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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

PRESENTATION FORM

wp No. 3211/18

Serial No. _____

District _____

Advocate Sri
Smt. Sheela Anish.

Between

High Court Legal
Services Committee

And

State of Karnataka
and Others.

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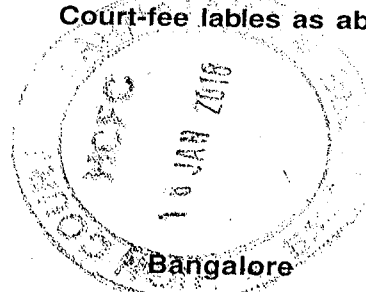
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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRIT PETITION .3211/2018

Karnataka Legal Services CommitteePetitioner.

AND

State Of Karnataka & OthersRespondents

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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRTIE PETITION No/2018

High Court Legal Service CommitteePetitioner.

AND

State Of Karnataka & Others. Respondent.

SYSNOPSIS

Dates	Events
2013	<i>“The Prohibition of Employment As Manual scavengers And Their Rehabilitation Act2013” (no.25 of 2013)</i>
27.03.2014	Supreme court passes guide lines and Directions
07.01.2018	Incidents re-Occur in Karnataka &elsewhere
	Respondents fail to take actions

Brief Facts of the case

- 1. The petitioner has filed this petition to safe guard the human right and the fundamental rights of the deprived class. The petitioner has filed this petition as a public Interest litigation and has no personal Intrest.**
- 2. The Law Prohibits employment of Mnual scavengers. Inspite of it , it is learnt that the three labors died On 7.01.2018 while cleaning sewerage tank in an apartment complex. Inspite of there being Law the Respondents**

have failed to remove the inhuman practice of employment of Manual scavengers. This has led to many deaths and Health Hazards. It is reported that in Karnataka Alone more than 68 deaths has taken place due to this inhuman Practice. This is nothing but economic and social exploitation. There is no report regarding the relief measures and other actions taken by the respondents. No authority came up with a solution or relief. The respondents failed to take the responsibility to check the inhuman practice instead indulged in passing the buck..

3.The Respondents are shirking the responsibilities and they failed in their duty to take necessary action to check the illegal activates. The Respondent have violated the repeated the directions of Honble of Supreme court of India.

Bangalore

Advocate for the Petitioner

Dtd.18.01.2018

IN THE HIGH COURT OF KARNATAKA, BANGALORE

W.P. NO /2018 (G.M)

BETWEEN

KARNATAKA HIGH COURT LEGAL SERVICES AUTHORITY

High court building

BANGALORE Represented by its Secretary Petitioner

AND

1. STATE OF KARNATAKA by its

Chief secretary, Vidhana Soudha

BANGALORE-560001

2. HOUSING AND URBAN DEPARTMENT

By its secretary, Vikas soudha

BANGALORE-560001

3. BRUHAT BANGALORE MAHA NAGARA PALIKE

By its Commissioner, BANGALORE-560001

4. BANGALORE WATER AND SEWERAGE BOARD

Cauvery Bhavan, Kempe gowda Road

BANGALORE, By Its Chairman-560001

5. UNION OF INDIA by its

Secretary For Department Of Sanitation

C Wing, 4th Floor, Pandit Deendayal Antodaya Bhavan

CGO Complex, Ldhi Road NEW DELHI-110003

6.

7. Thammate

24

6. NATIONAL COMMISSION FOR SAFAI KARMACHARIS

4TH Floor, Lok Nayak Bhavan, Khan Market

NEW DELHI-110003 represented by its Chairman

.....Respondents

PETITION UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA :-

1. The recent tragic incident in Bangalore has caused embarrassment and hurt to the citizens of Karnataka. The tragic death of three labours who were employed to do jobs for bidden by Law has led to serious concerns and has raised questions in the minds of citizens..
2. It is shocking to know that even 25 years after the passing of the Law such inhuman practice is still alive and in existence and the concerned authorities are conveniently closing their eyes and trying to pass the buck on each other. The employment of manual scavengers was prohibited in India in 1993 and the law was extended and clarified to include insanitary Latrines, ditches and pits in 2013. Presently the Act known as "The Prohibition of Employment As Manual scavengers And Their Rehabilitation Act 2013" (no.25 of 2013) herein after called the Act is very much in place.^e
3. The death of three people due to suffocation (Asphyxia) while cleaning in an apartment complex in Bangalore recently underscores yet again the fact, manual scavenging an in human practice forbidden by law is still around. It is also reported that 68 persons are dead in the last 10 years while cleaning the sewerage pipes and toilets in Karnataka alone. This does not include the hundreds who must have died due to related illness. Authorities are not doing enough to stop this manual scavenging. The govt has offered some monetary compensation to the victim's kin . However this is not the end of the matter. The responsibility of the govt does not end with promising or doling out some money to the victims .It must make sure that stern action is taken against the erring officers of the BWSSB, BBMP, apartment complex owners and the contractors. The state should take stringent steps to end this menace. The law is in its place. The 1993 Act and 2003 act prohibiting the manual scavenging and the repeated directions by the apex courts have not been

