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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision :19th July, 2016*

+ WP (C) 2283/2013

GAURAV KUMAR BANSALPetitioner

Through: Petitioner in person.

Versus

UNION OF INDIA AND ORS.Respondents

Through: Ms. Suparna Srivastava, CGSC and
Mr.Ravjyot Singh, Advocate for R-1/UOI.

Ms.Gautam Narayan, ASC with Ms.Shatrajit
Banerji, Adv. for R-2/GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

: **Ms. G.ROHINI, CHIEF JUSTICE (Oral)**

1. The present writ petition by way of Public Interest Litigation has been filed seeking a direction to the respondents to issue appropriate guidelines in terms of Section 12 and Section 19 of the Disaster Management Act, 2005.
2. In pursuance of the notice ordered by us, the respondent No.1/National Disaster Management Authority as well as the Delhi Disaster Management Authority/respondent No.2 filed their response.
3. We have heard the learned counsel for both the parties.
4. The Disaster Management Act, 2005 (for short 'the Act') has been enacted by the Parliament to provide for the effective management of disasters and for matters connected therewith or incidental thereto.
5. The Statement of Objects and Reasons to the Act may be reproduced hereunder for better appreciation of the object of the Act:-

“STATEMENT OF OBJECTS AND REASONS

The Government have decided to enact a law on disaster management to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of the disaster management plans, ensuring measures by various wings of Government for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

2. The Disaster Management Bill, 2005 provides for setting up of a National Disaster Management Authority under the Chairmanship of the Prime Minister, State Disaster Management Authorities under the Chairmanship of District Magistrates. The Bill also provides for concerned Ministries or Departments to draw up department-wise plans in accordance with the national disaster management plan. It provides for constitution of a National Disaster Response Force and setting up the National Institute of Disaster Management. The Bill provides for the constitution of the National Fund for Disaster Response and the National Fund for Disaster Mitigation and similar Funds at the State and District levels. The Bill provides for specific role for Local Bodies in disaster management including Panchayati Raj Institutions as well as Urban Local Bodies like Municipalities.

3. The proposed enactment will facilitate effective steps for the mitigation of disasters, prepare for and coordinate effective response to disasters, as also matters connected therewith or incidental thereto

4. The Bill seeks to achieve the above objects. ”

6. Section 3 of the Act provides for establishment of an Authority to be known as the National Disaster Management Authority (for short 'National Authority'). The powers and functions of the National Authority have been

enumerated in Section 6 of the Act and Section 12 of the Act provides that the National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster. Chapter - III of the Act provides for State Disaster Management Authorities. As per Section 14 every State shall by notification in the official gazette establish a State Disaster Management Authority (for short 'State Authority') for the State. The powers and functions of the State Authority have been enumerated in Section 18 and Section 19 provides that the State Authority shall lay down detailed guidelines for providing standards of relief to persons affected by disaster in the State.

7. The expression 'disaster' has been defined under Section 2(d) as under:-

“(2)(d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;”

8. Similarly, the expression 'disaster management' has been defined under Section 2(e) as under:-

“(2)(e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for-

- (i) prevention of danger or threat of any disaster;
- (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) capacity-building;

- (iv) preparedness to deal with any disaster;
- (v) prompt response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) rehabilitation and reconstruction;”

9. The allegation of the petitioner in this petition is that the respondents herein, i.e., National Authority and Delhi State Authority failed to comply with the mandate under Section 12 and 19 of the Act to lay down the guidelines for providing standards of relief to persons affected by disaster. It is pleaded that two applications under the Right to Information Act were filed by the petitioner on 10.01.2013, to the Central Public Information Officer, National Disaster Management Authority, to provide for the copies of the guidelines for minimum standards of relief as provided under Section 12 and Section 19 of the Act. In response by letter dated 17.01.2013, the petitioner was provided with the copies of guidelines for minimum standards of Water, Food, Sanitation & Hygiene, Shelter and Medical Cover in Disaster Relief and was also informed that a Core Group has already been set up to compile these guidelines into one single document. A similar application was also made to Delhi Disaster Management Authority, Government of NCT of Delhi and by letter dated 31.01.2013, it was replied that by the Delhi Disaster Management Authority, no guidelines for minimum standards of relief have been issued under Section 19 of the Act. Thus, it is contended that despite there being a statutory requirement, the respondents failed to formulate the guidelines for minimum standards of relief for the victims of the disaster.

