



Gokaldas India, Bangalore, India
Summary Report
Third Party Complaint

On August 13, 2014, the Fair Wear Foundation (FWF) brought to the attention of the FLA an incident that occurred on July 29, 2014, involving the death of a young child while in the care of the crèche at the factory Gokaldas India in Bangalore, India. As no brand affiliated with FWF was sourcing from Gokaldas India at the time of the event, FWF requested that the FLA follow up the complaint. Adidas, a Participating Company affiliated with the FLA, has a sourcing relationship with Gokaldas India.

The FLA accepted the Third Party Complaint at Step 2 of the process and requested that Adidas carry out an assessment of the allegations and conduct remediation if appropriate. In addition, the FLA engaged an independent expert to look more deeply into the situation. The FLA Compliance Benchmarks most directly relevant to the allegations are those grouped under Health, Safety, and Environment HSE.18, Medical Facilities.

Adidas' Assessment

Adidas worked closely with Gokaldas India to conduct an assessment of the allegations. The assessment confirmed many of the allegations:

- the tragic incident involving the child's death occurred while the child was in the care of the factory's crèche;
- one of the crèche attendants found the child in distress and alerted the nurse in the facility as well as the company's HR manager;
- the child, accompanied by his mother, the crèche's nurse, and the HR manager, was taken initially to a local health care facility which was not equipped to handle the case;
- the child was subsequently taken to the M.S. Ramaiah Hospital, where he was pronounced dead.

The assessment did not confirm other allegations that were submitted to FWF:

- failure on the part of factory management to inform the mother of her child's illness;
- marks on the child's body, suggestive of mistreatment of the child at the crèche;
- routine administration of sedatives to the children at the crèche in order to keep them quiet;
- possibility of poisoned or adulterated food having been fed to the child.

Independent Expert Assessment

In order to probe deeper into the response of the factory management and staff to the child's acute illness and assess the compliance of the factory with respect to the

Karnataka Factory Rules and the FLA Workplace Code of Conduct, the FLA engaged Dr. Bobby Joseph, M.D., a medical doctor based in the Bangalore area.

In particular, Dr. Joseph's terms of reference included an examination of whether at the time of the incident, Gokaldas India complied with State of Karnataka's regulations regarding:

- Availability of a medical officer and other health care facilities at the factory;
- Availability of an ambulance van to transport serious cases of injuries or illnesses;
- Availability of trained nursing staff to address emergency situations;
- Availability of qualified caregivers in the crèche;
- Compensation for employee whose deceased child was in the care of factory crèche.

In carrying out the assessment, Dr. Joseph conducted interviews with the management of the factory, health personnel at the factory, and the mother and father of the deceased child; reviewed records pertaining to the case; walked through the factory premises; and visited health care facilities where the child was taken, interviewing health care personnel at these facilities. Dr. Joseph's fieldwork was conducted in the first half of December 2014, and he was unable to confirm most of the statements and allegations in the FWF Complaints Handler's report.

Summary of Findings¹

A reconstruction of the event developed by Dr. Joseph includes the following elements:

- The worker reported to work on July 29 and left her son at the crèche. The young child had been coming to the crèche since March 2014.
- In the afternoon, the mother was alerted that the child was not well and asked to come immediately to the crèche.
- Shortly after, the nurse, the mother, the child, and the crèche attendant were driven to the nearby Ashwini Clinic in the warehouse manager's car. Staff at the Ashwini Clinic stated that they were not equipped to deal with the emergency and recommended that the child be taken to a higher-level medical facility.
- The child was subsequently taken to Sanjivini Hospital where he was not treated and was referred to the MS Ramaiah Medical College Hospital. When the child arrived at MS Ramaiah Medical College Hospital, he was examined and pronounced "brought dead."
- The factory and the parents of the child negotiated a monetary settlement to compensate the parents for the death of the child while in the care of the crèche

¹ The full report of the Independent Expert is available at www.fairlabor.org/report/gokaldas-india-bangalore

² FLA Compliance Benchmarks do not address specifically qualifications of childcare

and also provided leave to the mother and covered expenses associated with the funeral of the child.

- The investigation by the Forensic Sciences Laboratory found no “foul play” in the death of the child, stating that the opinion of the forensic physician is that “death is due to pulmonary edema probably as a result of natural disease.”

