

IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. 324 OF 2020

IN THE MATTER OF:

DR. BALRAM SINGH

...PETITIONER

~VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

**SUBMISSIONS ON BEHALF OF THE INTERVENOR APPLICANT “THAMATE, CENTRE
FOR RURAL EMPOWERMENT” IN RESPONSE TO THE STATUS REPORT FILED BY THE
UNION OF INDIA DATED 30.01.2024**

ADVOCATE FOR THE APPLICANT: DR. ANINDITA PUJARI

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1. It is submitted that this Hon’ble Court in the captioned matter had issued 14 directions by way of judgment dated 20.10.2023 towards *inter alia*, complete eradication of manual sewer cleaning in the country in a phased manner and the effective implementation of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (“The 2013 Act”) and the Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules (“The 2013 Rules”) therein.

2. It is submitted that the Respondent Union of India has filed Status Report dated 30.1.2024 as compliance with the directions issued by this Hon’ble

Court by order dated 20.10.2023. It is submitted that the Union of India has not complied with the directions of this Hon'ble Court as mandated. In this regard the Intervenor would like to submit its response as under:

I. UNION TO TAKE APPROPRIATE MEASURES AND FRAME POLICIES AND ISSUE DIRECTIONS TO ALL STATUTORY BODIES AND AGENCIES UNDER ITS CONTROL TO ENSURE THAT MANUAL SEWER CLEANING IS COMPLETELY ERADICATED AND ALSO ISSUE GUIDELINES AND DIRECTIONS THAT ANY SEWER CLEANING WORK CANNOT REQUIRE INDIVIDUALS FOR ANY PURPOSE WHATSOEVER.

- (i) The above directions have not been complied with by the Union government. No policies are framed to ensure that manual sewer cleaning would be eradicated completely.
- (ii) The Union in its reply dated 30.1.2024 refers to OM dated 16.1.2024 issued by the Ministry of Housing and Urban Affairs ("MoHUA") carrying the action taken report in reference to directions issued by this Court by judgment dated 20.10.2023. In response to the direction (1.1) of the Hon'ble Court to completely eradicate manual sewer cleaning, the said OM states:

"Safety gear has been reiterated as the "appropriate technological appliance" which prevents one from coming in contact with excreta but ensures that cleaning activity is also carried out with safety and dignity as it will be inappropriate to engage heavy costly machinery where an equally safe, but less expensive solution can be provided."

This approach balances the practical realities of sanitation engineering and the imperative of safeguarding human lives and dignity."

- (iii) It is significant to point out that this approach by the MoHUA undermines the essence and purpose of this Court's judgment which is the complete eradication of manual scavenging. Providing safety gear should not be the less expensive option and in fact there should be a move towards using mechanization and doing away with all manual sewer cleaning, even with safety gear, because in reality, the safety gear is never provided. This Hon'ble Court in order dated 20.10.2023 has unequivocally stated that the Union is 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...**”*
- (iv) The MoHUA in its action taken report by relying on equipment cannot refuse to invest in machinery to mechanise cleaning as this will be in blatant and complete violation of the judgment of this Court and the same ought to be outright rejected.
- (v) Further, the Union has not framed any policies or guidelines, nor issued the required policies and guidelines to the statutory bodies or agencies under its control, to eradicate manual sewer cleaning. The compliance with this direction has not been done.

II. ALL STATES AND UTS TO ENSURE THAT ALL DEPARTMENTS, AGENCIES, CORPORATIONS AND OTHER AGENCIES INCORPORATE THE GUIDELINES AND DIRECTIONS FRAMED BY THE UNION IN THEIR OWN GUIDELINES AND MAKE THEM SPECIFICALLY APPLICABLE TO ALL MUNICIPALITIES AND LOCAL BODIES:

- (i) This direction has not at all been complied with. The Union has not framed Guidelines and Policies for the complete eradication of manual sewer cleaning. When such guidelines are not framed, there are no guidelines for the States and Uts to incorporate or embody within their own guidelines, and to make them applicable to all municipalities and local bodies.
- (ii) In the compliance report filed by the Union, in response to this direction of this Hon'ble Court it is stated that the Union has sent letters to the Chief Secretaries of all States / UTs to comply with the directions of this Hon'ble Court in his order dated 20.10.2023 and with the provisions of the MS Act and MS Rules should be embodied by the States and UTs. This is not the direction of this Hon'ble Court, but to disseminate the Guidelines and Policies framed by the Union to eradicate manual sewer cleaning, which has not been done.

III. UNION OF INDIA, STATE GOVERNMENTS AND UTs TO ENSURE THAT FULL REHABILITATION MEASURES ARE TAKEN IN RESPECT OF SEWAGE WORKERS AND THOSE WHO DIE:

- (i) Under this direction, there needs to be full compliance of the direction to ensure that full rehabilitation is provided to all sewer workers. Except for sending letters to all state governments and

other agencies, the Union has not taken any specific steps to ensure full rehabilitation.

- (ii) The Action Taken Reports submitted by the State governments also do not show that full rehabilitation has been provided.

