

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1570 OF 2023

Shramik Janta Sangh & Ors.

....Petitioners

V/S

State of Maharashtra & Ors.

....Respondents

...

Ms. Gayatri Singh, Senior Advocate a/w Ms. Madhavi Gomathieswaran
i/b Ms. Deepali Kasul for the Petitioners.

Mr. R.P. Kadam, AGP for Respondent Nos.1, 3 and 4-State.

Mr. R.S. Apte, Senior Advocate i/b Mr. Ajit R. Pitale a/w Mr. Ameya A.
Pitale for Respondent No.2.

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**CORAM: DHIRAJ SINGH THAKUR &
SANDEEP V. MARNE, JJ.**

DATE : JULY 18, 2023.

P.C.:

. This Petition highlights *inter alia* the delay involved in payment of compensation to the family members of deceased sewage workers who have suffered death while cleaning the sewers/septic tanks. It is submitted that though Thane Municipal Corporation has adopted a Resolution to pay compensation of Rs.10,00,000/- to the family members of such deceased sewage workers who die while cleaning of a sewer or septic tank of a private building or a Co-operative Society, the Municipal Corporation is insisting on production of heirship certificate/succession certificate as a precondition for payment of compensation. It is Petitioners' case that procurement of heirship/succession certificate causes

inordinate delay in payment of compensation in addition to unnecessary expenses.

2 Ms. Gayatri Singh, the learned Senior Advocate appearing for Petitioners would invite our attention to the Order dated March 27, 2014 passed by the Apex Court in *Safai Karamchari Andolan and Ors vs. Union of India & Ors.*, (Writ Petition (Civil) No.583 of 2003, in which the Apex Court has issued following directions:

“14) We have already noted various provisions of the 2013 Act and also in the light of various orders of this Court, we issue the following **directions**:-

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

(ii) 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 gears 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 - should take time bound strategy to end manual scavenging on the tracks.

(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 safai karamchari women in accordance with their choice of livelihood schemes.

(iii) 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.

(iv) Rehabilitation must be based on the principles of justice and transformation.”

(emphasis added)

3 Ms. Singh would further invite our attention to the further order passed by the Apex Court on May 10, 2016 which reads thus:

“I.A. NO.9 OF 2016

This application has been filed on behalf of the Union of India seeking clarification in the order dated 27.03.2014 passed by this Court.

Paragraph 23 of the aforesaid order is in the following terms :-

23. We have already noted various provisions of the 2013 Act and also in the light of various orders of this Court, we issue the following directions :

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.

The purport and effect of the directions contained in paragraph 23.3 of the order dated 27.03.2014 is clear and would apply to all victims irrespective of the place of work.

In view of the clear direction contained in paragraph 23.3 of the aforesaid order and in view what we have stated above, I.A. No.9 shall stand accordingly answered and is disposed of in the above terms.

CONTEMPT PETITION (CIVIL) NO. 267 OF 2016

We do not think it appropriate to entertain the contempt petition. Accordingly, the contempt petition is dismissed.

However, the petitioner is at liberty to take recourse to any other legal remedy that may be available to it in law.”

(emphasis added)

4 It is submitted that as per the directions issued by the Apex Court, it is the responsibility of the authorities concerned to ensure payment of compensation of Rs.10,00,000/-. Ms. Singh has submitted that insistence on the part of the Municipal Corporation on procurement of heirship/succession certificate even in undisputed cases is resulting in inordinate delay in payment of compensation to the families of the deceased sewage workers thereby frustrating the entire objective behind the directions issued by the Apex Court.

5 Mr. Apte, the learned Senior Advocate appearing for Thane Municipal Corporation would justify insistence on the part of the Municipal Corporation on procurement of heirship/succession certificate.

He would submit that in absence of heirship / succession certificate, there is a possibility of amount of compensation being misappropriated by persons other than legal heirs. He would invite our attention to the order passed by this Court on March 2, 2023, which reads thus:

“ . The learned Senior Advocate for the Petitioners submits that the son of Petitioner No.2 suffered an accidental death while cleaning sewers and septic tanks through manual scavenging. An amount of Rs.10,00,000/- claimed as compensation in terms of the decisions of the Hon'ble Supreme Court is not being released.

2. In this context, learned Senior Advocate for the Corporation has invited our attention to the communication dated 24.07.2022 issued by the Municipal Corporation (page 252 of the Writ Petition), by which the Municipal Corporation has sought production of Heirship Certificate to enable disbursement of the amount of compensation. It is submitted by the learned Senior Advocate for the Petitioners that instead an indemnity bond could be supplied. We find that the demand for production of Heirship Certificate by the Municipal Corporation cannot be said to be arbitrary or unreasonable so as to dispense with its production.

