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| Case Number: | WP 3211/2018 (KAHC010312422018) | Classification: | GM RES | Date of Filing: | 18/01/2018 14:29:54 |
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| Petitioner: | HIGH COURT LEGAL SERVICES COMMITTEE | Pet. Advocate: | K SHEELA ANISH |
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| Respondent: | STATE OF KARNATAKA BY ITS | Resp. Advocate: | AGA FOR R1 & R2 | | |
| Filing No.: | WP 3211/2018 | Judge: | SATISH CHANDRA SHARMA AND SACHIN SHANKAR MAGADUM | | |
| Last Posted For: | ORDERS | Last Date of Action: | 30/08/2021 | Last Action Taken: | ADJOURNED |
| Next Hearing Date: | 04/10/2021 | | | | |
| Daily Orders: WP 3211/2018 | | | | | |
| 1 | SATISH CHANDRA SHARMA AND SACHIN SHANKAR MAGADUM | | <u>30/08/2021</u> | | |
| <p>Learned Government Advocate has informed this Court that in respect of the incident which took place at Kalaburagi on 28.01.2021, a charge sheet has already been filed in the matter after investigation by the police, and in respect of Ramanagara incident, investigation is going on after lodging the FIR. He submits that the entire investigation will be concluded within thirty days. 2. The statutory provisions as contained under Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter referred to as 'Act of 2013') provide for rehabilitation of manual scavengers and the purpose of rehabilitation. Survey is not yet completed and it is in process. The State Government shall file a detailed report in respect of such survey and the report shall include the reason as to why the survey is not completed in respect of statutory provisions of the Act of 2013. 3. In the Kalaburagi incident, two people have unfortunately lost their life. The compensation to the tune of Rs.10.00 lakhs has been provided to the family. However, rehabilitation has not been done under the Act of 2013 and the State Government has not taken steps in respect of rehabilitation and the benefits flowing out of the statutory provisions under the Act of 2013 to the family. 4. At this stage, learned Counsel for respondent No.12 has informed this Court that casual appointment has been granted to the legal heirs of two workers, who had unfortunately expired in respect of the Kalaburagi incident. Section 13 of the Act of 2013 does not provide for casual appointment. Large number of steps are required to be undertaken by the State Government. 5. In respect of the Kalaburagi incident, the deaths have taken place on 28.01.2021 and now, we are in the month of August, 2021. Section 13 of the Act of 2013 provides for Rehabilitation of</p> | | | | | |

persons identified as manual scavengers and a manual scavenger shall be given an identity card, financial assistance for house construction or a ready-built house, etc. It also provides for scholarship to the children and one time cash assistance. Other steps are also required to be undertaken by the State Government. Except grant of casual employment (daily wager), nothing has been done. Section 7 of the Act of 2013 makes it very clear that after commencement of the Act of 2013, the State Government may notify a date which shall not be later than one year from the date of commencement of the Act, that no person can engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank. It is unfortunate that the Kalaburagi incident has taken place only because the statutory provisions have not been followed by the local body or by the State Government or by the contractors of the local body. 6. In respect of Ramanagara incident, which took place on 04.06.2021, even after registration of the FIR, investigation is not over. Therefore, thirty days time is granted to complete the investigation. 7. The State Government has paid Rs.10.00 lakh as compensation to the family of the three workers in respect of the deaths taken place in Ramanagara incident. However, other measures have not been taken as per the provisions contained under Section 13 of the Act of 2013. The concerned District Magistrate is responsible for rehabilitation of such manual scavengers. 8. The District Magistrates of Kalaburagi and Ramanagara District shall remain present before this Court on 04.10.2021 and in case, the statutory provisions under Section 13 of the Act of 2013 are complied, a compliance memo shall be filed reporting compliance under Section 13 and the presence of both District Magistrates shall be exempted without leave of this Court. 9. Rules have also been framed under the Act of 2013 known as Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter referred to as 'Rules of 2013'). Rule 3 provides for obligations of the employer towards employees engaged in the cleaning of sewer or septic tank and the persons who have lost their life, were certainly not wearing their mask and other equipments. They were not properly equipped and therefore, the State Government and the local bodies under the State Government are directed to ensure that in case the sewer tank is to be cleaned, no manual cleaning will take place without following the statutory provisions as contained under the Act and the Rules, especially Rules 3 to 8 of the Rules of 2013. 10. In case of non compliance of the statutory provisions under the Act of 2013 and Rules of 2013 and for violation of this Order, the District Magistrate shall be held for contempt proceedings as District Magistrate is the authority who has been made responsible under the Act of 2013 for rehabilitation of such manual scavengers. It shall be the duty of District Magistrate to create awareness among all the officers of local bodies for ensuring compliance of statutory provisions as contained under the Act of 2013 and the Rules of 2013. 11. The State Government shall also file a detailed chart in respect of the equipments which are provided under the Rules of 2013, their availability in the local bodies and the chart shall also include the reason if the equipments are not available in the local bodies as it is mandatory for the

