

ITEM NO.301

COURT NO.13

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 324/2020

DR. BALRAM SINGH

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(ATTORNEY GENERAL FOR INDIA AND MR. K. PARAMESHWAR, SR.ADVOCATE
(AMICUS CURIAE)

(IA No. 146249/2023 - APPLICATION FOR PERMISSION, IA No. 136950/2023 - INTERVENTION APPLICATION, IA No. 131385/2023 - INTERVENTION/IMPLEADMENT & IA No. 30602/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 11-12-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSHU DHULIA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Petitioner(s) Mr. K.Parameshwar, Sr.Adv./AC
Ms. Kanti, Adv.
Ms. Raji Gururaj, Adv.
Mr. Shreenivas Patil, Adv.
Ms. Chitransha Singh Sikarwar, Adv.

Petitioner-in-person

For Respondent(s) Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Ruchi Kohli, Adv.
Ms. Shradha Deshmukh, Adv.
Ms. Swarupama Chaturvedi, Adv.
Ms. Sweksha, Adv.
Mr. Ishaan Sharma, Adv.

Ms. Astha Sharma, AOR
Ms. Ripul Swati Kumari, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Shreekant Neelappa Terdal, AOR
Mr. Harish Pandey, Adv.
Mr. Vatsal Joshi, Adv.
Mr. Shashwat Parihar, Adv.

Mr. Vinayak Sharma, Adv.
Mr. Varun Chugh, Adv.
Mr. Piyush Beriwal, Adv.
Mr. Kanu Agrawal, Adv.
Ms. Mrinal Elker Mazumdar, Adv.
Ms. Indira Bhakar, Adv.
Mr. Rajesh Singh Chauhan, Adv.
Mr. Mukesh K Verma, Adv.

Mr. Amrish Kumar, AOR

Aishwarya Bhati, A.S.G.
Shradha Deshmukh, Adv.
Swarupma Chaturvedi, Adv.
Aman Shukla, Adv.
Ms. Ruchi Kohli, Adv.
Purnendu Bajpai, Adv.
Sweksha, Adv.
B.l.n. Shivani, Adv.
Ameyvikrama Thanvi, Adv.
Dr. N. Visakamurthy, AOR

Ms. Vanshaja Shukla, AOR
Ms. Ankeeta Appanna, Adv.
Ms. Madhura Chitnis, Adv.

Mr. Sanjay Jain, AOR
Attorney General For India, AOR

Ms. Jayna Kothari, Sr. Adv.
Dr. Anindita Pujari, Sr. Adv.
Ms. Aparna Mehrotra, Adv.
Mr. Piyush Dwivedi, AOR
Mr. Shaileshwar Yadav, Adv.
Mr. Deepak Bhardwaj, Adv.
Mr. Raghav Gupta, Adv.
Ms. Bhumika Chouksey, Adv.
Ms. Radhika Mohapatra, Adv.

Mr. Akshay Amritanshu, AOR
Ms. Pragya Upadhyay, Adv.
Ms. Swati Mishra, Adv.
Ms. Drishti Saraf, Adv.

UPON hearing the counsel the Court made the following
O R D E R

This writ petition was filed before this Court under Article 32 of the Constitution of India as a PIL with a prayer that the major provisions of Employment of Manual Scavengers and

Construction of Dry Latrines (Prohibition) Act, 1993 as well as the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (hereinafter called "1993 Act" and "2013 Act" respectively), still remain unimplemented inspite of the mandate of the Statutes. Both the above Statutes were in the nature of welfare legislations. In spite of there being provisions both in the 1993 Act as well as the 2013 Act, both manual scavenging, unhygienic latrines and employment of manual labour in sewer lines, which is known as hazardous cleaning, were continuing in all parts of the country. Not only this, the formation of various Committees under the Acts had not been done. After a prolonged deliberation and hearing all sides and after much time was devoted by this Court, the following directions were passed by this Court on 20.10.2023:-

"Directions

96. 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., ₹ 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 ₹ 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 ₹ 10 lakhs. If the disability is permanent, and renders the victim economically helpless, the compensation shall not be less than ₹ 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 device 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. "

After making the aforesaid directions this Court had directed that the matter be listed on 01.02.2024, obviously for the reason that the Court wanted to be apprised as to how far these directions/orders have been complied with. The matter has now been listed after more than a year i.e. after the order was passed on 20.10.2023 by this Court with the directions as already stated above. Meanwhile, the Union of India has apprised us as to the steps which have been taken in pursuance of the directions of this Court vide order dated 20.10.2023 by filing a status report. The said status report, however, is not encouraging at all. As regards the survey of manual scavengers which has been done and which is in fact mandated by the Statute itself in Section 11, has not been done. The learned Amicus Curiae Mr. K.Parameshwar has also informed this Court that the survey has to be done with the assistance of District Level Survey Committee and in many of the States the District Level Survey Committee have not even been formed.

Most of the directions given in order dated 20.10.2023, have

not been complied with. Even in some of the cases, the formation of statutory bodies which the States are mandated to comply under the Acts, have not been done like National Commission for Safai Karamcharis, State Commission for Safai Karamcharis, Central Monitoring Committee, State Monitoring Committee, Vigilance Committees, State Level Survey Committee, District Level Survey Committee. Secondly, the order of the Court had also directed that considering technology and scientific advancement, it is now entirely possible to eradicate manual scavenging, unhygienic latrines and use of manual labour in sewer lines completely, yet little progress has been done in this field.

This Court had directed in its order dated 20.10.2023 as:

“(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.”

In spite of the above, however, this is not being done. One suggestion which has come from the Bar is that this Court has to now initiate contempt proceedings since there is a deliberate and willful disobedience of the orders of this Court, which is evident from records.

All the same, before we proceed in that direction, a suggestion has come from Ms. Aishwarya Bhati, learned additional solicitor general appearing for the Union of India that since in any case the mandate of the Central Monitoring Committee under

Section 30, which has been constituted under the 2013 Act is to coordinate the functions of all the State agencies including the State Monitoring Committees, a meeting shall be called by the concerned officers and in this regard, she will coordinate with the concerned Member Secretary (Joint Secretary, Department of Social Justice and Empowerment to the Ministry of Social Justice and Empowerment) so that such a meeting can be arranged of all the stakeholders, particularly all the representatives of the State Monitoring Committee within a period of two weeks. This Court has been assured that if not physically, then by virtual mode, a meeting will be held and the decision of the meeting shall be communicated to this Court thereafter.

Let an affidavit be filed by the Union of India as to what extent the directions have been complied with and action taken report be filed on each of the heads on which the directions have been given by this Court in its order dated 20.10.2023. The inaction and shortfall of each compliance and the reasons why this was so, shall also be assigned. The affidavit shall also include the work already done. The affidavit shall give the State wise breakups of all the States. The said affidavit be filed within a period of two weeks after the meeting.

List on 29.01.2025.

(NIRMALA NEGI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)