10. In the counter affidavit dated 16.07.2013 filed on behalf of the respondent No.1/National Authority, it is stated that in compliance with provisions of Section 12 of the Act, the National Authority has already formulated National Disaster Management Guidelines on the following subjects:-

- i) Minimum Standards for Provision of Shelter and Management of Relief Camps,
- ii) Minimum Standards for Water Supply in Relief Camps,
- iii) Minimum Standards for Food in Relief Camps,
- iv) Minimum Standards for Sanitation and Hygiene in Disaster Relief,
- v) Minimum Standards for Medical Cover Relief in Relief Camps.

11. It is also stated that the said Guidelines have been circulated to the Ministry of Home Affairs and other ministries in July, 2010 itself and that regarding the minimum standards of relief for widows and orphans the guidelines are under formulation and for the said purpose, the National Authority has set up a Core Group and the guidelines are yet to be finalized on the said issue.

12. In the counter affidavit dated 17.07.2013 filed on behalf of the respondent No.2/Delhi Disaster Management Authority, it is stated that directions were issued by the Government of India, Ministry of Home Affairs vide letter dated 28.09.2012 regarding the items and norms of assistance from the State Disaster Response Fund and the National Disaster Response Fund for the period 2010-2015 in the wake of identified natural calamities and that the Delhi Disaster Management Authority is in the process of creating Disaster Response Fund and Disaster Mitigation Fund

under the provisions of the Act and once the said funds are created, the issue of notifying the guidelines under Section 19 of the Act would be examined.

13. Having taken on record the said affidavits, we had called upon the respondent No.1/National Authority to take the further steps for formulating the guidelines for the minimum standards of relief to be provided to widows and orphans affected by disaster as required under Section 12(ii) of the Act. The respondent No.2 was also directed to expedite the formulation of guidelines as required under Section 19 of the Act.

14. The respondent No.1/National Authority filed an additional affidavit dated 21.01.2014 stating that the guidelines under Section 12(ii) on minimum standards of relief for widows and orphans have been formulated and a copy of the same has been produced. In the additional affidavit dated 27.01.2014 filed on behalf of respondent No.2 while explaining the events subsequent to the filing of its earlier affidavit, it is further stated that all the necessary steps are being taken for expediting the formulation of the guidelines.

15. On 24.02.2016, the respondent No.2 filed a short affidavit dated 19.02.2016 stating that the Delhi Disaster Management Authority has also created District Disaster Management Authority (District Authority) for each district in the NCT of Delhi vide notification dated 19.01.2015 and further on 08.07.2015, the District Disaster Management Plans were finalized by the Delhi Disaster Management Authority as provided under Section 19 of the Act. It is further stated that Rs.20 crores is currently available in the Delhi Disaster Mitigation Fund and that a total sum of Rs.9.94 crores has been allocated among the 11 districts of NCT of Delhi towards the District Disaster Mitigation Fund.

16. In view of the steps that have been taken by the respondent No.1 and the respondent No.2 as explained in their respective affidavits and keeping in view that the guidelines have been formulated by both respondents No. 1 and 2 in terms of Sections 12 and 19 of the Act, we consider it appropriate to close the writ petition.

17. Accordingly, the writ petition is disposed of. We hope and expect that all necessary steps would be taken by all the stakeholders in terms of the provisions of the Act and the guidelines made thereunder in letter and spirit for prevention and mitigation effects of disasters and for undertaking a holistic, coordinated and prompt response to any disaster situation.

18. The petitioner is at liberty to approach this Court by filing a fresh petition in case necessity thereof arises.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J.

JULY 19, 2016

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