IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Present:-

THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL

AND

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS

W.P.A.(P) 259 2021

ASSOCIATION FOR PROTECTION OF DEMOCRATIC RIGHTS & ANR.
VS
THE STATE OF WEST BENGAL & ORS.

For the Petitioners	**:**	**Mr. Raghunath Chakraborty, Adv.**
		Mr. Mahaboob Ahmed, Adv.
For the K.M.C.	**:**	**Mr. Alok Kr. Ghosh, Adv.**
		Mr. Subhrangsu Panda, Adv.
Last heard on	**:**	**12.11.2025**
Judgement on	**:**	**21.11.2025**
Uploaded on	**:**	**21.11.2025**

CHAITALI CHATTERJEE DAS, J. :-

1. This public interest litigation has been filed by the petitioner pertaining to unnatural deaths of four labourers and the injuries sustained by other four labourers who were engaged in de-silting of underground sewer line in South Kolkata, which was carried out under a project of Kolkata environment, Infrastructure Improvement Project (KEIIP) which functions under the KMC.

Brief resume of the case

2. The petitioner no.1 being the Association for Protection of Democratic Rights Organisation (APDR) in the country is a non-governmental organisation of conscious citizens, espoused various issues of public interest to the notice of the court, where government administration fails to maintain its constitutional and legal obligations and protect and secure the interest of the citizen. The petitioner no. 2 is a non-civil right activist and post editorial contributor to vernacular newspaper including daily newspaper Ananda Bazar. The petitioner became aware of the case of death of manual scavengers at khudghat as a result death of 4 persons took place and 3 persons sustained serious injury. The incident occurred on 25th of February 2021, while working on de-silting of underground sewer line in South Kolkata. This public interest litigation has been filed with a prayer for an independent investigation to be directed to conduct pertaining to the incident occurred on June 25, 2021 to investigate the events surrounding the unnatural death and injuries of the victims. Further prayed for interim compensation of at least ₹16 lakhs to each of the family members of the deceased victims and ₹5 lakhs to the injured victims and also for a direction to take action against the persons found responsible for the incident in accordance with law.

Submissions made by KMC

3. The Learned Advocate representing the petitioner no.2 to 6 at the outset has taken a point on the ground of maintainability of this Public Interest Litigation by the petitioner organisation as they are busy body ,acting with malafide

intention and has been filed with a desire to gain publicity and cheap popularity .They have no locus to file this petition.

4. It is further assailed that the work of desilting was carried out under a project of Kolkata Environmental Infrastructure Improvement Project (KEIIP) which functions under the KMC. It is contended that the incident happened as there was no qualified engineer to supervise the workers which violated all safety rules and the labourers who entered into the underground pit to connect drainage pumping station with sewerage line became unconscious after inhaling toxic fumes, and drowning in the sewer sludge. After the incident was reported in the media, including print media, the chairman of KMC board of administrator constituted a three member committee comprising controlling officers, DG, KEIIP, DG, KMC drainage, and sewage and DG. KMC project development to prove into the matter and based on the findings, the contractor of the project to be penalised and if he found guilty appropriate criminal action will be taken against them. They contractor was asked to pay ₹5,00,000 each to the families of the deceased. However no person was arrested in connection with the incident. The petitioner sought for certain information regarding its functioning and report by filing his application under the Right to Information Act dated September 8, 2021, but no such information has yet been received. Over such incident the unnatural death case was started, but as of now no one has been arrested.

5. The learned Advocate representing the petitioner further submits that the decision of the Hon'ble Supreme Court in the case of ***Dr Balaram Singh***

versus union of India reported in[1] deprecated the practice of using manual scavenging and several guidelines were framed and directions were given to the state government to follow the same .In terms of said directions, the State government of each State and the Union Government is to ensure that the compensation for sewer death is increased from Rs. 10 lakhs (previously paid) enhanced to ₹30 lakhs to be paid as compensation. Similarly, the said victims suffering disabilities, depending upon the severity of disabilities will be paid with a minimum compensation which shall not be less than ₹10.lakhs if it renders the victim, economically helpless, and the disability is permanent but nothing has been followed by the State government.

