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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 13119/2019

BACHPAN BACHAO ANDOLAN

..... Petitioner

Through: Ms. Prabhsahay Kaur, Ms. Rachna Tyagi, Ms. Bindita Chaturvedi, Advocates

versus

GNCTD & ORS

..... Respondents

Through: Mr. Satyakam, ASC for GNCTD with Ms. Pallavii Singh, Advocate for R-1 & R-2
Mr. Chetan Sharma, ASG with Mr. Anurag Ahluwalia, Mr. Amit Gupta, Advocates
Mr. Abhinav Mukerji, Mr. Akshay C. Shrivastava, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

11.01.2023

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1. On 08.12.2019, a massive fire ripped through a building in Anaj Mandi, Sadar Bazar, which resulted in the death of 43 persons, including 12 children between the age group of 12 to 18 years. The Petitioner herein, Bachpan Bachao Andolan, which is a Non-Governmental Organization, has filed the instant Writ Petition highlighting the plight of children working in factories that are illegally housed in extremely small units stuffed with inflammable materials.

2. The Petitioner has stated that these factories are functioning right under the nose of the State authorities who have turned a blind eye to these units which are no less than death traps waiting for their victims. The instant Writ Petition has been filed for a direction to the State to conduct an inquiry into the illegal factories at Anaz Mandi, Sadar Bazar, so that persons who are running these factories can be booked under the concerned legislations. Directions have also been sought for protection and rehabilitation of the children who are working in these units. The Petitioner has also prayed for action on the pending complaints relating to rescue of children illegally labouring at 183 locations as mentioned in the petition.

3. A Status Report has been filed by the GNCTD. The Status Report acknowledges the fact that a massive fire broke out on 08.12.2019 at House No.22742, Anaj Mandi, Sadar Bazar, Delhi, which resulted in the death of 45 persons, including 12 children, due to asphyxia as a result of inhalation of smoke and other irrespirable gases as well as severe burn injuries. The Status Report indicates that during investigation, it was revealed that the entire activities being carried out in the building were completely illegal and out of their extreme greed all the accused persons had failed to follow the regulations in maintaining the premises which resulted in such huge fatalities. It is further stated that the investigation has revealed that the accused persons criminally neglected the upkeep of the building and specially the electric layout, that too when highly inflammable material was being stored/used in the building.

4. The Status Report further states that the material involved in fire were cardboards, plastic toys, rexine rolls, sewing machines, school bags, lunch box covers (finished products and raw material). It is stated in the Status

Report that during the investigation, it was found that the building had two staircases, out of which one staircase was completely blocked and the other staircase was also not clear for movement. The Status Report further states that the building was neither properly ventilated nor compartmented and did not have any fire safety arrangements, and the occupants of the building could not escape by themselves as the area near the staircase was engulfed in fire and dense smoke filled the rooms completely.

5. Respondent No.3 has also filed a counter affidavit dated 22.09.2022. The counter affidavit reveals that steps were being taken to find out about the dependants of the deceased, who are labourers and primarily migrants from Bihar, for disbursement of compensation.

6. It is stated by the Petitioner that many such units are still operational in the Anaj Mandi, Sadar Bazar and Nabi Karim area. It is stated that the fire occurred on 08.12.2019, and the compensation has not been disbursed yet despite more than three years having been passed since the incident. It is extremely disturbing that the Government is actually taking a lackadaisical approach and is showing extreme insensitivity in this case which has resulted in the death of 45 persons, including 12 children aged between 12-18 years.

7. Children who ought to have been studying in schools are forced to work in these places which are unhygienic, inhabitable and accidents which are waiting to happen. For their greed for money and profit, unscrupulous factory owners employ children as they have to be paid less than minimum wages and, driven out of extreme poverty, these children are forced to work at these places instead of seeking education in order to earn bread for their families. The laudable object of Article 21A of the Constitution of India has

been completely thrown to the winds.

8. What is more saddening is that these units are working right under the nose of the Government which includes Police officers who are aware of these factories being run, and yet no steps are being taken by the State to curb this menace. Periodic judgments have been passed by this Court and by the Apex Court, but these orders are merely pieces of paper which have been ignored by the State Authorities. A Division Bench of this Court *vide* Order dated 20.09.2019 in CRL.M.A.35002/2018 in W.P.(CRL) 2069/2005 has issued various directions to the Delhi Police; Department of Labour, Government of NCT of Delhi; Women and Child Welfare Department, Government of NCT of Delhi; Education Department, Government of NCT of Delhi; Health Department, Government of NCT of Delhi; and other authorities and the same reads as under:

“3. Counsel for both the sides have argued at length and taken this Court through various annexure, reports and legal provisions. These directions are summarized as thus :

1. DELHI POLICE

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon’ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Direct the Delhi Police to issue a Standing Order, within a period of 8 weeks, on the identification and rescue of Child Labour (through secret informers and beat Constables). While framing the Standing Order, due consideration be given to SOP for Enforcement of Child and Adolescent Labour (Prohibition and

Regulation) Act, 1986 issued by the Ministry of Labour, UOI dated 18.07.2017.

iii. Direct the Delhi Police to complete investigations and file chargesheet/Final Report u/S 173 CrPC within 45 days from the date of rescue of the child labour. [Order dated 5.11.2014].

