

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1570 OF 2023

Shramik Janata Sangh

Through Its General Secretary And Ors.

....Petitioners

V/S

State Of Maharashtra And Ors.

....Respondents

Ms. Gayatri Singh, Senior Advocate a/w. Ms. Sudha Bhardwaj and
Ms. Nawaz Dordi i/b. Ms. Deepali Kasul for Petitioners.

Mr. Ram Apte, Senior Advocate a/w. Mr. Ajit Pitale and Harshad P.
Nahata for Respondent No.2 (Corporation).

Mr. P. P. Kakade, G.P. a/w Ms. R. A. Salunkhe, AGP for Respondent
State.

Mr. Sarang S. Aradhye a/w. Mr. Gauri Velankar and Saarth Chordia
and Shantanu Gurav for Respondent No 5-KDMC.

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CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.

DATE : 20 AUGUST 2024

P.C.:

. Heard learned counsel for the parties.

2. We had passed an order yesterday, i.e. 19 August 2024 as
under and kept the matter today for hearing.

*“ The reply affidavit is filed on behalf of
the State Government in Writ Petition*

No.1570/2023 by Mr. Pravin Puri, the Commissioner Social Welfare, Pune, the Nodal Officer appointed by the State in respect of issue of manual scavengers. The affidavit places on record certain communications and certificates submitted by the Collectors in 36 districts of State of Maharashtra. The Commissionerate of Social Welfare on 2 August 2023 has written to the Deputy Secretary of Social Justice Empowerment, Government of India that all districts in the State of Maharashtra have been freed from manual scavenging and certificates have been obtained from Collectors of 36 districts in Maharashtra. These certificates are placed on record.

2. The Commissioner-Mr. Pravin Puri has made a specific statement in the affidavit as regards the certificates, stating that all 36 districts in Maharashtra have been declared free of manual scavenging. If this position is correct, then there would not be any instances of manual scavenging from August 2023 onwards, as per the certificates submitted to the Government of India.

3. The learned Senior Advocate for the Petitioners states that the statement is incorrect from the data placed on record by the State itself, as well as there are series of instances after these certificates are so submitted reporting deaths of manual scavengers. A note is also tendered. If the stand of the State Government is that all districts in the State are free of manual scavenging, then further enquiry in this petition would be different. If the issue still persists, the enquiry will have to be taken

further, including the action plan, which is not placed on record as yet.

4. Therefore, before proceeding further it would be necessary to confirm whether the stand of the State Government taken in the affidavit based on the certificates that all districts have been freed of manual scavenging and it does not exist in the State of Maharashtra any more, is still being asserted.

5. The learned Government Pleader seeks time to take instructions. Stand over to 20 August 2024”.

3. The learned Government Pleader states that the statement made by the Nodal Officer, i.e. Commissioner, Social Welfare Department, Pune, in paragraph 16 of the affidavit dated 4 July 2024 has to be read as the position existing when the certificates were given by the Collectors declaring that 36 districts are free of manual scavenging in the State of Maharashtra and not of today. These certificates were submitted to the Union Government on 2 August 2023.

4. The Petitioners have filed a note giving instances of manual scavenging, and also, reference is made to the query raised by the National Human Rights Commission regarding the death of certain manual scavengers in April 2024. There is a reference to other instances of sewer cleaning in April and August 2024. The Petitioners also contend that if no manual scavenging as contended,

then why was compensation given in 81 cases as per the state record itself.

5. The learned Government Pleader seeks time to examine.

6. While making a statement regarding the status of manual scavenging, the State authority needs to keep in mind the definition of Manual Scavenger in Section 2(g) of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 (in short “the Act of 2013) as interpreted by the Hon’ble Supreme Court in the case of *Dr. Balram Singh V. Union of India & Ors.*¹ .

7. Now, it has been clarified by the Government Pleader that the report of the Collector referred only to the position of the year 2022 and not as of today, an inquiry will have to be made regarding the instances of manual scavenging. This is apart from the efforts to ensure that manual scavenging does not take place at all in the first place.

8. The District Level Committees have been set up as stated in the affidavit. The learned counsel for the Petitioners points out that they are unaware of the composition and that the Vigilance Committees do not hold meetings on time.

9. While we grant time at the request of the learned Government Pleader, it is necessary to issue certain directions.

¹ Writ Petition (Civil) No(s). 324 of 2020

10. The Department of Social Welfare shall publish the composition of all the committees - State, District and Vigilance Committees that have been formed under the Act of 2013 with the names of the members (except where the member is *ex officio*) on its website. The website should also contain details of the action/s taken by all the Committees under the Act of 2013 except where the information is sensitive or protected by any statutory provisions regarding confidentiality. The information should be regularly updated.

11. The Department of Social Welfare will also create a dedicated email address for each of the District Level Committees and Vigilance Committees. It shall also create a Social Media handle where citizens and non-governmental organisations can report instances of manual scavenging, which the District Level Committee and Vigilance Committee can examine. This will aid the Social Welfare Department in its statutory duty to ensure that manual scavenging does not take place. This is an addition to the duties cast on the officers under the Act of 2013.

12. Nodal Officer, i.e. Commissioner, Social Welfare Department will issue instructions to all the Vigilance Committees in the State of Maharashtra to ensure that meetings are held on time, agendas are circulated in advance, and the outcome of the meetings and the action taken is furnished for uploading the same on the website as directed above.

13. The creation of the social media handle and email address and uploading of the information on the website shall be done by the next date.

14. Stand over to **9 September 2024** under the caption “For Directions”

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)