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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 02.11.2023.

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W.P.(C) 841/1998

ASHOK AGARWAL

..... Petitioner

Through:

versus

UOI & ORS

..... Respondent

Through:

Mr. Ajjay Aroraa and Mr. Kapil Dutta, Advocates for MCD.

Mr. Santosh Kumar Tripathi, SC, GNCTD with Mr. Arun Panwar, Mr. Pradyumn Rao, Mr. Utkarsh Singh, Mr. Kartik Sharma, Ms. Prashansa Sharma and Mr. Rishabh Srivastava, Advocates.

Mr. Rahul Sharma, ASC, NDMC with Mr. Ayush Bhatt, Advs for NDMC.

Mrs. Shobhna Takiar, Adv for DDA.

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W.P.(C) 5232/2007 & CM APPL. 20465/2016, CM APPL. 18087/2018, CM APPL. 18088/2018, CM APPL. 23354/2018, CM APPL. 23357/2018

NATIONAL CAMPAIGN FOR DIGNITY & RIGHTS OF

SEWERAGE & ALLIED WORKERS THR. HEMLATA

KANSOTIA

..... Petitioner

Through:

Mr. Deepak Singh and Mr. Paul Kumar Kalai, Advocates.

Mr. Sanjay Poddar, Sr. Advocate, Amicus Curiae with Mr. Govind Kumar and Mr. Goel, Advocates.

versus



M.C.D. & ORS.

..... Respondent

Through: Mr. Ajjay Aroraa and Mr. Kapil Dutta, Advocates for MCD.
 Ms. Kanika Agnihotri, ASC, NDMC with Mr. Gandharv Garg and Ms. Garima Khanna, Advocates.
 Mr. Sameer Vashisht, ASC, Civil, GNCTD
 Mr. S K Sethi with Mrs Dolly Sharma, Advocates for DSLSA
 Ms. Sangita Rai and Mr. Rakesh Singh, Advocates for Delhi Jal Board.
 Mr. Om Prakash, Mr. Chandresh Pratap, Mr. Rustam Malik, Ms. Swati Mishra and Ms. Komal Yadav, Advocates for Railways.
 Mr. Mohit Nagar, Advocate for DDA.

+ **W.P.(C) 10394/2018 & CM APPL. 45442/2023, CM APPL. 45765/2023**

RAO RANJEET SINGHH

..... Petitioner

Through:

versus

THE CHIEF SECRETARY GOVT. OF N.C.T. OF DELHI AND

ORS.

..... Respondent

Through: Mr. Santosh Kumar Tripathi, SC, GNCTD with Mr. Arun Panwar, Mr. Pradyumn Rao, Mr. Utkarsh Singh, Mr. Kartik Sharma, Ms. Prashansa Sharma and Mr. Rishabh Srivastava, Advocates.
 Mr. Sameer Vashisht, ASC, Civil, GNCTD
 Ms. Kanika Agnihotri, ASC, NDMC



with Mr. Gandharv Garg and Ms. Garima Khanna, Advocates.
 Mr. Abhinav Bajaj, ASC with Mr. Saksham Ojha and Ms. Geetashi Chandna, Advocates.
 Mr. Tushar Sannu, SC, MCD with Mr. Abhishek Singh, Advocate.
 Ms. Sangita Rai and Mr. Rakesh Singh, Advocates for Delhi Jal Board.
 Mr. Dev P. Bhardwaj, CGSC with Ms. Anubha Bhardwaj, Mr. Sachin Singh and Ms. Chaahat Khanna, Advocates
 Ms. Kanika Agnihotri, Mr. Ankit Rajgarhia and Mr. Tarun Sharma, Advocates for R-5.

+ **W.P.(C) 3604/2019 & CM APPL. 16530/2019**

AMIT SAHNI

..... Petitioner

Through: Mr. Amit Sahni with Mr. Ankur, Mr. Vaibhav Mishra, Mr. Parth Sharma and Mr. Kanupriya Mehta, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondent

Through: Mr. Santosh Kumar Tripathi, SC, GNCTD with Mr. Arun Panwar, Mr. Pradyumn Rao, Mr. Utkarsh Singh, Mr. Kartik Sharma, Ms. Prashansa Sharma and Mr. Rishabh Srivastava, Advocates.

Mr. Anurag Ahluwalia, CGSC.