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able to wake up the sleeping governments. The state has failed to monitor the implementations: Karnataka state has the shameful distinction of standing 5th in the country and first in south India with number of persons engaged in Manual scavenging. The Paper reports are produced and marked as annexure A-C'

4. The union government which talking high of 'SWACH BHARATH MISSION' has reportedly slashed the annual budget of rehabilitation of workers from Rs 557 corers in 2013-14 to Rs Five crore per year in 2017 indicates the priority of the Govt in eradicating this inhuman practice. After passing of the law the death rate has not come down. The law has not been deterrent as manual scavengers continue to be employed due to apathy of general public and lack of proper implementation of the law by the authorities. The union Government must have looked into stringent measures and effective implementations.

5. It is estimated that 1.2 million scavengers in the country are involved in the sanitation of our surroundings. The working conditions of these sanitary workers have remained virtually unchanged for over a century. Apart from the social atrocities that these workers face, they are exposed to certain health problems by virtue of their occupation. These health hazards include exposure to harmful gases such as methane and hydrogen sulfide, cardiovascular degeneration, musculoskeletal disorders like osteoarthritis changes and intervertebral disc herniation, infections like hepatitis, leptospirosis and helicobacter, skin problems, respiratory system problems and altered pulmonary function parameters.

6. *The supreme court has repeatedly given directions to the union governments & the state governments. In " Safai Karmachari Andolan & Others Vs Union Of India, Reported in Supreme Court Cases 2014 (224) The supreme court has give clear directions to the state to transform the lives of such labors and their families and to do all acts to remove such inhuman practices. But the recent incident shows that the govt has thrown away all the directions and has slept over the matter.*

7. These inhuman practices apart from being violative of Human Rights, India being a signatory to international convention bound to safe guard those international conventions including, UDHR, CEDAW, CERD.

8. The state govt has scant respect to the directions given by the apex court . It has failed to constitute any monitoring committee. It has failed to take any action to check the practice of this illegal acts. The state Govt reportedly denying the practice being in existence. This denial is only allowing the inhuman practice to continue. And refusing to acknowledge the magnitude of the problem obstructs the spreading of awareness and rehabilitation process. The state has further neglected to stop construction of dry and insanitary latrines. Safe –scientific and mechanical methods must be made mandatory. Workers should be given protective gloves and other gears to ensure that their health and safety is not endangered.

9. The state govt obviously has failed in implementation of Provisions of law laid down in 'The Prohibition of Employment As Manual scavengers And Their Rehabilitation Act2013 (no.25 of 2013)herein after called the 'ACT'. The respondents and authorities are shirking responsibilities and trying to pass the buck. Looking at the apathy of the situation, this petitioner has filed this petition in the interest of public and seeking directions against the respondents to give a report on the actions taken to check the practice and the process rehabilitation..

10.GROUNDS :

1. The inaction of the Respondents has led to exploitation of poor scavengers to face serious health consequences including death.

2. The respondents have failed to implement the conditions and provisions of Law indicated by 'The Prohibition of Employment As Manual scavengers And Their Rehabilitation Act2013 (no.25 of 2013) herein after called the 'ACT'.

3. The Reports indicate that there have been about 68 deaths due to the manual scavenging since the year 2008. It is shocking to know that even 25 years after (the First Act was in 1993) passing of the Law, the Govts are closing their eyes and have allowed the inhuman system to continue. The

govt has been a silent spectator in the crimes. The shirking responsibility and negligence on the part of the governments has created chaos and apathy.

4. It is further submitted that even after the recent tragic incident, no authority came up with a solution or relief. Non of the respondents even took the responsibility to check the inhuman practice. This shows the unpreparedness and unwillingness to act.

5. The respondents who are in responsible positions were duty bound to remove and eradicate this inhuman practice. They have failed in their duty to take necessary action to completely eradicate the illegal activities.

