

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL NOS.1087, 1090, 1102, 1108, 1111,
1112, 1115 AND 1124 OF 2016

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

These appeals, under Clause 15 of the Letters Patent Act, are preferred against the common order passed by the learned Single Judge in WP.No.3880 of 2015 and batch dated 01.05.2015. The petitioners are all societies carrying on sanitation works. They are aggrieved by the action of the respondents in setting apart only 15% of the sanitation works in their favour.

Sri V.R.Reddy Kovvuri, learned counsel for the appellants, would submit that this has resulted in members belonging to the Scheduled Castes and the Scheduled Tribes being unduly exploited; failure of the Government to set apart a higher percentage of sanitation works, exclusively for societies such as appellants, has resulted in the successful tenderers engaging the services of the very same sanitation workers, paying them a far lesser wage than what they would be legally entitled to; these sanitation works are executed only by members belonging to the Scheduled Castes and the Scheduled Tribes; the records, if called for, would reveal that others, who have participated in the bid, also engage the services of the very same sanitation workers belonging to the Scheduled Castes and the Scheduled Tribes in such sanitary works; and the only way in which this exploitation can be put an end to is if a higher percentage of the works are earmarked in favour of societies such as the appellants herein.

While both the learned Government Pleader for Municipal Administration and Sri S.D.Gowd, learned Standing Counsel for Municipal Corporation, would submit that the cause in the Writ Appeals do not survive as the period, for which bids were invited hitherto, expired in February 2016 itself, the fact remains that, in view of G.O.Ms.No.475 dated 28.08.1989, which continues to hold the field, only 15% of the sanitation works are earmarked in favour of these Societies.

In the order under appeal, the Learned Single Judge observed that the petitioner-appellants could not have any grievance regarding allotment of the said works upto 15%; for works beyond 15%, it was for the Corporation to take a decision whether the percentage should be increased; and this Court could not issue a mandamus fixing the percentage of the works to be allotted to the petitioners beyond 15% as per G.O.Ms.No.30 dated 18.01.2000. Noting the submissions in the counter affidavit, that the Corporation had decided to allot 15% of the works to the petitioner-societies, the learned Single Judge dismissed the Writ Petitions.

We are in complete agreement with the view expressed by the learned Single Judge that a mandamus cannot be issued by the Court fixing the percentage of works to be allotted to the petitioners, higher than the stipulated 15%, since this Court would not sit in judgment over the wisdom of the Executive in framing policies. The fact, however, remains that G.O.Ms.No.475 dated 28.08.1989, issued more than 27 years ago, does not appear to have brought about any change in the pathetic situation which these sanitary workers find themselves in. Judicial notice can be taken of the fact that most, if not all, sanitation duties are discharged only by members of the Scheduled Castes and the Scheduled Tribes; and the possibility of

their continued exploitation, unless a higher percentage of works is reserved in their favour, must be acknowledged.

We consider it appropriate, in such circumstances, to direct the first respondent herein to examine the matter afresh, bearing in mind the difficult circumstances in which members of these deprived sections eke out their livelihood, and undertake sanitary functions which no other section of society is willing to undertake. The first respondent shall take a decision afresh whether 15% of the works, earmarked in favour of members of the Scheduled Castes and the Scheduled Tribes in G.O.Ms.No.475 dated 28.08.1989, should also be applied to sanitation works where the arduous nature of duties are invariably discharged only by members of the Scheduled Castes and the Scheduled Tribes. The Government shall also examine the feasibility of increasing the percentage of sanitation works, to be reserved in favour of societies whose members belong exclusively to the Scheduled Castes and the Scheduled Tribes, and take necessary action thereupon at the earliest and, in any event, not later than three (3) months from the date of receipt of a copy of this order. The order of the learned Single Judge is modified accordingly.

All the Writ Appeals are disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

31st October 2016
RRB