2. DEPT. OF LABOUR, GOVT. OF NCT OF DELHI

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Direct every District Labour Inspector will send a weekly report to the concerned SDM on child labour working in his area and rescue operations conducted. Where no child labour is found, NIL report to be filed.

3. WOMEN AND CHILD WELFARE DEPT., GOVT. OF NCT OF DELHI

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

4. EDUCATION DEPT., GOVT. OF NCT OF DELHI

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Direct Education Dept. to procure the list of rescued child labour each month from the Labour Dept. and ensure that they are enrolled in school or in STC's run by them (Special Training Centres).

iii. Direct Education Dept. to make an effort to enroll all child labour in schools or STC's run by them in the age group of 14-18.

5. HEALTH DEPT., GNCTD

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Responsibility of Director General, Health Services be fixed as in their Status Report dated 31.01.2019, Dept. of Health states that they have no record of rescued child labour.

6. SDMC, NORTH DMC, EDMC

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Prepare a module on educating children on Abolition and Prohibition of Child Labour, to be introduced in the curriculum in all MCD Schools, as well as for parents in the PTM'

7. DEPT. OF REVENUE, GOVT. OF NCT OF DELHI

i. Follow, in letter and spirit, the Delhi Action Plan for Total Abolition of Child Labour accepted by this Hon'ble Court vide Judgment and order dated 15.07.2009 and Judgment and Order dated 5.11.2014.

ii. Pursuant to this Hon'ble Courts orders in the present CM/Application, the Divisional Commissioner, GNCTD chaired a meeting, where a representative of Bachpan Bachao Andolan was also present. The Div. Commissioner has issued the following directions, which may be made a part of the Hon'ble Courts order:

1. Every District Labour Inspector will send a weekly report to the concerned SDM on child labour working in his area and rescue operations conducted. Where no case is found, they should submit a NIL report.

2. All DM's have been directed to ensure timely disposal of recovery cases of Labour Dept. as well as release certificates, pending in their respective districts.

8. DISTRICT LEGAL SERVICES AUTHORITY

i. Wherever FIR is registered u/Section 370 IPC, DSLSA should grant compensation in appropriate cases to victims of Trafficking under the Delhi Victim Compensation Scheme, 2015, as notified on 23.12.2016.

ii. Direct a copy of all FIR's under Section 370 and 374 IPC to be sent to DSLSA over E-mail for follow up action.

4. The summary of the status report filed on behalf of the North and East Delhi Municipal Corporations, in

terms of the order dated 14th March, 2019, passed in this Writ Petition, reads as under :

*“STATUS : EDUCATION DEPARTMENT,
NORTH DMC*

- Admission process is schools open throughout the year, no requirement of any documentary proof of the children.*
- Mission Buniyad conducted in all the schools for enhancing the reading and writing capabilities of the students.*
- 130 Special Training Centres (“STC”) ensure that the rescued children are admitted to age appropriate classes after special training for proper integration of the child into mainstream.*
- Approximately 11,000 “out of school children” were enrolled in various schools under North DMC in 2018. The admission process for the identified out of school children is under progress in all schools as of 2019.*
- North DMC holds a Parent Teacher Meeting (“PTM”) as a means to sensitise the parents of the children about the importance of education and organises various programs such as meetings, prabhat ferries, documentary films etc. to sensitise the slum dwellers about benefits and importance of education and the evil effects of child labour.*
- Online attendance system has been in all the schools under the jurisdiction of North DMC to ensure the regularity and punctuality of the teachers. Further, teachers*

are also awarded for maintaining higher enrolment and retention of the out of school children and for prevention of dropouts.

STATUS : EDUCATION DEPARTMENT, EAST DMC

- *Admission process is schools open throughout the year, no requirement of any documentary proof of the children.*
- *Mission Buniyad conducted in all the schools for enhancing the reading and writing capabilities of the students.*
- *67 Special Training Centres ensure that the rescued children are admitted to age appropriate classes after special training for proper integration of the child into mainstream. There is a proposal to open STCs in the remaining schools under EDMC.*
- *EDMC conducts various rallies such as School Chalo Abhiyan, Swachh Bharat Abhiyan, Communal Harmony, etc. to educate the people about the facilities such as, Mid Day Meal, free textbooks, school uniforms, stationery items, scholarships, girl child incentives etc.*
- *The Education Department, EDMC provides free and compulsory education to all children including rescued children up to Class V, whenever such rescued children are brought for enrolment.*
- *School Safety Committee inspects the school and its surrounding areas on a monthly basis to ensure that the necessary safety measures are being undertaken to ensure the safety of the school children.*
- *biometric machines also have been installed in all the schools under the jurisdiction of EDMC to ensure the*

regularity and punctuality of the teachers. Further, EDMC, in the present academic session has also engaged Educational and Vocational Guidance Counsellor (“EVGC”) on contractual basis for proper guidance and counselling of the children.

