



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE V. PARTHIBAN

W.P. (MD) No.3855 of 2016

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B.Chitra

... Petitioner

Vs.

1. The Secretary to Government,
Home Department, Secretariat,
Fort.St.George, Chennai 600 009.

2. The District Collector,
Karur District,, Karur.

3. The Revenue Divisional Officer,
Karur District, Karur.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pay a sum of Rs.10 Lakhs as compensation for the death of the petitioner's husband viz., Balakrishnan based on the order rendered by the Hon'ble Apex court reported in Safai Karamachari Andolan and other Vs. Union of India reported in 2014(3) CTC 177 in paragraph 14(ii) (a).

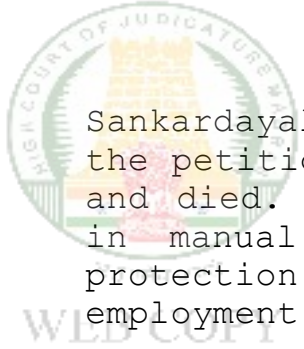
For Petitioner : Mr.I.Robert Chandra kumar

For Respondents : Mr.A. Muthukaruppan
Additional Government Pleader

O R D E R

The petitioner seeks for a Writ of Mandamus directing the respondents to pay a sum of Rs.10 lakhs as compensation for the death of the petitioner's husband viz., Balakrishnan based on the order rendered by the Hon'ble Apex Court reported in Safai Karamachari Andolan and other Vs Union of India reported in 2014(3) CTC 177 in paragraph 14 (ii) (a).

2. The petitioner herein is the wife of deceased Balakrishnan, who was working as a manual Scavenger and a septic tank worker. Her husband belongs to Scheduled caste community. On 02.12.2015, her husband Balakrishnan went for cleaning work in regard to the work place viz., Abi Plastic Mosquito Net Company at Vennamalai Murugan Koil, Karur along with his elder brother one Mariappan @ Mariathan and other relative



Sankardayalan. Unfortunately, while cleaning the septic tank, the petitioner inhaled noxious gas emanating from the Septic Tank and died. According to the petitioner, her husband while engaged in manual scavenger work was not given proper safety gears protection in order to protect him from hazardous nature of employment.

3. A complaint was lodged in regard to the above incident and a case was registered against the owner of the company. The owner of the company was proceeded against under various provisions of Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (herein after referred to as Act). While matters stood thus, the petitioner submitted a representation on 19.12.2015 to the first respondent and a copy of which was marked to respondents 2 and 3 seeking action against the persons who is responsible for the death of her husband and also for payment of compensation for the death of her husband. Since no action was forthcoming from the respondents, the petitioner has approached this Court, seeking for issue a Writ of Mandamus directing the respondents to pay a sum of Rs.10 Lakhs as compensation, based on the order passed by the Hon'ble Supreme Court of India reported in 2014(3) CTC 177 in paragraph 14(ii)(a) (*Safai Karmachari Andolan and other Vs. Union of India*). A copy of the said Judgment is also filed in the typed set along with Writ Petition.

4. The Hon'ble Supreme Court of India in the said decision has given elaborate guidelines regarding the engagement of Manual Scavengers and the rehabilitation of the persons who are engaged in such Scavenging work and the quantum of compensation payable to the families in distress. The relevant para 14 of the said Judgment extracted below:-

"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 & 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

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 provision 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 practise 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 death, Compensation of Rs.10,00,000/- should be given to the family of the deceased.

(b) Railways should take time bound strategy to end manual scavenging on the tracks.

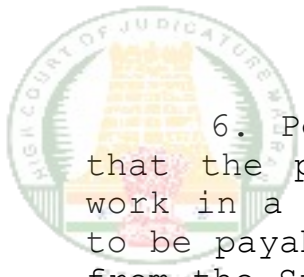
(c) Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.

(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.

