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

+ W.P.(C) 2495/2024

KALLU

..... Petitioner

Through: Mr.Pawan Reley with Mr.Akshay  
Lodhi, Mr.Gaurav Bharatwaj and  
Ms.Simran Singh, Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr.Jivesh Kumar Tiwari with  
Ms.Samiksha, Advocates for UOI.  
Mr.Anupam Srivastava with  
Mr.Vasuh Misra, Advocates for  
GNCTD.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

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**20.02.2024**

**C.M.No.10198/2024**

1. Exemption allowed, subject to all just exceptions.
2. Accordingly, the application stands disposed of.

**W.P.(C) 2495/2024**

3. Present public interest litigation has been filed challenging the constitutional validity of Sections 2(1)(g), 11, 13, 14, 15, 16 and 39 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (“MS Act”) as well as provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules, 2013 (“MS Rules”) as being violative of Articles 14,17, 21 and 23 of the Constitution of India.
4. Learned counsel for the petitioner states that the definition of ‘manual scavengers’ under Section 2(1)(g) of the MS Act is not only manifestly



arbitrary but also against the principles of reasonable classification, as it excludes from its purview “*sewer cleaners and septic tank cleaners doing hazardous cleaning*” inasmuch as they also clean, carry, dispose-off and handle human excreta from dangerous places and further deprives them of the benefit of identification and rehabilitation provided under Sections 11 to 16 of the MS Act read with the MS Rules and other beneficial schemes brought by the Government from time to time. He further states that Explanation (a) of Section 2(1)(g) of the MS Act is discriminatory in nature as it only encapsulates regular and contractual employees, to the exclusion of people cleaning excreta on daily wage basis, temporary workers, and Jajmani workers. He also states that Explanation (b) of Section 2(1)(g) of the MS Act, by excluding persons engaged in cleaning of excreta with the help of protective gear from the definition of ‘manual scavengers’, has deprived them of the benefits pertaining to rehabilitation, scholarships, etc. for which they are equally eligible inasmuch as the nature of work remains the same.

5. Issue notice. Mr.Jivesh Kumar Tiwari, Advocate accepts notice on behalf of UOI and Mr.Anupam Srivastava, Advocate accepts notice on behalf of GNCTD. They pray for and are permitted to file their counter affidavits within eight weeks. Rejoinder affidavits, if any, be filed before the next date of hearing. List on 04<sup>th</sup> July, 2024.

**ACTING CHIEF JUSTICE**

**MANMEET PRITAM SINGH ARORA, J**

**FEBRUARY 20, 2024/KA**