



WORKER RIGHTS CONSORTIUM

To: Gautam Chakravarty, Director and CEO, Gokaldas Exports, Limited
From: Benjamin Hensler and Manodeep Guha
Re: **Death of Employee's Child in Gokaldas India Factory Nursery**
Date: October 6, 2014

This memorandum concerns the recent death of an employee's child in an onsite crèche (nursery) facility in Gokaldas India (Gokaldas), a garment factory operated by Gokaldas Exports Limited in Bangalore, India that produces for the adidas Group and other apparel brands and retailers.¹ This tragic incident, which occurred on July 29, 2014, involved a child, Abhishek, two-and-one-half years old, who was the son of Yashodamma, a worker who had been employed by Gokaldas as a tailor since April 3, 2013. Unfortunately, this tragedy reveals apparent violations of those sections of the Karnataka Factories Rules, 1969 that require provision of childcare and medical facilities by the factory and, therefore, by extension, violations of buyer codes of conduct as well.²

As you may know, the Worker Rights Consortium (WRC) is a non-profit independent factory monitoring organization based in Washington, DC. Our mission is promote compliance with national labor laws, international labor standards, and buyer codes of conduct in the global apparel industry, particularly in factories producing for companies that are licensees of the major U.S., Canadian and U.K. universities and colleges which are our affiliates.³ The WRC requests that Gokaldas management meet with the WRC to discuss this incident and those measures that may be required to ensure the factory's compliance with the law in this area going forward and to provide assistance to the affected employee.

The following memorandum discusses (a) our understanding of the facts of this incident, (b) the instances of noncompliance with legal and code of conduct requirements that may have contributed to the tragic result, and (c) the recommendations and requests of the WRC to Gokaldas with respect to providing information about this incident and taking the remedial measures noted above. We hope to collaborate constructively with Gokaldas and other stakeholders to address this troubling and unfortunate matter.

a. Factual Summary

¹ Gokaldas India, Survey Nos. 34,35,36, N.T.T.F Circle, Peenya Industrial Area, Nalagadaranahalli, Bangalore- 58

² Adidas Group, *Workplace Standards* (Jul. 2013), ("Business partners must comply fully with all legal requirements relevant to the conduct of their businesses. "), http://www.adidas-group.com/media/filer_public/2013/07/31/english_workplace_standards_en.pdf.

³ For a list of WRC affiliates see: WRC, *Affiliate Colleges and Universities* (Sept. 11, 2014), <http://www.workersrights.org/about/Affiliatesud1.pdf>.

According to reports received by the WRC, on July 29, 2014, Gokaldas India employee, Yashodamma, arrived at the factory at her usual starting time and brought her child, Abhishek, to the company's onsite crèche. The crèche is managed by a Gokaldas employee named Radha, who cares for the children brought there by employees. At 12:30 p.m. Yashodamma visited the crèche and spoke to her son. At 1:30 pm Yashodamma was summoned over the factory's public address system to the factory's first aid room.

On arriving at the factory's first aid room, Yashodamma found her child lying in a bed, with the factory nurse and the crèche manager, Radha, rubbing the boy's hands. She was then informed by Radha that her child had fallen unconscious in the crèche and that the factory human resources manager, Mangla, would be taking him to a hospital. Although Abhishek was enrolled in the Employees State Insurance Scheme, which operates a hospital that is located less than three kilometers from the factory, Mangla took him, in a private vehicle belonging to Suresh Batija, the manager in charge of the plant's fabric godown (warehouse), to two private hospitals which are further away and where doctors refused to treat him, before taking him to a third hospital, M.S. Ramaiah, where he was declared dead and the doctors present requested an autopsy.

b. Reported Legal and Code of Conduct Violations

The circumstances of this tragic incident – the death of the child of a Gokaldas employee, occurring while the boy was under the care and supervision of the factory — indicate that the company is failing to comply with important requirements of Indian labour law (and, therefore, buyer codes of conduct⁴) with respect to availability at the factory of: (a) a medical doctor, (b) an ambulance for use in an emergency, (c) adequate nursing staff in the factory's first aid room, and (d) trained caregivers in the factory's crèche, omissions that may have contributed to the unfortunate outcome. Specifically, the following has been reported to the WRC:

1. Non Availability of Medical Doctor in the Factory.

Although Gokaldas India has roughly 1600 workers, the facility reportedly does not employ a full time medical officer as is explicitly required under Section 88-M (C) (1) (i) of the Karnataka Factories Rules 1969 ("Factory Rules"). The Factory Rules state that "For factories employing above 200 workers:— (1) (i) One full time Factory Medical Officer for factories employing up to 500 workers and one more Medical Officer for every additional 1000 workers or part thereof," with the result that, in the case of Gokaldas India, the plant was required to employ two such officers. A chief medical officer, if one had been present in the factory, could have diagnosed