6. The respondent have completely violated and disobeyed the repeated directions given by the Hon'ble Supreme court of India. They are liable for punishment for contempt.

7 . The irresponsible attitude of the respondents are highly condemnable. They are bound to give a report to the public regarding the actions taken by them as per the provisions of the 'Act' and the directions of the Hon'ble Supreme court.

8. It is the with concern and duty consciousness the petitioner would like to put an end to these kind s of situation in the state in the future. Hence through this petition requests this hon'ble court to issue Mandamous or any other writ against the respondents.

PRAYER :

Wherefore it is prayed that this hon'ble court may be pleased to issue Writ of Mandamus or any other appropriate writ against the respondents and direct them.

1. To give a report on the actions taken by the respondents for removal of the inhuman practice & implementation of the Provisions of the Act.

2. Direct the Respondents to give a report regarding the incident that occurred on 7.01.2018 at Bangalore. And the relief measures taken by them

3. Direct the respondent to give a report on the deaths happened since the year 2008 and the actions taken by them.
4. Direct the respondents to give a report on the facilities provided by them to the public as an alternative to the use of Manual Labours.
5. Direct the respondent to hold an enquiry into these incidents and take stringent actions against the erring officers.
6. Direct the Respondent NO-4, to give a report regarding how much fund is released by it towards these projects.
7. To direct the respondents to give a report on the actions taken by them as per the directions of the supreme court in the
8. direct the respondents to fix the responsibility on one department/ institution to avoid shifting of reponsibility.
8. For such other writs and directions that this hon'ble court may deem fit to grant in the circumstances of the case.

Bangalore

Advocate for the Petitioner

Dtd. 18.01.2018

Address for Service :

SHEELA ANISH ASSOCIATES

Kamala Mansion, No10

Connaught Road, Bangalore-56000123

IN THE HIGH COURT OF KARNATAKA, BANGALORE

W.P. No /2018 (G.M)

Between

Karnataka High court legal services authority... Petitioners

AND

. STATE OF KARNATAKA & Others..... Respondents

AFFIDAVIT

I Smt. Sayeedunnisa secretary High court legal services authority, Bangalore do hereby state on oath as follows.

- 1. That I am the secretary of the Petitioner Authority. I am authorized to swear to this affidavit. I am conversant with the facts of the case.**
- 2. What is state in the paragraph no 1- 10 of the petition are true to the best of my knowledge belief and information.**
- 3. The annexure A-C are the true copies of the originals.**

VERIFICATION

What is stated in paragraphs 1-3 above are true to the best of my knowledge, belief and information.

Identified by

Deponent

By advocate

Bangalore

Dtd.16.01.2018

STP tragedy: Apartment association claims no contract given for cleaning

TIMES NEWS NETWORK

Bengaluru: Bandepalya police in southeast Bengaluru on Monday questioned six office bearers of the ND Sepal Apartment Association in connection with the death of three workers in a sewage treatment plant (STP) at the apartment complex.

A case of death due to negligence under Section 304A of IPC has been registered against one of the deceased, Narayanaswamy, and the apartment's association.

Police said Narayanaswamy, 38, a resident of Kalkondarahalli and an electrician, had got a contract to maintain the motor pump at the STP. He also took the contract for cleaning the STP but never put preventive measures in place. He enlisted his friends, Mahadeva Gowda, 40, and Srinivas, 55, both residents of Somasundara Palya, for the job on Sunday. Narayanaswa-

my did not take any precaution when he and his friends entered the STP," sources said. Narayanaswamy has been named the first accused in the FIR registered on the basis of a complaint lodged by Manjula, wife of Mahadeva Gowda. "Prima facie, the negligence of Narayanaswamy and the apartment association led to the tragedy," a police officer said.

M B Boralingaiah, deputy commissioner of police (southeast division), said: "We'll find out whose negligence led to the tragic incident in further course of investigation and take action against them."

The office bearers claimed they were not aware why the trio entered the STP as they had not asked them to clean it. "We've given contract to Narayanaswamy to maintain motor pumps of the STP. We never asked him to clean the plant and we don't know why they entered there," they told police.