local bodies to possess the necessary equipments as provided under the Act of 2013 and Rules of 2013. The Act of 2013 provides for duty of District Magistrate of their respective districts to ensure compliance of the Act of 2013 and therefore, this order is being passed directing the compliance of statutory provisions as contained under the Act of 2013 and the Rules of 2013. 12. The State Government shall file the compliance report within four weeks. 13. The sealed cover pertaining to the Kalaburagi incident were opened by this Court and it contained a charge sheet and the same is taken on record. 14. It is made clear that, henceforth, there will be no more manual scavenging in the State of Karnataka ignoring the statutory provisions of the Act of 2013 and Rules of 2013. Meaning thereby, the scavenging shall be done only with aid and assistance of the equipments which are mentioned under the Rules framed under the Act of 2013. 15. List on 04.10.2021.

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| 2 | ABHAY SHREENIWAS OKA (CJ) AND N S SANJAY GOWDA | <u>05/08/2021</u> |
| <p>In W.P.No.3211/2018 We have perused the affidavit filed by the State Government dealing with I.A.No.1/2021. The First Information Report has been registered on 4th June 2021 which is annexed as Annexure-R2 to the action taken report filed by the State Government on the basis of I.A.No.1/2021. We direct that the copies of the action taken report shall be supplied to all the parties. We also direct the Officer incharge of Ramanagara Town Circle Police Station to submit a detail report on investigation so far carried out on the basis of Crime No.36/2021. The said report shall be tendered to the Court in a sealed cover on the next date. The State Government has placed on record two compilations of the documents containing compliance as well as the action taken report. The learned Additional Government Advocate will file the translated documents on record. The learned counsel appearing for the petitioner submits that as far as the incident of Kalburagi regarding the death of a persons is concerned, certain directions will have to be issued by the Court. We will consider the said aspect while dealing with I.A.No.1/2021. List the petitions on 30th August 2021. Statement of objections shall be filed on record on or before 25th August 2021.</p> | | |
| 3 | ABHAY SHREENIWAS OKA (CJ) AND SURAJ GOVINDARAJ | <u>15/07/2021</u> |

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| | <p>The learned counsel appearing for the petitioner and the learned Additional Government Advocate states that there was a meeting convened to discuss the compliance with the detailed order passed by this Court on 9th December 2020. The learned Additional Government Advocate states that after holding one more meeting, within fifteen days, he will file a compliance report. I.A. has been filed in W.P.No.3211/2018 on which an action taken report has been submitted by the learned Additional Government Advocate. A copy be provided to the counsel for the petitioner in the said Writ Petition. List the petitions on 5th August 2021 for considering the compliance and considering I.A. filed in W.P.No.3211/2018.</p> | |
| 4 | ABHAY SHREENIWAS OKA (CJ) AND SURAJ GOVINDARAJ | <u>06/07/2021</u> |
| | <p>WP NO. 8928/2020 Connected Cases: WP NO. 3211/2018 Mentioned at 1.30 p.m. by the learned Additional Government Advocate who states that a detailed compliance report will be filed today. List the petitions on 15th July 2021. All the pending applications shall be listed on that day.</p> | |
| 5 | ABHAY SHREENIWAS OKA (CJ) AND SURAJ GOVINDARAJ | <u>17/06/2021</u> |
| | <p>We direct the learned counsel for the twelfth respondent to place on record the statements of witnesses and other material collected during the enquiry conducted by Shri S.S.Pathanshetty. A copy be supplied to all the learned counsel. The learned Additional Government Advocate states that the State Government's compliance report is ready and he will file the same. List these petitions be listed on 6th July, 2021 for considering the compliance report filed by the State Government.</p> | |
| 6 | ABHAY SHREENIWAS OKA (CJ) AND SURAJ GOVINDARAJ | <u>21/04/2021</u> |
| | <p>The learned counsel appearing for the Karnataka Urban Water Supply and Drainage Board seeks time to file report in terms of the order dated 26th March 2021. We accordingly granting time till 11th June 2021. Time is also granted to the State Government to report compliance with all earlier orders till 11th June 2021. List the petitions on 17th June 2021.</p> | |
| 7 | ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY | <u>01/03/2021</u> |