⁴ The Karnataka Factories Rules, 1969, § 88 (M) (c) ("For factories employing above 200 workers:— (1) (i) One full time Factory Medical Officer for factories employing up to 500 workers and one more Medical Officer for every additional 1000 workers or part thereof; (ii) An Occupational Health Centre having at least 2 rooms each with a minimum floor area of 15 sq. metres with floors and walls made of smooth and impervious surface and adequate illumination and ventilation as well as equipment as per the schedule annexed to this rule. (iii) There shall be one nurse, one dresser- cum-compounder and one sweeper-cum ward boy throughout the working period; (iv) The Occupational Health Centre shall be suitably equipped to manage medical emergencies.

Abhishek's condition in the factory and made an informed and expert decision regarding his treatment and/or transfer to a hospital.

2. Non Availability of an Ambulance.

Section 92 (5) of the Factory Rules states that "The occupier of every factory to which these rules apply shall for the purpose of removing serious cases of accident or sickness, provide in the premises and maintain in good condition an Ambulance Van."⁵ It has been reported, however, that Gokaldas India does not have an ambulance for use in case of a medical emergency. As a result, Abhishek was taken from the factory to multiple hospitals in a private vehicle without receiving medical attention enroute. Such attention, if available, might have helped prevent the tragic outcome in this case.

3. Non Availability of Adequate Nursing Staff at the Factory Dispensary.

Gokaldas India reportedly lacks adequate nursing staff in its factory first aid room to address emergency situations. Section 88-M (c) (1) (iii) of the Factory Rules states that factory first aid rooms shall have "one nurse, one dresser- cum-compounder and one sweeper-cum ward boy throughout the working period." The factory first aid room at Gokaldas, India, however, reportedly is staffed only by a single nurse. Although it is unclear to what degree the reported lack of other staff affected the outcome of this particular incident, their absence constitutes a clear violation of the law's requirements.

4. Unqualified Caregivers in Factory Crèche (Nursery)

The caregivers at the Gokaldas India factory's crèche for employee children reportedly do not have the qualifications required under § 104 (2) of the Factory Rules, which states that "[N]o woman shall be appointed under sub-rule (1) as a woman-in-charge unless she possesses a Nurse's qualifications or produces a certificate that she has undergone training for a period of not less than 18 months in child care in a hospital, maternity home, or nursing home approved in this behalf by the Chief Inspector." The caregivers at the Gokaldas India factory crèche reportedly do not have this experience or training.

c. Recommendations:

Assuming that Gokaldas does not dispute the facts that have been reported and related here concerning the factory's existing facilities, the WRC recommends that the company take the following urgent measures to correct and compensate for the reported failures to comply with the Factory Rules' requirements for provision by employers of onsite medical personnel, ambulances, and qualified caregivers, and thereby help avoid future tragedies of this kind. If Gokaldas does dispute the accuracy of the facts related here, and/or the necessity of the measures we recommend, we request that you provide us with information in support of this contention.

⁵ Id. § 92(5) ("The occupier of every factory to which these rules apply shall for the purpose of removing serious cases of accident or sickness, provide in the premises and maintain in good condition an Ambulance Van.").

Specifically, the WRC recommends that Gokaldas:

- Provide employee Yashodamma with adequate compensation and other assistance to address the loss of her child, consistent with relevant standards.
- Employ at least two qualified medical practitioners in at the factory in compliance with the relevant provision of the Factories Rules.
- Provide an appropriately staffed ambulance at the factory premises for use in case of emergencies.
- Appoint the legally required staff in the factory first aid room.
- Appoint adequately trained staff at the factory crèche to safely provide care for employees' children.

d. Conclusion

In order to help to prevent the recurrence of incidents like the recent tragedy befalling employee Yashodamma's son, the WRC recommends that the above recommendations be implemented at Gokaldas India and at any other Gokaldas Exports production facilities where current conditions fail to comply with applicable law. The WRC would like to arrange a visit to your factory to review our initial findings with factory management, consider any relevant information you may wish to provide, and review any steps the company has taken or is planning to take to achieve corrective action.

As part of this process, we would request to visit the facility, review documents, and meet with relevant managers. Please let us know your soonest availability for such a meeting. We look forward to discussing these matters with you and working cooperatively with you to address the concerns we have raised. Thank you very much.

Cc: William Anderson, adidas Group