68 manual scavengers died in Karnataka since 2008

Activists Slam Govt Agencies For Such Incidents

TIMES NEWS NETWORK

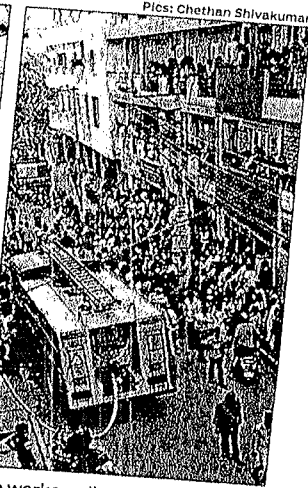
Bengaluru: The death of three workers while cleaning a sewage treatment plant at a private apartment complex in Somasundara Palya, southeast Bengaluru, has yet again brought to the fore the menace of manual scavenging.

Statistics from Karnataka State Commission for Safai Karmacharis show 68 people died while cleaning manholes, dry latrines and sewage pits across Karnataka since 2008.

Activists say the actual number of deaths could be more as most cases aren't reported. They also slammed government agencies for their failure to take action against those employing workers to clean sewers and septic tanks manually without safety gear. Magsaysay award winner Bezwada Wilson, working with manual scavengers for years, said: "I hold the Karnataka government responsible for failing to stop manual scavenging and related deaths."

"I will also file a case against the government under the Scheduled Castes and Tribes (Prevention of Atrocities) Act. It has not taken any action despite a series of deaths," he added.

"The BBMP should take an undertaking from apartment owners that they'd never hire labourers to clean STPs or septic tanks on their premises. The government should ensure mechanisation of cleaning by providing sucker machines and sucker pipes. It has to take responsibility for this incident and initiate legal action against the apartment owners," said Wilson, who is also the convener of Safai Karmachari Andolan, an NGO.



Pics: Chethan Shivakumar



SUFFOCATED TO DEATH: The three workers died at ND Sepal Apartment in Somasundara Palya, HSR Layout II Sector on Sunday; the treatment plant was 8ft deep, 12ft long and 12ft wide; (left) Narayana Swamy and Srinivas, two of the victims

M R Venkatesh, chairman, Karnataka State Commission for Safai Karmacharis, said, "It's a serious case of negligence leading to loss of lives and the apartment owners have to be booked under Section 304 of CrPC. As compensation, they should be made to pay Rs 10 lakh to the families of each of the victims."

Tushar Girinath, chairman, BWSSB, said: "BWSSB has nothing to do with the incident since it took place at a private apartment. It's up to the BBMP to take action against the apartment owners."

"We will take action based on the joint commissioner's report following spot inspection," said N Manjunatha Prasad, BBMP commissioner.



90% OF MANUAL SCAVENGERS IN SOUTH ARE FROM STATE: CENSUS

The Socio Economic and Caste Census 2011 showed 90% of the 16,362 manual scavengers in south India are from Karnataka. The state has 15,375 of them, followed by Andhra Pradesh (388), Tamil Nadu (334), Telangana (165) and Kerala (100). However, the Karnataka government has so far identified only 726 manual scavengers — 424 (rural)

and 302 (urban).

The Karnataka State Commission for Safai Karmacharis records show there are only 202 manual scavengers in Bengaluru. "We have conducted a household survey and identified these workers. Most of the people who were included in the Socio Economic and Caste Census aren't actually manual scavengers," said

commission chairman M R Venkatesh.

Activists, however, see a design in the under-reporting of manual scavengers. "The government is not accepting the census findings so that it can avoid providing benefits and schemes to them," said Professor Y J Rajendra, general secretary, Karnataka chapter of People's Union for Civil Liberties.

True copy

P-Buesap

Annexure-2

12

3 workers choke to death in B'loru apartment's STP

TIMES NEWS NETWORK

Chethan Shivakumar

Bengaluru: Three workers died of asphyxiation inside a sewage treatment plant (STP) of an apartment complex at Somasundara Palya, HSR Layout II Sector, southeast Bengaluru, on Sunday.

Bandepalya police identified the dead men as Mahadeva Gowda, 40; Srinivas, 55, (both from Somasundara Palya), and Narayana Swamy, 38, from Kalkondanahalli. Civic officials confirmed that though the three were not manual scavengers by profession, the work they



Police commissioner Suneel Kumar inspects the sewage treatment plant inside ND Sepal Apartment in HSR Layout.

had been tasked with at ND Sepal Apartment was that of manual scavengers.

Around 11:50am, a tenant of a flat next to the two sewage treatment plants of the apartment made a call to the fire control room. "There was trouble near the treatment plants, and I could hear laborers screaming. I rang up immediately," said the resident. Authorities were trying to figure out how the tragedy had unfolded. The residents refused to speak to officials, cops or the media about the incident.

Continued on page 3

True copy
P. [Signature]