6. It is submitted that in the instant case only ₹10 lakhs have been paid to the family members of the deceased, but nothing has been paid to the persons who sustained injuries. The Learned Advocate has further relied upon a decision reported in ***Safai Karmachari Andolan and others vs Union of India & amp; others***[2] where the prayer was made for enforcement of provisions of Employment of Manual, Scavengers and Construction of dry latrin (prohibition) Act 1993 and the non-adaptation of the 1993 Act by the various States were brought to the notice of the Apex Court and prayed for proper implementation of the same and to issue guidelines by the Hon'ble Supreme Court. The learned advocate further relied upon the decisions reported in***, Delhi Jal Board vs National Campaign for dignity and rights of sewerage and allied workers***[3] , where it was observed that the courts are not only entitled but are under constitutional obligation to take cognizance of

[1] 2023 INSC 950
[2] (2014) 11 SC 224
[3] (2011) 8 SC 568

the issues relating to the lives of the people who are forced to undertake jobs which are hazardous and dangerous to life. None appeared before this court to represent the Respondent No's 1 ,7,8 9 and 10 however on their behalf the Affidavit in opposition was filed by the Respondent No.10 the officer in charge of the Regent Park Police Station .

7. The Learned Advocate Mr. Aloke Kumar Ghosh representing the respondent KMC authority argued that the work was entrusted to the agency after following lengthy procedure with insurance coverage and the responsibility if any lies upon them. It is further submitted that after the incident, a seven member committee was constituted to enquire, headed by the senior officials of KMC and KEIIP and based on their findings of the committee, the contractor of the said project was penalized and he was asked to pay Rs. 10 lakh each to the families of the deceased .Further an F.I.R was lodged against the contractor company by KMC-KEIIP. Both the partner companies have been blacklisted for 5 years and debarred from participating in any tender of KMC .Further a caution notice has been issued to the Design and Supervision consultant.

Analysis

8. Heard the submission of both the learned Advocates representing the petitioner and KMC.

9. The very objective to file a PIL is a legal action initiated in a court of law is for the enforcement of public interest especially when the basic fundamental rights of the public at large are affected but the court must be extremely careful while deciding a PIL regarding the intent and purport of filing and if any malice is there or not .The petitioner No. 2 has described himself as civil right activist and the petitioner No.1 Association is working since 1972 and

devoted to the cause of safe ,peaceful life for the people with dignity .The petitioner has espoused the cause of death of four manual scavengers/labourers and injury of three labourers on account laches and negligence on the part of the respondent authorities and it is shocking that this PIL has to be filed for ensuring the legitimate claims of the persons and family members in terms of the 1993 Act and the slew of directions issued by the Apex Court.

10. It's disheartening to see cases of death and severe injury due to manual scavenging still plating in courts today. This issue is a stark reminder of the countries ongoing struggle to ensure basic human dignity and rights for all citizens despite significant progress in various fields. Manual scavenging is a grave, human right, concern and its persistence is a blot on the nation's conscience. Long back in the year 2003, the Safai Karmachari Andolon along with six other Civil Society organisations and seven individual organisations as well as seven individuals belonging to the community of manual scavengers filed a petition under article 32 of the Constitution of India on the ground that the continuation of the practice of manual scavenging as well as dry latrine was illegal and unconstitutional as its violates the fundamental rights guaranteed under Article 14, 17, 21 & 23 of the Constitution and the 1993 Act and prayed for a direction to the respondent to adopt and implement the Act and to formulate detailed plans on time bound basis for complete eradication of practice of manual scavenging and rehabilitation of persons engaged in such practice.

11. Ultimately, government of India brought an Act called the Prohibition of Employment as manual scavengers and their rehabilitation act 2013, in order

to eliminate this evil system and to protect human dignity. In the decision of ***Delhi Jal board versus National campaign for dignity and rights of sewerage and allied workers and others (supra)*** in the year 2014, the Hon'ble Supreme Court issued further directions so that the said act is implemented and monitored properly. In the case of ***Safai Karmachari Andololan Samity (supra)*** in the year 2011, it was observed that it is the duty of the state and its agencies and instrumentalities to ensure appropriate mechanism for safety and protection of sewage workers. Further direction was given to the agencies and instrumentalities of the state that the directions as given in the order dated 20 August 2008 must be complied with by the contractors engaged by the government for execution of work related to laying and maintenance of system and such directions to be made part of all agreements which may be executed by them with the contractors/Private Enterprises for such work. In the said decision, the amount of compensation awarded to the family members of a person who dies due to the negligence of the public authority for not taking effective measures for ensuring safety of the sewage workers was awarded as of Rs 10 lakhs.