Mr. Rishi Kant Sinha, Advocate for R-3.

Ms. Sangita Rai and Mr. Rakesh Singh, Advocates for Delhi Jal Board.



+ **W.P.(C) 3622/2023 & CM APPL. 14063/2023, CM APPL. 14064/2023**
SANSER PAL SINGH Petitioner

Through:

versus

UNION OF INDIA AND OTHERS Respondent

Through: Mr. Anil Soni, CGSC with Mr. Devvrat Yadav, GP.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The present petitions have been filed for strict enforcement of the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (No. 25 of 2013) (“**PEMSR Act**”) and the Rules framed thereunder. Various orders have been passed from time to time by this Court in respect of the present petitions.

2. Ms. Kanika Agnihotri, learned ASC for NDMC, submits that the issues which are involved in the present cases stand concluded on account of the judgment delivered by the Hon’ble Supreme Court in *Balram Singh v. Union of India and Others*, 2023 SCC OnLine SC 1386.

3. In the aforesaid case, a specific prayer was made for implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (“**1993 Act**”) and the PEMSAR Act and for the imposition of a blanket ban on manual scavenging, besides other reliefs.



4. This Court has carefully gone through aforesaid judgment delivered by the Hon'ble Supreme Court and paragraphs 102 to 106 of the aforesaid judgment read as under:

“102. However, mere economic measures would not suffice in the upliftment of the family. Rehabilitation would require elements of long-term and short-term socio-economic measures such as scholarships, etc. To this end, this Court finds that entitlements which are akin to those given to manual scavengers must be granted to families of hazardous workers who had died in sewers and septic tanks.

103. In addition to the families of the hazardous workers, endeavors must be made to rehabilitate such persons who continue to be employed as hazardous workers without any protective gear or cleaning devices. States must suitably frame policies to ensure that all hazardous workers are given access to rehabilitative entitlements.

Directions

104. In view of the above discussion, the following directions are issued:

(1) The Union should take appropriate measures and frame policies, and issue directions, to all statutory bodies, including corporations, railways, cantonments, as well as agencies under its control, to ensure that manual sewer cleaning is completely eradicated in a phased manner, and also issue such guidelines and directions as are essential, that any sewer cleaning work outsourced, or required to be discharged, by or through contractors or agencies, do not require individuals to enter sewers, for any purpose whatsoever;

(2) All States and Union Territories are likewise, directed to ensure that all departments, agencies, corporations and other agencies (by whatever name called) ensure that guidelines and directions framed by the Union are embodied in their own guidelines and directions; the states are specifically directed to ensure that such directions are applicable to all municipalities,



and local bodies functioning within their territories;

(3) The Union, State and Union Territories are directed to ensure that full rehabilitation (including employment to the next of kin, education to the wards, and skill training) measures are taken in respect of sewage workers, and those who die;

(4) The court hereby directs the Union and the States to ensure that the compensation for sewer deaths is increased (given that the previous amount fixed, i.e., Rs. 10 lakhs) was made applicable from 1993. The current equivalent of that amount is Rs. 30 lakhs. This shall be the amount to be paid, by the concerned agency, i.e., the Union, the Union Territory or the State as the case may be. In other words, compensation for sewer deaths shall be Rs. 30 lakhs. In the event, dependents of any victim have not been paid such amount, the above amount shall be payable to them. Furthermore, this shall be the amount to be hereafter paid, as compensation.

(5) Likewise, in the case of sewer victims suffering disabilities, depending upon the severity of disabilities, compensation shall be disbursed. However, the minimum compensation shall not be less than Rs. 10 lakhs. If the disability is permanent, and renders the victim economically helpless, the compensation shall not be less than Rs. 20 lakhs.

(6) The appropriate government (i.e., the Union, State or Union Territories) shall devise a suitable mechanism to ensure accountability, especially wherever sewer deaths occur in the course of contractual or “outsourced” work. This accountability shall be in the form of cancellation of contract, forthwith, and imposition of monetary liability, aimed at deterring the practice.

(7) The Union shall devise a model contract, to be used wherever contracts are to be awarded, by it or its agencies and corporations, in the concerned enactment, such as the Contract Labour (Prohibition and Regulation Act), 1970, or any other law, which mandates the standards - in conformity with the 2013 Act, and rules, are strictly followed, and in the event of



any mishap, the agency would lose its contract, and possibly blacklisting. This model shall also be used by all States and Union Territories.