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| | <p>A compliance report running in two volumes is filed by the State Government along with the copy of the annexures. We have perused the action taken report filed by the twelfth respondent in the form of submissions dated 26th February 2021. Prima facie, it appears to us from Annexure-R3 that the Executive Engineer of the twelfth respondent at Kalaburagi without holding any inquiry, has submitted a report recording that the worker of the contractor namely, Rasheed Sheikh accidentally slipped into the manhole chamber and to rescue him, other two workers of the contractor entered the chamber. The report at Annexure-R3 shows that no inquiry was made by the Executive Engineer and the twelfth respondent seems to have acted on the basis of the said report which is without any basis. The learned Counsel appearing for the twelfth respondent seeks time to take instructions on this aspect. We have perused the final opinion as to the cause of death dated 23rd February 2021. As the final opinion along with the forensic science report will be the part of the investigation, we are returning the same to the learned Additional Government Advocate. On behalf of the State Government, the learned Additional Government Advocate assures that a charge sheet will be filed within one week from today. The learned Additional Government Advocate will take instructions on the memo tendered across the bar by the petitioner in respect of an incident at Maddur. List the petition on 16th March 2021.</p> | |
| 8 | ABHAY SHREENIWAS OKA (CJ) AND S VISHWAJITH SHETTY | <u>20/11/2020</u> |
| | Reserved for orders. | |
| 9 | ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI | <u>22/10/2020</u> |
| | <p>W.P.No.8928/2020 c/w W.P.No.3211/2018 We permit the parties to place on record the charts indicating the points on which the directions are required to be issued by this Court for implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 as well as the rules framed therein. The copies of the charts shall be supplied to the learned Additional Government Advocate by 6th November 2020. Ms.Aparna L.V., the learned counsel appearing for the first to third respondents waives service. The learned Additional Government Advocate appearing for the fourth to eighth respondents waives service. Shri H.N.Shashidhara, the learned counsel appearing for the twelfth respondent waives service. Shri Shridhar Prabhu, the learned counsel appearing for the fifteenth respondent waives service. The petition be listed on 17th November 2020 at 2.30 p.m.</p> | |

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| 10 | ABHAY SHREENIWAS OKA (CJ) AND ASHOK S.KINAGI | <u>20/03/2020</u> |
| | <p>Heard the learned Senior counsel appearing for the applicant. In view of the averments made in the application, the same is allowed in terms of prayer clause (a). The applicant be impleaded as the seventh respondent by the petitioner by carrying out necessary amendment. ORDER The advocate for the applicant in I.A.No.1/2020 takes notice of the writ petition. It will be open for the added respondent to file statement of objections. Let the petition be listed for preliminary hearing on 4th June 2020.</p> | |
| 11 | ABHAY SHREENIWAS OKA (CJ) AND HEMANT CHANDANGOUDAR | <u>14/02/2020</u> |
| | <p>Time is sought by the learned counsel appearing for the petitioner. As per the request made, let the matter be listed for Preliminary Hearing on 20th March, 2020.</p> | |
| 12 | ABHAY SHREENIWAS OKA (CJ) AND HEMANT CHANDANGOUDAR | <u>03/01/2020</u> |
| | <p>In view of the earlier orders, now, the only real issue that survives for consideration is regarding the implementation of the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (for short 'the said Act of 2013') and implementation of the directions issued by the Apex Court in the case of SAFAI KARAMCHARI ANDOLAN vs. UNION OF INDIA . As regards the provisions of the said Act of 2013, the State Government has filed objections. The learned counsel appearing for the petitioner will have to address us if certain provisions of the said Act of 2013 are not being implemented or the directions of the Apex Court are not yet complied with. To enable the learned counsel to do so, we permit the petitioner to file a rejoinder to the statement of objections within a period of four weeks from today. A copy of the rejoinder be served in advance to the office of the Government Advocate. Let the petition be listed on 14th February 2020 under the caption of 'Orders'.</p> | |
| 13 | ABHAY SHREENIWAS OKA (CJ) AND S R.KRISHNA KUMAR | <u>25/10/2019</u> |

