

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14589 of 2021

In Re: Deaths of Sanitation Workers ***Petitioner***
Ms. Pami Rath, Amicus Curiae
Mr. B.P. Tripathy, Amicus Curiae

-versus-

Chief Secretary and Others ***Opposite Parties***
Mr. P.K. Muduli, Addl. Govt. Advocate
Mr. Debasis Nayak, Advocate for CMC
Mr. Bishnu Pr. Pradhan, Advocate
Mr. Prasanna Bhuyan, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
02.03.2023

Order No.

17. 1. The learned Amicus Curiae has placed before the Court note of submission today enclosing copies of the Standard Operating Procedure (SOP) for cleaning of sewers and septic tanks issued in November, 2018 by the Central Public Health and Environmental Engineering Organisation (CPHEEO) in the Ministry of Housing and Urban Affairs, Govt. of India which was expected to be followed by everyone. It is all the States Union Territories for the purpose of eliminating manual scavengers. Purpose of SOP was to 'impart the knowledge into the stakeholders about the cleaning of sewers and emptying of septic tanks before and after the assignment'.

2. With the announcement of the Swachh Bharat Mission in November, 2020, the CPHEEO in the Ministry of Housing and Urban Affairs, Govt. of India brought out a training module 'for sanitary workers on cleaning of sewers and septic tanks'. Both the learned Amicus Curiae (AC) submit that the said two SOPs are not being followed by the agencies who are engaging, through outsourcing, other persons to undertake the hazardous tasks of sewer and septic tank cleaning. It is pointed out that neither the 2013 Act nor the Rules made thereunder provide the procedure for manual cleaning and it is this gap which is sought to be filled up by the SOP and the training manual. These documents spell out the precautions to be taken including protective gear to be used apart from deploying mechanical methods including hydraulically propelled devices and jet cleaning machines.

3. In response to a query from the Court, regarding the number of such outsourcing agencies engaged by the Municipal Corporations, Municipalities and Notified Area Councils (NACs) in Odisha that are being engaged to undertake the tasks of cleaning sewers and septic tanks, both Mr. Muduli, learned Additional Govt. Advocate as well as Mr. Debasis Nayak, learned counsel appearing for the CMC seek time for placing those details before the Court.

4. Before the next date, the Opposite Party-State will place before the Court the complete details of every agency that has been engaged by the Municipal Corporations, Municipalities and NACs to carry out the task of cleaning of sewers and septic tanks and other sanitation work; the Court will be informed whether the SOP as well training manual prepared by the CPHEEO, Ministry of Housing and

Urban Affairs, Govt. of India has been provided to each agency; whether the strict compliance thereof has been made one of the mandatory conditions of the contract entered into with the agencies and the consequence of non-compliance with the said condition. This be depicted in the form of a chart which will be placed on record with the affidavit. The Court wishes to underscore the need to take 'preventive' measures so that any deaths in future of persons engaged in cleaning of sewers and septic tanks is avoided.

5. On 28th February, 2023, an affidavit has been filed by the Deputy Commission of Policy, Cuttack indicating the current status of the investigation in CDA Phase-II P.S. Case No. 33 of 2021 dated 18th April, 2021 under Section 304(A)/34 IPC, Section 9 of POEAMSTR Act, 2013 read with Section 3(1)(h)/3(2)(vii) of SC & ST (POA) Act. It has been registered against two persons of which one was arrested and the other is yet to be arrested. The explanation given to the Court about not completing the investigation and not filing the charge sheet is not convincing. Almost two years have elapsed since the incident occurred and the Court fails to appreciate the delay in filing the charge sheet.

6. It is pointed out by the learned AC that the above affidavit is silent on the progress of the criminal case in relation to the incident at Bhubaneswar in relation to which a criminal case has been registered at the Badagada P.S. as Case No. 0167 dated 29th April, 2021.

7. A supplementary affidavit will be filed by the concerned IIC by the next date informing the Court of the progress of investigation of the said case.

8. The Court would like to again emphasis that unless there is strict implementation of the 2013 Act by prosecuting the offences committing thereunder, real tangible change cannot happen on the ground.

9. List on 3rd May, 2023 at 2 p.m.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Aks