With respect to the factory’s compliance with State of Karnataka’s regulations for factories at the time of the tragic event, the Independent Investigator made the following findings:

1. There was no medical doctor on duty at the factory. Thus, the factory was not in compliance with Section 45 of the Factories Act of Karnataka, which requires one medical doctor to be on duty for any factory with over 500 workers (the factory employed about 1600 workers at the time of the events).
2. There was no ambulance available at the factory. Thus, the factory was not in compliance with Section 92(5) of the Factory Rules of Karnataka, which requires each factory to provide in the premises and maintain in good condition an ambulance van to transport serious cases of accidents or illnesses.
3. There was no qualified nurse on duty. Thus, the factory was not in compliance with Section 45 of the Factories Act of Karnataka, which requires a nurse and other related personnel to be on duty throughout the workday.
4. The principal caregiver at the factory’s crèche is very experienced but may not have the formal qualifications required under local law. Thus, the factory may not be in compliance with Section 104 of the Factory Rules of Karnataka, which requires the person in charge of a crèche to be qualified as Nurse or demonstrate having received formal training in child care.
5. There are no legal provisions or rules that govern the topic of compensation of parents whose deceased child was in the care of a factory crèche. Company has granted leave requested by the mother and has also paid a “solatium” amount in cash to the family.

FLA Assessment

Dr. Joseph’s report suggests that Gokaldas India breached several FLA Workplace Code of Conduct standards and compliance benchmarks under Benchmark Health, Safety and Environment HSE.18, Medical Facilities, as supported by findings from the report:

HSE.18.1—Medical facilities shall be established and maintained in factories as required by applicable laws.

- No medical doctor was available on site.
- No ambulance was available on site.

HSE.18.2—Medical staff shall be fully licensed and recognized under applicable national laws and regulations.

- Factory nurse not fully qualified.
- Principal crèche attendant may not be fully qualified.²

Remediation Plan

During Dr. Joseph’s investigation, management of Gokaldas India took several immediate steps to address identified non-compliances. Thus, as Dr. Joseph verified during his fieldwork, Gokaldas India:

- Stationed a Medical Officer on a permanent basis in the factory.
- Stationed an ambulance permanently at the facility (located next to the First Aid Room or Ambulance Room).

In addition to the immediate remediation steps above, Adidas and the factory have developed a remediation plan to address other issues raised by the Third Party Complaint that includes the following elements:

1. Factory to contact local medical institutions and explore suitable additional training for the nurse already on staff. A custodial staff member is posted in the ambulance room during working hours and acts as nursing assistant; he has received training in first aid from St. John Ambulance Centre.
2. Factory to get in touch with local organizations, such as the Karnataka State Women’s Development Corporation or other vocational training institutes to secure additional training for childcare service providers.
3. Train the ambulance driver in first aid. The ambulance driver will be in the factory during the entire workday and “on call” for the full period the factory is operating.
4. Factory has entered into a contract with a service provided to carry out periodic maintenance on the ambulance. Maintenance records will be available for inspection.
5. A detailed check-list of readiness of the ambulance will be maintained. The vehicle will be inspected daily to ensure that it is in good working condition and ready for use in the case of an emergency. Inspection records will be available for review.
6. Medical officer to run awareness-raising programs for workers, including topics such as women’s health, prenatal care, and diet/nutrition intake.
7. Medical officer to conduct monthly medical checks for all children in the crèche and to be engaged in conducting annual medical checks for all workers.

² FLA Compliance Benchmarks do not address specifically qualifications of childcare facility attendants, but this potential non-compliance is listed here because it is closely related.

Conclusion

The Independent Expert, based on the post-mortem findings, found that causes like poisoning and injuries could be completely ruled out as reasons for the tragic death of the child while in the care of the Gokaldas India's crèche. Further, the Independent Expert was of the view that there was no obvious cause for the pulmonary edema detected during the autopsy and hence the death was due to an unknown natural cause. Under these circumstances, where the cause for the pulmonary edema is not identified, the expert posited, it is impossible to comment on the consequences of the lack of a medical professional or of an ambulance, and of the possible consequences of immediate hospital treatment.

The investigation conducted by the Independent Expert also found that, at the time of the tragic event of the death of the young child, Gokaldas India was not in compliance with several provisions of State of Karnataka's rules and regulations and FLA compliance benchmarks regarding medical facilities. Gokaldas India immediately remedied some of the non-compliances (e.g., stationing of a Medical Officer and of an ambulance at the factory) and developed a remediation plan – working with Adidas – to address the other non-compliances (achieving certification of the factory's nurse, securing trained attendants for the crèche) and to improve the overall availability and quality of medical services at the factory.

The FLA calls on Adidas to monitor regularly the implementation of the remediation plan at Gokaldas India and to ensure that its other suppliers in the Bangalore area comply with the standards regarding medical facilities set forth in this investigation. The FLA also recommends that Adidas engage a recognized independent actuary or forensic economist to review the adequacy of the amount of compensation paid by the factory to the family of the deceased child.