Government on policy matters relating to abolition of Child Labour system in all forms of employment;
- (ii) to review and monitor implementation of the Act and rules made thereunder and recommend to the Central Government changes in the said Act and rules;
- (iii) to advise the Central Government on campaigns and materials to create public awareness against the practice of Child Labour system;
- (iv) To monitor the Child Labour Rehabilitation – Cum – Welfare Fund
- (v) to prescribe code of conduct to be observed by persons working in the Central Government services;
- (vi) to oversee the performance of various authorities constituted under the Act and take appropriate steps to ensure its proper and effective implementation;
- (vii) any other functions as may be prescribed under this Act.

18. State Monitoring Committee.-

- (1) The State Government shall appoint, by notification in the Official Gazette, State Monitoring Committee comprising the following members :
- (2) The Committee shall consist of—
 - (a) Secretary to the State Government from the Ministry of Labour and Employment, who shall be the Chairman, ex-officio;
 - (b) the Secretary to the State Government in charge of the Department of Women and Child Development, who shall be the Vice-Chairman, ex-officio;
 - (c) three members to be appointed by the State Government to represent the Ministries of State Government in charge of Women and Child Development, the Ministry of Law and Justice and the Ministry of Social Welfare and Social Justice, ex-officio;
 - (d) the Director General of Health Services of the Central Government, ex-officio
 - (e) Member of the State Human Rights Commission
 - (f) Member of the State Commission for the Protection of Child Rights
 - (g) Member of the State Women’s Commission
 - (h) ten members to be appointed by the State Government, two each from amongst—
 - (i) eminent Child Rights Activists
 - (ii) eminent Women’s Rights Activists
 - (iii) two Trade Union Representatives
 - (iv) eminent social scientists; and
 - (v) two representatives of Child Rights organisations;
 - (vi) Three Members of Legislature, of whom two shall be from the parties other than the ruling party;
- (3) an officer, not below the rank of a Joint Commissioner of Labour or equivalent of the State Government, in charge of Labour Department, who shall be the Member-Secretary, ex-officio.
- (5) The term of office of the members other than an ex-officio member, shall be three years

19. Functions of the State Monitoring Committee;

- (a) to monitor and advice the state government on matters relating to abolition of child labour system
- (b) to enforce standards prescribed for the factory or an establishment;

- (c) to ensure that the functions of all authorities under this Act are adhered in its true form and spirit and take immediate action in case of breach;
- (d) to seek and consider the suggestions of the Child Labour Abolition Officer / District Monitoring Committee;
- (e) to adopt measures to create public awareness against the practice of Child Labour System;
- (f) to supervise the implementation of the provisions of the Act and rules;
- (g) to take action on the recommendations of the Child Labour Abolition Officer / District Monitoring Committee and suggest appropriate measures to the State Government;
- (h) any other functions as may be prescribed under the Act.

20. District Monitoring Committee:-

- (1) *The appropriate Government shall, by notification in the Official Gazette, constitute at every district a District Monitoring Committee for exercising the powers and to discharge the duties conferred on such committees in relation to prohibition of child labour under this Act;*
- (2) The Committee shall consist of six members of whom two members shall be women;
 - (i) the Deputy Commissioner of Labour at every district shall be the Chairperson;
 - (ii) District Social Welfare Officer;
 - (iii) The District Panchayat President of each district
 - (iv) Of the two women members one shall be from the Backward community or SC/ST communities with not less than seven years of experience on child rights;
 - (v) One person shall be an expert who has been actively involved in child rights or with a degree in Law, Humanities or Human Rights;
- (3) The qualification, terms of service and the procedure by which the Chairman and other members of the Committee shall be as prescribed;
- (4) The Committee shall meet once in every three months to review the cases of child labour handled by the Child Labour Abolition Officer;
- (5) The term of office of the members other than an ex-officio member, shall be three years;

21. Functions of the District Monitoring Committee;

- a) To monitor and advise the District Administration on matters relating to abolition of child labour system;

- b) To take steps for the abolition of child labour system and monitor all legal proceedings initiated by the Child Labour Abolition Officer and pending before the Special Courts;
- c) To support measures taken by the Child Labour Abolition Officer in the rescue and rehabilitation of child labourers;
- d) To monitor programmes for the rehabilitation of child labourers;
- e) To co-ordinate functions of education, health, social welfare and other concerned departments; to promote the best interest of the children freed from the child labour system;
- f) To create awareness on the rights of children and sensitize the employer and the community about the harmful effects of child labour system;
- g) To furnish such periodical reports, returns and statistics as the state government may direct;
- h) The Committee shall oversee and monitor all actions of identification, rescue operation, interim care & rehabilitation of child labourers; prosecution of employers by the Child Labour Abolition Officer;
- i) The Committee shall submit periodical reports every four months to the State Level Monitoring Committee;

CHAPTER - VI

REHABILITATION, REPARATION AND RESTITUTION

22. Social Re-Integration

- (1) The child freed from child labour system shall be integrated into the family or guardian of such child;

Provided when the child expresses his unwillingness to integrate into his or her family, the said child shall be produced before the Child Welfare Committee and the Committee shall provide for the child's care, protection and development, taking into consideration the best interest of the child;

- (2) On rescue of the child from the child labour system the child shall be;
- a) Within 24 hours in case of a child freed from child labour system whose family is residing within the same district as that of his employment;
 - b) Within 2 days in case of a child freed from child labour system whose family is residing within same State as that of his employment
 - c) Within 30 days in case of a child freed from child labour system whose family is residing outside a State from that of his employment; Provided that all efforts shall be made to keep siblings placed in institutional or non-institutional care, together, unless it is in their best interest not to be kept together;

23. Integration into Education:

1. On restoration of a child with his family or guardian, the Child Labour Abolition Officer shall take steps to admit the child in a neighbourhood school in an age appropriate standard including bridge course.
2. The Child Labour Abolition Officer shall ensure that the Gram Panchayat Ward Member / President or Municipal Ward Member would take responsibility to monitor the child's attendance in school;

24. Restoration of Health

1. On rescue of a child from the child labour system, the child shall be produced before the medical officer for thorough medical examination to determine its physical and mental health; in the case of a girl child, she shall be examined by a woman Medical Officer;
2. On such medical examination, the Child Labour Abolition Officer shall ensure that the child is provided appropriate medical treatment and restored to normal health;

25. Compensation

- 1) The child freed from child labour system shall be awarded compensation for his loss of childhood, education, health, rest and leisure; for the trauma and suffering undergone during the course of his employment;
- 2) The child on rescue shall be paid a sum of Rupees 50,000 as interim relief;
- 3) The Special court on an application from the Child Labour Abolition Officer shall award compensation to the child freed from child labour system commensurate with the loss and suffering inflicted in the course of the child's employment, taking into consideration the loss of childhood, education, health, rest and leisure;

26. Child Labour Rehabilitation- Cum- Welfare Fund/Account:

- (1) With effect from the Act coming into force the Central Government / State Government shall establish for the purposes of this Act, a Fund to be called as the "Child Labour Rehabilitation, Compensation and Reparation Fund".
- (2) The Fund shall be under the control of the Central/State Government and there shall be credited thereto-
 - (a) Any sums of money a court imposed as fine under this Act may also direct that the whole or any part thereof shall be paid or credited to the Child Labour Rehabilitation and Welfare Fund to be utilized for such purposes as may be directed by the court.
 - (b) Any sum of money provided by the Central / State Government.
- (3) The State Monitoring Committee shall monitor the utilization of the fund;

27. Grants by the Central Government

- (i) The Central Government may, due appropriation made by Parliament by law in this behalf, credit by way of grants such sums of money as the Central Government may consider necessary in the Fund.
- (ii) The Central Government shall prepare the estimates in the budget documents
- (iii) The Central Government shall provide to the State Governments, as grants- in –aid of revenues
- (iv) The Central Government may make request to the President to make a reference to the Finance Commission under sub-clause (d) of clause (3) of Article 280 of the Constitution to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds
- (v) The Central Government and the State Governments shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.
- (vi) The Central Government may make a request to the President to make a reference to the Finance Commission under sub-clause (d) of clause (3) of Article 280 of the Constitution to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.
- (vii) Notwithstanding anything contained in sub-section (4), the State Government shall, taking into consideration the sums provided by the Central Government to a State Government under sub-section (3), and its other resources be responsible to provide funds for implementation of the provisions of the Act.

CHAPTER – VII

PENALTIES

28. (1) Whoever engages any child in any place of employment or *establishment* shall be punishable with imprisonment for a term which shall not be less than 3 years and may extend to five years and shall be liable to fine which shall not be less than Rs.1, 00,000 (*One Lakhs rupees*) and may extend to Rs.3, 00,000 (*Three lakh rupees*);

(2) Whoever having been convicted of an offence under sub-section (1) above, repeats the offences, he or she shall be punishable with imprisonment for a term which shall not be less than five years and may extend to seven years and shall be liable to fine which shall not be less than Rs.2, 00,000 (Two lakhs rupees) and may extend to Rs.5, 00,000 (Five lakh rupees);

(3) Whoever being a Child Labour Abolition Officer, neglects his/ her duties required to be performed by him/her under this Act, shall be punished through disciplinary action in accordance with service rules governing such officer.

29. Offences to be Cognizable and Non-bailable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.

CHAPTER – VIII MISCELLANEOUS

30. Disputes as to Age:

If any question arises as to the age of any Child Labour the following procedure shall be followed in determination of Age *under this Act*.

- (a) In every case concerning a Child Labour identified by a Child Labour Abolition Officer or any person the following procedure shall be adopted for determining the age of the child Labour.
- (i) the school leaving certificate or equivalent certificate, and in the absence whereof, age certificate from the school (extract from the admission register)
 - (ii) the date of birth certificate from the school (other than a play school) first attended;
 - (iii) the birth certificate given by a Corporation or a Municipal Authority or a Panchayat.
 - (iv) Aadhar card issued by the competent authority.
- (b) and only in the absence of either (i), (ii), (iii) or (iv) of clause (a) above, the medical certificate issued by a qualified Medical Officer of any public health centre or government hospital declaring the age of the child.

31. Power to make rules:

- (1) The appropriate government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the term of the office of, the manner of filling casual vacancies of, and the allowances payable to the Chairman and the other members of the Monitoring Committees;

32. Act to override other laws:

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything contained inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

33. Repeal and savings:

(1) The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) as amended by The Child Labour (Prohibition and Regulation) Amendment Act 2016 (35 of 2016) is hereby repealed.

(3) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

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