- *The Deputy/Assistant Director of Education of both the zones of EDMC, i.e. Shahdara (North) and Shahdara (South) Zones have already been deputed as Nodal Officers for the purpose of the safety and security of the rescued children.*

STATUS : HEALTH DEPARTMENT, EAST DMC

- *School Health Services (“SHS”) was first established in 1964 under the unified MCD with the help of UNICEF covers all the primary schools under the jurisdiction of EDMC and provides the following service:*

- *Preventive and Promotive Health Services: Medical check up, Eye check up, Dental check up, Immunisation, De-worming, Iron and Folic Acid Supplementation*
- *Curative Services (provided in School Health Clinics, Zonal Clinics and Special Clinics): Health education regarding personal hygiene as well as oral hygiene; Nutrition for various conditions such as Avitaminosis, Anaemia, Malnutrition, etc. caused by deficiencies by providing the children with various supplements; Polio vaccinations; Education regarding water and vector borne diseases such as dengue, malaria, chikungunya, dysentery, diarrhoea etc.; Education*

*regarding drug and substance abuse;
Education regarding thalassemia and
other genetic disorders*

➤ *Rehabilitative Services: Providing
free spectacles, hearing aids,
orthopaedic appliances, tooth brushes,
tooth pastes etc.; Help in regard to
surgeries for congenital heart services
with the help of DMA/NGOs*

- *Dr. Ajay Lekhi in his capacity as the
Nodal Officer for Drug/Substance Abuse,
monitored by the Juvenile Justice Committee
("JJC") is actively involved in organising
Information Education Campaigns on the
said issue under the guidance of
Commissioner, EDMC, DHA and Director,
Education.*

- *EDMC has launched various programs,
viz. "Aao School Chalein", Menstrual
Health Protection Program called
"Sangini", awareness program in regard to
Prevention of Cervical Cancer and the Role
of Immunisation.*

- *EDMC further undertakes various other
programs for the school children such as
National De-worming Program, providing
medical aid to the community Camps during
the months of May-August every year,
Special Dental Camps, Special Eye Camps
etc.*

- *In Dental Camps, school children are
being examined for various Dental disorders,
and the cases where further conservative
procedures are required are being referred
to the Health Department, EDMC for further
management.*

- *In Special Eye Camps, children are being
screened for refractive errors and the ones*

with refractive errors are being provided with free spectacles. Till date around 150-200 children have been provided with prescribed spectacles.”

9. Similar Orders have been passed by this Court *vide* Order dated 04.07.2018 in W.P.(C) 9744/2017.

10. The Government of NCT of Delhi has brought out the Delhi Victims Compensation Scheme, 2018 and under the said Scheme, “victim” has been defined to mean a person who has suffered loss or injury. Under the said Scheme, for loss of life, the minimum compensation has been fixed at Rs.3 lakhs and the upper limit of compensation has been fixed at Rs.10 lakhs. Another order has been issued by the GNCTD on 05.03.2020 wherein the Government has enhanced the limit of ex-gratia relief for victims of fire and other accidents at the rate of Rs.10 lakhs for each victim in case of death of a major and Rs.5 lakhs if the victim is a minor.

11. In view of the fact that nothing concrete has been done, the Government is directed to immediately release Rs.5 lakhs for each of the victims who have lost their life as ex-gratia interim payment. It is expected that in the last three years, the Government has already identified the relatives of the victims who have lost their lives in the incident. If the exercise has not been concluded yet, then the Government is directed to conclude this exercise within four weeks from today.

12. It is stated that the relatives of the victim have given an undertaking that they are willing to forgo the amount of compensation. Despite such undertaking, the payment of compensation should be concluded within six weeks from today. Any lapse on the part of the Government in not paying the compensation would be viewed very seriously by this Court as willful

disobedience of the Orders of this Court.

13. The Petitioner NGO has identified 183 locations where children are working. The Government is directed to search the locations, conduct an investigation and file a Status Report on the action taken by them before the next date of hearing.

14. Under the supervision of Chief Secretary of Delhi, the Deputy Commissioner of Police of each District in coordination with the Department of Labour, Government of NCT of Delhi; Women and Child Welfare Department, Government of NCT of Delhi and the Municipal Corporation of Delhi are directed to form a Committee in each district to inspect the premises where units employing child labour are being run and a Status Report regarding the action taken by the Committee be filed before the next date of hearing. The children who are found to be working in these units should be rescued and the directions given by this Court *vide* Order dated 20.09.2019 in CRL.M.A.35002/2018 in W.P.(CRL) 2069/2005 should be complied with.

15. Let Fire Department, GNCTD be impleaded as a Respondent to the instant Writ Petition.

16. List on 27.03.2023.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JANUARY 11, 2023

Rahul/RR