12. In a very recent decision of ***Dr Balaram Singh versus union of India.(supra)*** as relied upon by the learned Advocate of the petitioner, Supreme Court though observed that mere economic measure would not suffice for the upliftment of the family held that interference must be made to rehabilitated such persons who continue to be employed as hazardous workers without any protective gear or cleaning devices and state must frame suitable policies to ensure that all such workers are given access to rehabilitative

entitlement. While issuing some directions, it was specifically held in sub-paragraph 4 and 5 of the paragraph 96 of the said judgement that

> *4) the court hereby direct the union and 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 concerned agency, i.e, the union, the union territory or the state as the case maybe. In other words, compensation for sewer that 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.[emphasis supplied]***

13. The Hon'ble Supreme Court further gave direction to the appropriate government to devise a suitable mechanism to ensure accountability, specially

wherever such death occurs in the course of contractual or outsourced work which shall be in the form of cancellation of contract forthwith and imposition of monetary liability, aimed at deterring the practice.

14. In the instant case from the affidavit filed on behalf of the state government or on behalf of KMC, it cannot be found that any such mechanism has been adopted or any monitoring committee has been constituted in terms of the relevant provision of the Act. There is a specific prohibition in Section 7 of the Act of 2013 from engaging or employing for hazardous cleaning of sewers and septic tanks which bars any person or local authority or any agency to engage or employ either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank. Pursuant to section 8 of the said act contravention of the said provision will attract penal action. In terms of the said act it was mandated that every state government shall by notification constitute a state monitoring committee consisting of the members, including the chief minister of a state or a minister nominated by the chief minister. Nothing can be found regarding constitution of any such committee.

15. The KMC filed their Affidavit in opposition affirmed by Sri Soumyo Gangopadhyay, the Director General (project) Kolkata environmental improvement, investment program challenging the locus of the petitioner to file the writ petition and alleged that the petitioner being a busy body, a meddlesome interloper acting under malafide intention.

16. It further discloses that after occurrence of such an incident, a seven member committee comprising with the special municipal Commissioner(revenue) as its chairman, DG (project) KEIIP, Chief Municipal Law Officer-KMC, CMF & amp; A-KMC, deputy chairman, municipal health

officer-KMC, DG(S & amp; D)-KMC and administrative officer, KEIIP, as members was constituted by Municipal commissioner, KMC to enquire into the matter and based on the findings of the committee, the contractor of the said Project was penalised, and the contractor was directed to ask to pay ₹10 lakhs each to the families of the deceased. That apart an F.I.R has been lodged against the contractor company by KMC – KEIIP. Both the partner companies of the contractor are blacklisted for five years and deprived from participating in any future tender of KMC. It *Furthermore one caution notice to the design and supervision consultant has been issued by the D.G.(project) and Netaji Subhash administrative training Institute, Government of West Bengal was issued, requesting them to conduct training program on safety measures at site of the engineers of KEIIP.*

17. The supplementary report of the committee reconstituted to enquire about the incident in the ongoing project as annexed with such affidavit further discloses that DSC is entrusted as the engineer for the entire project and they are responsible for supervision and planning of the work and for any lapse on the part of the contractor. DSC did not make any effort to sort out the problem in completion of laying pipelines, and they did not take notice that the manhole could not be dried up even after two days of pumping. Therefore according to KMC, they cannot skip responsibility by only taking a plea that dewatering was a minor job and does not require their direct supervision. The committee was of the view that the DSC should also disburse a considerable amount of compensation to the families of the dead labourers.

18. The affidavit in opposition filed on behalf of the respondent numbers 7, 8, 9 & and10 by Ram Thapa, the officer in-charge of Regent Park Police Station the

respondent no. 10 reflects the stand of the said respondents that the writ petitioner has miserably failed to prove the violation of any fundamental or legal right which requires interference under Article 226 of the Constitution of India. Furthermore, the petition is devoid of any conscious application of mind, nor the same is supported by any reason and accordingly a point of maintainability of the petition was raised. From the affidavit it could be gathered that on 25th February, 2021 at about 12.35 hours the Local Police Station received information about drowning incident while the labourers of KEIIP while constructing underground drainage system at Purba Putiyari outward pump house near Aikatan club, and after that the police team rushed to the spot and learnt that seven labourer went inside the manhole accidentally drowned. Immediately, they were picked up with the help of fire brigade and DMG and sent to hospitals but amongst them, 4 persons were declared as brought dead at SSK Hospital and other three persons were admitted at Bagha Jatin State General Hospital, who subsequently were discharged after their treatment. A case was registered by the Regent Park Police Station being Regent Park case no. 48 dated 25 February 2021, under Section 304A of the Indian penal code against unknown persons.