5. As per the above guidelines, apart from other directions, it is mentioned that the persons died during scavenging work like manual scavenging viz., septic tank work, to be awarded a compensation of Rs.10 Lakhs to the family members depending on him. In fact, the decision of the Hon'ble Supreme Court has also been followed by our High Court in the Division Bench in W.A.No.550 of 2016 (The Secretary to the Government Vs. Valaiakka and others) dated 7.4.2016. Even in the order passed by the Division Bench of this Court, guide lines issued by the Apex Court in 2014(3) CTC 177 in paragraph 14(ii)(a) (Safai Karmachari Andolan and other Vs. Union of India) has been extracted. Therefore the claim of the petitioner herein is fully covered in all fours by the orders of the Supreme Court of India, following the order issued by the Division Bench of this court as cited supra.



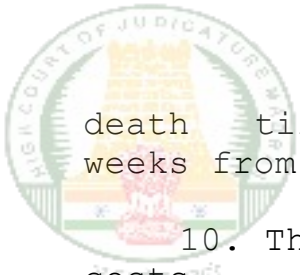
6. Per contra, the counsel of the respondents would submit that the petitioner's husband was engaged in manual scavenging work in a private company and therefore, any compensation that is to be payable ought to have been claimed from the employer and not from the State.

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7. The said contention of the respondents cannot be countenanced both in law and on fact. First of all it should be appreciated that the state has formulated certain guidelines to protect the interest of the persons like the petitioner's husband who have been engaged in manual scavenging work which was life threatening on many occasions. In order to eradicate such employment, the Government has come forward with the Act, which has prohibited such engagement and provided compensation in case of death. Therefore the state Government cannot shirk its primary responsibility from paying compensation to the families of the manual scavenging workers who are from the lowest strata of Society in the social ladder. The families of such persons unfortunately eke out their living from the employment of their men in manual scavenging. In the instant case, the petitioner belongs to poor Scheduled Caste community and at young age, the petitioner was widowed with two children. Therefore the contention put forth by the respondents is bereft of any compassion and the Government cannot absolve itself of its social responsibility towards its citizens. Being a welfare state, it is the bounden duty of the state to protect its citizens, particularly the citizen who hail from the poorest segment of the society from exploitation by the rich and the powerful.

8. Even assuming that the objection raised by the respondents to be considered, the same was also answered by the Hon'ble Supreme Court in its order dated 10.05.2016 in I.A.9/2016 moved in the Safai Karamchari case seeking clarification whether the persons engaged in manual scavenging work in private establishment would also covered under the said order. The Hon'ble Supreme Court of India clarified that the said order would cover and apply all the victims who died in the place of work. In such view of the matter, this court does not hesitate to allow the claim of the petitioner for the grant of compensation of Rs.10 Lakhs. During the course of argument, it was also brought to the notice of this court that the company has already paid Rs.1,00,000/- to the petitioner.

9. In the upshot of the above discussion, I deem it appropriate to direct the respondents to sanction compensation of Rs.10,00,000/- in terms of Paragraph No.14 of the Hon'ble Supreme Court order reported in 2014(3) CTC 177 in paragraph 14(ii)(a) (*Safai Karamachari Andolan and other Vs. Union of India*). After deduction of Rs.1,00,000/- already paid, the balance sum of Rs.9,00,000/- is to be paid with the interest at the rate of 9% per annum from the date of expiry of one month from the date of



death till the date of realisation, within a period of eight weeks from the date of receipt of a copy of this order.

10. The Writ Petition is allowed with the above said terms. No costs.

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Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary to Government,
Home Department, Secretariat,
Fort.St.George, Chennai 600 009.

2. The District Collector,
Karur District,, Karur.

3. The Revenue Divisional Officer,
Karur District, Karur.

+One cc to Mr.I.Robert Chandrakumar, Advocate, SR.No.14479

+One cc to The Special Government Pleader, SR.No.12644

trp

RL/6C/5P/KP/SAR2/27.4.2017

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