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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 13.05.2024**

+ W.P.(C) 9020/2017

REKHA AND ORS.

..... Petitioners

Through: Mr. Pawan Reley, Mr. Akshay Lodhi,
Ms. Simran Singh and Mr. Vivek
Gupta, Advs.

versus

GOVT OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Ripin Sood, Adv. for R-1
/GNCTD (through v/c)
Mr. Amit Sharma, Adv. for R-2/DJB
(through v/c)
Ms. Monika Arora, CGSC and Mr.
Subhrodeep Saha, Adv. for UOI.
Ms. Puja Kalra, SC and Mr. Virendra
Singh, Adv. for MCD.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition has been filed by the petitioners being the family members of three sanitation workers /manual scavengers who died in Jal Vihar Road Opposite to Sant Kabir Ram Mandir, Lajpat Nagar, Delhi on 06.08.2017 while cleaning a drain. Petitioner no. 1 is the widow of Late Shri Annu. Petitioner No. 2 and Petitioner No. 3 are the brother of Late Shri Joginder.

2. At the relevant time, the deceased sanitation workers / manual scavengers, were engaged by a sub-contractor of the respondent no.2/DJB. It is *inter alia* prayed in the petition that the DJB be restrained from carrying



out the activities of collecting, treating and disposing of the sewage and carrying out works for connecting with sewerage within any part of Delhi, through private contractors.

3. After the demise of the concerned sanitisation workers, while cleaning a drain, the compensation of Rs.10,00,000/- was awarded to the family of the deceased persons. It is prayed in the petition that the said compensation be enhanced to Rs.30,00,000/-.

4. Elaborate judgments have been rendered by the Supreme Court of India in *Safai Karamchari Andolan v. Union of India*, (2014) 11 SCC 224 and *Balram Singh Vs. Union of India* 2023 SCC OnLine SC 1386 for the implementation of the provisions of the “Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993” and “Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013”.

5. In *Safai Karamchari Andolan* (Supra) following directions were issued:-

“23.1. The persons included in the final list of manual scavengers under Sections 11 and 12 of the 2013 Act, shall be rehabilitated as per the provisions of Chapter IV of the 2013 Act, in the following manner, namely:

(a) such initial, one-time cash assistance, as may be prescribed;

(b) their children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) they shall be allotted a residential plot and financial assistance for house construction, or a ready-built house with financial assistance, subject to eligibility and willingness of the manual scavenger as per the provisions of the relevant scheme;



(d) at least one member of their family shall be given, subject to eligibility and willingness, training in livelihood skill and shall be paid a monthly stipend during such period;

(e) at least one adult member of their family shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on sustainable basis, as per the provisions of the relevant scheme;

(1) shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

23.2. If the practice of manual scavenging has to be brought to a close and also to prevent future generations from the inhuman practice of manual scavenging, rehabilitation of manual scavengers will need to include:

(a) Sewer deaths Entering sewer lines without safety gear should be made a crime even in emergency situations. For each such death, compensation of Rs 10 lakhs should be given to the family of the deceased.

(b) Railways the tracks. Should take time-bound strategy to end manual scavenging on

(c) Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.

(d) Provide support for dignified livelihood to safalkaramchari women in accordance with their choice of livelihood schemes.

23.3. Identify the families of all persons who have died in sewerage work (manholes, septic tanks) since 1993 and award compensation of Rs 10 lakhs for each such death to the family members depending on them.

23.4. Rehabilitation must be based on the principles of justice and transformation.”

6. In **Balram Singh**(supra), the Supreme Court after noticing the somewhat unsatisfactory state of implementation of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013,



issued various ameliorative directions for the benefit of the workers engaged in the manual scavenging and hazardous cleaning. The Court emphasised that “manual scavenging” and “hazardous cleaning” must be treated at par. Elaborate directions were issued by the Court for the rehabilitation of hazardous workers. The directions issued by the Supreme Court are as under:-

“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.”

7. It can be seen that the directions issued by the Supreme Court were expressly made applicable to all the statutory bodies including corporations, railways, cantonments as well as the agencies under its control. Moreover, the Union and State Governments were directed to ensure that the rehabilitation measures were taken with respect to sewage workers, including the family of those who have lost their lives. Specifically it was directed that the compensation of Rs.10,00,000/- that was given to the family members of the deceased workers be enhanced to Rs.30,00,000/-.

8. Necessarily, the ameliorative directions, strictures and the embargo imposed by the Supreme Court are applicable to the DJB as also to any agency (by whatsoever name it is called) that may be engaged by respondent no.2/DJB within any part of Delhi in connection with the work relating to the collection of sewage and/or carrying out works in connection therewith.

9. Any disregard/violation thereto would invite strict consequences as



envisaged in the judgement of the Supreme Court in **Balram Singh** (supra), as under:-

“97. Drawing from the above principles, it can be held that where minimum protective gear and cleaning devices are not provided to hazardous workers, the employment of hazardous workers amounts to forced labour and is thus prohibited under the Constitution. This attains importance as the provisions for protective gear and cleaning devices are not mere statutory rights or rules, but are entitlements and it is due to these entitlements that the provisions of the 2013 Act are in consonance with the Constitution.

98. Another consequence of this principle is that the defence of any contractor or authority that a hazardous worker had entered into a sewer or septic tank voluntarily without any protective gear or cleaning devices, would not stand constitutional scrutiny. In People's Union for Democratic Rights (supra), this Court explained the reasons why the alleged consent is irrelevant, in the context of minimum wages in the following words:

*“13.... It is therefore clear that even if a person has contracted with another to perform service and there is consideration for such service in the shape of liquidation of debt or even remuneration he cannot be forced, by compulsion of law or otherwise, to continue to perform such service, as that would be forced labour within the inhibition of Article 23. This article strikes at every form of forced labour even if it has its origin in a contract voluntarily entered into by the person obligated to provide labour or service (vide Pollock v. Williams (322 US 4 (1944): 88 L.Ed. 1095]). The reason is that it offends against human dignity to compel a person to provide labour or service to another if he does not wish to do so, even though it be in breach of the contract entered into by him. **There should be no serfdom or involuntary servitude in a free democratic India which respects the dignity of the individual and the worth of the human person. Moreover, in a country like India where there is so much poverty and unemployment and there is no equality of bargaining power, a contract of service may appear on its face voluntary but it may, in reality, be involuntary, because while entering into the contract, the employee, by reason of his economically helpless condition, may have been faced with Hobson's choice, either to starve or to submit to the exploitative terms dictated by the powerful employer. It would be a travesty of justice to hold the employee in such a case to the terms of the contract and to compel him to serve the employer even though he may not wish to do so. That would aggravate the inequality and injustice from which the employee***



even otherwise suffers on account of his economically disadvantaged position and lend the authority of law to the exploitation of the poor helpless employee by the economically powerful employer. Article 23 therefore says that no one shall be forced to provide labour or service against his will, even though it be under a contract of service.

99. A contract for employment of a hazardous cleaner without protective gear and cleaning devices would, similarly, violate Article 23 even if it were voluntary because such an agreement would violate human dignity.”

10. The above directions would necessarily apply to the respondent no.2/DJB or any agency that may be engaged by it or by the Union or State Government.

11. Further, in *Ashok Agarwal vs. Union of India* 2023 SCC OnLine Del 7114 (supra), a Division Bench of this Court while taking note of the aforesaid directions in *Balram Singh* (supra) has specifically held as under :-

“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.

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).”

12. As regards the compensation to which the present petitioners are



entitled, in **Balram Singh** (supra) it was specifically noticed by the Supreme Court while enhancing the compensation to Rs.30,00,000/- that the previously prescribed compensation of Rs.10,00,000/- was fixed as far back in 1993. The amount was enhanced to Rs.30,00,000/- on the basis of “current equivalent” of that amount i.e. Rs.30,00,000/-.

13. In the present case, the death of the concerned scavenging worker/s took place in the year 2017 and the present petition was filed soon thereafter in the year 2017 itself. Considering the reasoning given by the Supreme Court in para 104(4) of the judgment in **Balram Singh** (supra), it would be a travesty if the entitlement of the family members of the deceased scavenging workers is confined to Rs.10,00,000. The same would defeat the directions of the Supreme Court to enhance the compensation to Rs. 30,00,000/- on the basis that the previously fixed compensation of Rs.10,00,000/- was fixed as far back as in the year 1993 and could not be considered to be an adequate compensation.

14. It is noticed that in case of **Preeti vs. Union of India & Ors.** in W.P.(C) No. 15156/2023, this Court while dealing with the same situation has held that the judgment of the Supreme Court in **Balram Singh** (supra) would apply “*mutatis mutandis*” thereby entitling the petitioner therein to compensation of Rs.30,00,000/-.

15. Although an appeal is pending against the said judgment/order dated 23.11.2023, the concerned directions have not been stayed; instead, a Division Bench of this Court has directed the appellant therein to pay enhanced compensation without prejudice to its rights and contentions.

16. In the circumstances, the petitioners/family members of the deceased sanitation workers are entitled to a compensation of Rs.30,00,000/-.



17. Let the said amount of Rs.30,00,000/- be paid to the petitioner no.1, who is stated to be the sole surviving legal heir of the deceased worker Lt. Sh. Annu. Further, the petitioner nos. 2 and 3 who are stated to be the two out of the three surviving brothers of one of the deceased sanitation workers are also entitled to be paid the proportionate share of compensation out of total compensation amount of Rs.30,00,000/- payable to the family members of the deceased workers. The concerned respondent/s are directed to pay the said amount/s within a period of 8 weeks from today.

18. With the above directions, the present petition stands disposed of.

SACHIN DATTA, J

MAY 13, 2024/at