(8) The NCSK, NCSC, NCST and the Secretary, Union Ministry of Social Justice and Empowerment, shall, within 3 months from today, draw modalities for the conduct of a National Survey. The survey shall be ideally conducted and completed in the next one year.

(9) To ensure that the survey does not suffer the same fate as the previous ones, appropriate models shall be prepared to educate and train all concerned committees.

(10) The Union, State and Union Territories are hereby required to set up scholarships to ensure that the dependents of sewer victims, (who have died, or might have suffered disabilities) are given meaningful education.

(11) The National Legal Services Authority (NALSA) shall also be part of the consultations, toward framing the aforesaid policies. It shall also be involved, in co-ordination with state and district legal services committees, for the planning and implementation of the survey. Furthermore, the NALSA shall frame appropriate models (in the light of its experience in relation to other models for disbursement of compensation to victims of crime) for easy disbursement of compensation.

(12) The Union, State and Union Territories are hereby directed to ensure coordination with all the commissions (NCSK, NCSC, NCST) for setting up of state level, district level committees and commissions, in a time bound manner. Furthermore, constant monitoring of the existence of vacancies and their filling up shall take place.

(13) NCSK, NCSC, NCST and the Union government are required to coordinate and prepare training and education modules, for information and use by district and state level agencies, under the 2013 Act.

(14) A portal and a dashboard, containing all relevant



information, including the information relating to sewer deaths, and victims, and the status of compensation disbursement, as well as rehabilitation measures taken, and existing and available rehabilitation policies shall be developed and launched at an early date.

Conclusion

“For ours is a battle not for wealth or for power. It is a battle for freedom. It is the battle of reclamation of human personality.”(Address at the All-India Depressed Classes Conference held at Nagpur in July 1942) Dr. B.R. Ambedkar

105. If we are to be truly equal, in all respects the commitment that the constitution makers gave to all sections of the society, by entrenching emancipatory provisions, such as Articles 15 (2), 17, 23 and 24, each of us must live up to its promise. The Union and the States are duty bound to ensure that the practice of manual scavenging is completely eradicated. Each of us owe it to this large segment of our population, who have remained unseen, unheard and muted, in bondage, systematically trapped in inhumane conditions. The conferment of entitlements and placement of obligations upon the Union and the States, through express prohibitions in the constitution, and provisions of the 2013 Act, mean that they are obliged to give real meaning to them, and implement the provisions in the letter and spirit. Upon all of us citizens lie, the duty of realizing true fraternity, which is at the root of these injunctions. Not without reason does our Constitution place great emphasis on the value of dignity and fraternity, for without these two all other liberties are chimera, a promise of unreality. It is all of us who today proudly bask in the achievements of our republic, who have to awake and arise, so that the darkness which has been the fate of generations of our people is dispelled, and they enjoy all those freedoms, and justice (social, economic and political) that we take for granted.

106. Lastly, this court also expresses its gratitude to Amicus Mr. K Parmeshwar for his valuable contribution and efforts. List the matter on 01.02.2024.”



5. The Hon'ble Supreme Court in the aforesaid judgment has issued various directions for strict enforcement of the 1993 Act and the PEMSR Act. The Apex Court has enhanced the compensation amount for sewer deaths from Rs. 10 Lakhs to Rs. 30 Lakhs, and in case of sewer victims suffering disabilities, the compensation is to be fixed depending on the severity of the disabilities. The minimum compensation to be awarded to sewer victims suffering from disabilities has been fixed at Rs. 10 Lakhs and in case the disability is permanent and renders the victim economically helpless, the compensation must not be less than Rs. 20 Lakhs. The Apex Court has issued various other directions to ensure that the practice of manual scavenging stands completely eradicated.

6. In light of the aforesaid judgment delivered by the Hon'ble Supreme Court, no further orders are required to be passed in the present writ petitions and the same are, accordingly, disposed of.

7. The Government of NCT of Delhi, the Delhi Jal Board, the Municipal Corporation of Delhi and all other authorities are directed to strictly comply with the judgment delivered by the Hon'ble Supreme Court in *Balram Singh* (supra).

SATISH CHANDRA SHARMA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 2, 2023

N.Khanna