19. This Court is unable to appreciate the submission advanced on behalf of KMC that since the direction was given to the concerned agency by KMC to pay an adequate compensation, they have discharged their liabilities, on the touchstone of the specific direction of the Hon'ble Supreme Court to pay the amount of ₹30 lakhs as compensation to the families of the dead sewer workers and further no explanation can be found as to why such direction has not been complied with till date. The alleged agreement was not annexed with

the affidavit in opposition filed on behalf of KMC on the basis of which the said work was entrusted to the agency to show whether any such conditions were incorporated, in consonance with the directions passed by the Apex Court.

20. The affidavit in opposition filed by the respondent no. 10, the Officer-in charge of Regent Park Police Station shows the blatant negligence by washing his hands by only intimating the court that a case was recorded by Regent Park Police Station against some unknown persons. No subsequent affidavit is filed to show the status of the said investigation. It appears from the said affidavit that the notice was given to a person who has tried to evade their responsibility by only intimating that their company was working at the site as subcontractor of the principal company and did the total pipeline job from KEIIP and further to inform that on the day of the tragic incident, their company was not executing the assigned work. This court expresses concern about the stand taken by the authority, in their Affidavit in opposition, denying that there was any violation of fundamental or legal rights, which requires interference under Article 226 of the Constitution of India. Despite admitting the negligence committed, the KMC has tried to shift the negligence solely to the agency, and they cannot escape the liability and obligation cast upon them in accordance with law.

21. The very objective to file a PIL is a legal action initiated in a court of law is for the enforcement of public interest especially when the basic fundamental rights of the public at large are affected but the court must be extremely careful while deciding a PIL regarding the intent and purport of filing and if any malice is there or not .The petitioner No. 2 has described himself as civil

right activist and the petitioner No.1 Association is working since 1972 and devoted to the cause of safe ,peaceful life for the people with dignity .The petitioner has espoused the cause of death of four manual scavengers/labourers and injury of three labourers on account laches and negligence on the part of the respondent authorities and it is shocking that this PIL has to be filed for ensuring the legitimate claims of the persons and family members in terms of the 1993 Act and the slew of directions issued by the Apex Court.

Conclusion

22. In view of the above facts and circumstances, this court is of the view that there are serious lacunas and negligence on the part of the respondent authorities in complying with the direction of the Hon'ble Supreme Court and also in not framing any guidelines in consonance with the Act of 2013. Hence following directions are given to the Respondent authorities 1 to 6.

> *a) To pay an amount of ₹5 lakhs each to the victims sustained injuries within a period of two months from the date of this order,*
>
> *b) To pay an amount of ₹30 lakhs (minus 10 lakhs already paid) to each of the family members of the deceased workers and such amount to be paid within a period of three months from the date of this order.*
>
> *c) The Government must constitute a committee in terms of the Act of 2013, followed by the directions of the Hon'ble Apex Court issued in the case* ***of Safai karmachari Andolon versus Union of India and others reported in***[4] *and* ***Dr Balaram Singh versus Union of India (supra)*** *at the earliest but not beyond 30 days.*

[4] (2014) 11 SCC 224

d) The respondent no. 7 is directed to ensure an independent investigation, to be conducted pertaining to the incident dated June 25, 2021 under his supervision and to take necessary action and to submit a report to the learned Registrar general of this court regarding the steps taken therein within a period of 4 weeks.

e) The state Authorities are further directed to file separate Report showing compliance with the order before the Learned Registrar General.

23. The Secretary State Legal Services Authority is requested to make all endeavours to contact with the family members of the deceased family and the injured victims and to communicate them this order and to provide legal assistance to ensure the compensation amount is paid to the injured and the families of the victim.

24. In view of the above this writ petition is allowed and disposed of.

25. Let a copy of the order be forwarded to the office of the learned Member secretary, State Legal Services Authority for information and necessary compliance.

26. Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

I agree

(SUJOY PAUL,A.C.J.)

(CHAITALI CHATTERJEE DAS, J.)