IV. COMPENSATION FOR SEWER DEATHS SHALL BE INCREASED TO RS. 30 LAKHS FOR SEWER DEATHS AND FOR THOSE SUFFERING WITH DISABILITIES, IT SHALL NOT BE LESS THAN RS. 10 LAKHS AND FOR THOSE WITH PERMANENT DISABILITIES, IT SHALL NOT BE LESS THAN RS. 20 LAKHS

- (I) It is submitted that there is no compliance on the disbursement of the enhanced compensation to be paid for deaths and disability due to sewer cleaning. The Action Taken reports of the State governments do not mention the giving out of the new compensation amounts.
- (II) The reports do not state that the enhanced compensation is being paid. Even in Karnataka, there has been a case where two persons died due to sewer cleaning, and only compensation of Rs. 10,00,000/- was deposited with the court. This compensation was deposited by the private agencies and not by the state authorities.
- (III) it is essential that all States and UTs issue Government Orders / Notifications to effectuate the enhanced compensation along with detailed directions on how such compensation can be availed, who the designated authority is and a timescale within which such compensation can reach the effected persons.

V. APPROPRIATE GOVERNMENT TO DEVISE 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 AND IMPOSITION OF MONETARY LIABILITY AIMED AT DETERRING THE PRACTICE. UNION TO ALSO DEVISE A MODEL CONTRACT:

- (i) It is submitted that no specific directions or compliance for this direction is submitted. The draft Model Contract which has been devised by the Union, has not been produced, and hence it is not possible to verify whether these requirements are contained in the said model contract.
- (ii) The Union in its reply dated 30.1.2024 refers to OM dated 16.1.2024 issued by the Ministry of Housing and Urban Affairs which in turn lists out “action taken” points in reference to directions issued by this Court. The OM dated 16.1.2024 as point “D” states that a draft Model Contract has been prepared and circulated to all States for comments. It is submitted that the draft of the Model Contract ought to be placed before the Hon’ble Court in the present proceedings to ensure that the same is in conformity with the 2013 Act and the judgment dated 20.10.2023.

VI. THE NCSK, NCSC AND NCST AND THE SECRETARY, UNION MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT SHALL WITHIN 3 MONTHS DRAW MODALITIES FOR THE CONDUCTING OF A NATIONAL SURVEY,

TO BE COMPLETED WITHIN ONE YEAR AND TRAINING OF ALL COMMITTEES TO BE DONE:

- (i) It is submitted that these modalities for conducting the survey have not been framed, the compliance report only states that the MoSJE has drafted survey guidelines. These draft guidelines are not enclosed and hence compliance cannot be held to be complete. It is now more than 3 months of the orders of this Hon'ble Court being passed. There is no framework for the completion of the national survey within one year.

VII. THE UNION, STATE AND UNION TERRITORIES ARE REQUIRED TO SET UP SCHOLARSHIPS TO ENSURE THAT DEPENDENTS OF SEWER VICTIMS (WHO HAVE DIED OR SUFFERED DISABILITIES) ARE GIVEN MEANINGFUL EDUCATION

- (i) It is submitted that under this direction, all States and Union Territories are to give details of scholarships that have been given out to the dependents of sewer victims. Most States, according to their Reports are yet to set up these scholarships. These ought to be done immediately to ensure compliance with this direction and the same has not been done.

VIII. UNION, STATE AND UTS TO ENSURE COORDINATION WITH ALL COMMISSIONS FOR SETTING UP STATE LEVEL, DISTRICT LEVEL COMMISSIONS IN A TIME BOUND MANNER ALONG WITH CONSTANT MONITORING OF EXISTING VACANCIES AND THEIR FILLING UP:

- (i) It is submitted that many States have not filed their action taken report or not taken any steps to constitute committees. For convenience, these are as follows.

States/UTs that have not constituted Vigilance Committee:

- a. Dadra and Nagar Haveli and Daman and Diu
- b. Jammu and Kashmir
- c. Ladakh
- d. Manipur
- e. Mizoram

IX. States/UTs that have not filed report on constitution of State level Commission for Safai Karamcharis/Designated:

- a. Gujarat
- b. Jharkhand
- c. Manipur
- d. Meghalaya
- e. Nagaland
- f. Telangana
- g. Chandigarh
- h. Ladakh
- i. Lakshwadeep

- (ii) It is further submitted that even from the States that have filed their ATR with respect to this direction, many are still in the process of setting up state and district level vigilance commissions. This ought

to be carried out immediately in order to ensure compliance with this direction.

X. PORTAL/DASHBOARD WITH RELEVANT INFORMATION RELATING TO SEWER DEATHS TO BE PREPARED

- (i) It is submitted that this Hon'ble Court in its order dated 30.1.2024 has directed that a portal/dashboard be prepared with relevant information including information relating to sewer deaths and victims and the status of compensation.
- (ii) It is submitted that this direction has not been complied with and a timeline ought to be prescribed to set up such a portal in order to ensure that there is access to all relevant information.

3. Therefore, it is submitted that there be strict directions for compliance with the orders of this Hon'ble Court by the Respondent Union of India and the States and UTs and to report that same, in the interest of justice and equity.

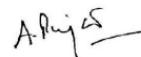
Place: New Delhi

Date: 05.3.2024

SETTLED BY: MS. JAYNA KOTHARI,

SENIOR ADVOCATE

ADVOCATE FOR THE APPLICANT



DR. ANINDITA PUJARI

CODE: 2087