3. To enable the Municipal Corporation and the State Government to file its affidavit-in-reply, stand over to 24.03.2023.”

6 While we do appreciate the concerns expressed by the Thane Municipal Corporation in insisting upon procurement of proof by claimant legal heir deceased sewage worker, it is seen that insistence on procurement of heirship/succession certificate is substantially delaying payment of compensation. This is clear from the averments in para 5 of Affidavit-in-Reply filed by the Respondent Municipal Corporation, which reads thus:

“5. I say that in the territorial jurisdiction of Thane Municipal Corporation two unfortunate incidents took place. The first incident took place on 09.05.2021 between 9.00 p.m. to 4.40 a.m. in the Pride Presidency Luxuria Society, Dhokali, Thane wherein 3 scavenger workers namely Amit Vrushabhan Pevay, Ajay Satyavan Bumbak and Aman Rajendra Badal died in the said incident. Upon submission of legal heirship certificate dated 24.02.2023 in respect of death of Amit Vrushabhan Pevay, in favour of his mother and father issued by competent authority in accordance with law, Thane Municipal Corporation has paid the compensation of Rs.10,00,000/- to said heirs of deceased Amit Vrushabhan Pevay. Hereto annexed and marked **Exhibit 'R-3'** is the copy of status of payment of compensation to the legal heirs of the said deceased scavengers died in Pride Presidency Luxuria Society, Dhokali, Thane. So far as deceased Ajay Satyawan Bhumbak and deceased Aman Rajendra Badhad are concerned, it is informed that they have applied for succession certificate / heirship certificate before competent court/ authority in June, 2021. Upon submission of said legal heirship certificate, the Corporation will disburse Rs. 10,00,000/- to the concerned legal heirs of said deceased Ajay Satyavan Bumbak and Aman Rajendra Badal respectively.”

7 The averments in the Affidavit-in-Reply filed by the Municipal Corporation would show that though death of three sewerage workers occurred on May 9, 2021, the family of only one of the workers has been paid compensation upon production of legal heirship certificate on February 24, 2023 i.e. after delay of two years. So far as the families of other two deceased sewage workers are concerned, the compensation is not paid till date on the pretext of pendency of proceedings filed by them for issuance of heirship /succession certificate. Thus, the averments made in the Affidavit-in-Reply filed by the Municipal Corporation buttress the contention of Petitioners that the condition of procurement of heirship /succession certificate is unduly delaying payment of compensation to the family of deceased sewage workers.

8 It cannot be that in every case of death of a sewage worker engaged in manual scavenging there are competing claims amongst relatives. Therefore, the Municipal Corporation cannot insist on production of heirship/succession certificate in every case where there are no disputes amongst the relatives. In a given case where two sets of relatives file competing claims for compensation before the Municipal Corporation, it would be justified on procurement of heirship certificate. However, to insist for procurement of such heirship certificate in every case would completely defeat the entire objective behind payment of compensation to the family of deceased sewerage worker who has met with death while being engaged in manual scavenging.

9 Mr. Apte did attempt to impress upon us that the Municipal Corporation is not responsible for payment of compensation where the death occurs in private buildings/societies. That despite absence of such liability, the Municipal Corporation has resolved to pay compensation in such cases, by recovering the compensation from the concerned building/society. In our view, we need not go into this issue as the Municipal Corporation has already decided to pay compensation in such cases. Also, the Apex Court has directed payment of compensation in all cases irrespective of place of occurrence of death. All that we need to ensure at this stage is timely payment of compensation to the families considering the objective behind payment of compensation.

10 Therefore, by way of interim order, we direct the Municipal Corporation not to insist upon the heirship /succession certificate in every case, where a death has occurred while cleaning sewars/ septic tanks. In absence of any dispute amongst the claimants, the Municipal Corporation shall conduct preliminary enquiry/verification into the claim by the family members and if the same is found to be genuine, the amount of compensation be released without insisting for procurement of heirship/succession certificate. In respect of pending cases, which are highlighted by Petitioners at Exhibit A (page 77 to the Petition), the Respondent-Municipal Corporation shall undertake the exercise of verification of documents submitted before it and in the event of absence of any dispute, it shall release the amount of compensation within a period of four weeks from today.

11 List the Petition for further consideration on August 24, 2023.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.