We have heard the learned counsel appearing for the third respondent, the learned counsel appearing for the fifth and sixth respondents and the learned AGA appearing for the State. We have perused the order dated 27th September 2019 and in particular, the observations made regarding the unfortunate incident which is noted in the said order. While granting permission for construction of a building, BBMP, BDA, BWSSB and other planning authorities can always impose a condition to ensure that manual scavengers are not employed for cleaning drainage inside a private property. The issue raised in this petition by the Karnataka High Court Legal Services Authority is about the implementation of the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (for short 'the said Act of 2013'). It is stated in the petition that there have been about 68 deaths due to manual scavenging since the year 2008. We, therefore, direct the State Government to file objections setting out the steps taken by it to implement the said Act of 2013. While filing the objections, the State Government will also deal with the directions issued by the Apex Court in the case of SAFAI KARAMCHARI ANDOLAN vs UNION OF INDIA which is referred in the petition. As far as the incident dated 7th January 2018 is concerned, no further directions are required to be issued as FIR has been registered and BBMP has granted compensation to the families of the deceased persons on humanitarian grounds, though it has no role to play in engaging the deceased persons. For dealing with the implementation of the said Act of 2013, the State Government shall file objections on or before 30th November 2019. Let the petition be listed on 10th December 2019 to consider the stand taken by the State Government.

14

CJ & SRKKJ

27/09/2019

None appears for the petitioner. The learned counsel appearing for the third respondent has invited our attention to the objections filed by the third respondent and pointed out that as per the stand taken therein, the third respondent has no role to play, in the sense that the three labourers who unfortunately lost their lives were engaged by the Residents Welfare Association for cleaning the sewage treatment plant within the private property of the apartments. In fact, it is stated that the same was done without the knowledge of BBMP. In fact, in the objections filed, it is stated that only on humanitarian grounds, BBMP granted an amount of Rs.10 lakhs each to the families of the deceased persons. The petition filed by the Karnataka State Legal Services Authority mainly concerns the implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (for short the said Act of 2013). If the Residents Welfare Association or the owners of the apartments had engaged manual scavengers in breach of the provisions of Sub-section(1) of Section 5 of the said Act of 2013, while registering the First Information Report, even Section 8 of the said Act of 2013 ought to have been applied. The learned AGA will take instructions on the status of investigation in connection with First Information Report dated 07th January 2018. As the two authorities namely, the third respondent - BBMP and fourth respondent- BWSSB are before the Court, it will be appropriate if both the authorities assist the Court by pointing out the relevant provisions of law so that directions can be issued by the authorities to the owners of the property which are having private sewage treatment plant. Apart from implementing the provisions of the said Act of 2013, the question is whether while granting requisite permissions, the third and fourth respondents can impose a condition of repairing drains or private sewage treatment plants in a particular manner and that also without engaging manual scavengers. If such a course is adopted, it will ensure that the owners of the properties will not indulge in engaging manual scavengers. Apart from pointing out the status of the investigation on the basis of First Information Report, the State must also assist the Court . To enable the State as well as the third and fourth respondents on this point, let this petition be listed on 25th October 2019.

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| 15 | DINESH MAHESHWARI (CJ) & KSDJ | <u>12/06/2018</u> |
| | Learned counsel for the petitioner submits that the presence of respondent No.6 may also be necessary for dealing with the issues raised in this petition. Let notice be issued to respondent No.6 to be served through its Secretary. Notice be made returnable in four weeks. | |
| 16 | DINESH MAHESHWARI (CJ) & PSDJ | <u>20/04/2018</u> |
| | None present for the petitioner. List this matter after summer vacations. | |

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| 17 | DINESH MAHESHWARI (CJ) & BMSPJ | <u>02/04/2018</u> |
| | None present for the petitioner. List this matter after two weeks. | |
| 18 | DINESH MAHESHWARI (CJ)& SSDYJ | <u>22/02/2018</u> |
| | Heard learned counsel for the petitioner and perused the material placed on record. Issue notice to respondent Nos.1 to 5 returnable in three weeks. Learned Additional Government Advocate represents respondent Nos.1 and 2. List this matter after three weeks, as prayed. | |