

HIGH COURT OF CHHATTISGARH, BILASPUR

WPIL No. 40 of 2018

- Mahesh Tiwari S/o Late Shri Jhumuk Lal Tiwari Aged About 56 Years R/o Milan Chowk, Kududand, Ward No. 2, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Secretary, Home Affair Department, New Delhi.,
2. State Of Chhattisgarh, Through Secretary, Home Department, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. State Of Chhattisgarh, Through Secretary, Health Department, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
4. State Of Chhattisgarh, Through Secretary, Education Department, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
5. State Of Chhattisgarh, Through Secretary, Ministry Of Disaster Management, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	: Shri Awadh Tripathi, Advocate
For Respondent- 1/Union of India	: Shri B Gopa Kumar, Assistant Solicitor General
For Respondents- 2 to 5/ State	: Shri YS Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

01.05.2018

- 1) The issues raised in this Public Interest Litigation relate to the need projected by the petitioner for ensuring facilities for facing probable disasters by fire in different institutions in the field of health, education, other public buildings as well as private buildings in consonance with the laws governing the safety standards which are

required to be enforced. It is pointed out by the petitioner that the Central Board of Secondary Education (CBSE) had issued a circular way back in 2010 and different other directions have been issued by the public authorities.

2) We have heard the learned counsel for the petitioner, the learned Additional Advocate General and the learned Assistant Solicitor General.

3) Disaster Management means a continuous and integrated process of planning, organizing, coordinating and implementing measures which are necessary or expedient for, *inter alia*, prevention of danger or threat of any disaster. Prevention and mitigation of effects of disasters call for holistic, coordinated and prompt response to any disastrous situation. This motivated the Parliament to bring in the Disaster Management Act, 2005; for short, 'the DM Act'. It provides requisite institutional mechanisms for drawing up and monitoring the implementation of disaster management plans, ensuring measures by various wings of Government. It is to achieve this object that the said Act was passed. National Disaster Management Authority under the Chairmanship of the Prime Minister, the State Disaster Management Authorities under the Chairmanship of the Chief Minister of the State concerned, District Disaster Management Authorities under the Chairmanship of the District Magistrates concerned are provided for in that legislation.

The Constitution of a National Disaster Response Force and the setting up of a National Institute of Disaster Management and constitution of national fund for disaster response and national fund for disaster mitigation and similar funds in the State and District levels are also provided for. Local bodies including the Panchayati Raj institutions, as well as urban local bodies like Municipalities, have specific roles to play in disaster management and disaster mitigation. Chapter- 5 of the DM Act deals with measures to be taken by the Government, modality of disaster management and measures to be taken by the Governments for such purposes. It delineates the responsibilities of the State Government. Chapter- 6 enumerates the functions of the local authorities.

4) Response to disasters is not always an activity to be carried after disasters happen. The disaster management system is required to address relevant issues in preventive management of probable disaster situations which can be appropriately envisioned by those in authority in terms of the provisions of the DM Act. What is required is the commitment to carry out the duties and responsibilities under that Act.

5) Taking the provisions of the DM Act into consideration, we are of the view that a cohesive and comprehensive consideration of issues raised in this Writ Petition would call for fire and safety audit of the type of institutions which are referred to by the Writ Petitioner in

his pleadings, which are fairly comprehensive and could alert the authorities concerned.

6) In the aforesaid view of the matter, this Writ Petition is ordered directing that the competent authority at the State level under the DM Act as well as respondents- 2 to 5 shall collectively take stock of the apprehensions raised by the petitioner and issue requisite directions as may be found necessary. Follow up actions as are required to ensure compliance of such directions shall also be issued and enforced. The first respondent- Union of India will extend requisite advisory and consultative support as well as exercise its authority in terms of the relevant statute laws, as are required to be complied with, to obtain compliance of the aforesaid directions. This Writ Petition is ordered accordingly.

7) The learned Assistant Solicitor General and the learned Additional Advocate General will make available copies of this Writ Petition to the appropriate Office of the respondents along with copy of this order.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge