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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11206-2010

Date of Decision: February 11, 2019

Balwinder Singh and others

... Petitioners

vs.

Municipal Corporation, Amritsar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Taraundeeep Kumar, Advocate for
Mr. D.S.Pheruman, Advocate
for the petitioners.

Ms. Ambika Sood, Deputy Advocate General, Punjab.

Mr. R.D.Bawa, Advocate
for respondents No. 1 and 2.

ARUN MONGA, J

The present writ petition has been filed by the similarly situated persons, who were at the relevant time working as Sweepers in the various colonies falling under the jurisdiction of Municipal Corporation, Amritsar.

2. As per the memo dated 26.03.1996 (Annexure P1), Department of Local Government, Government of Punjab, framed 'Mohalla Sanitation Scheme' in the Urban Local Bodies, to meet increasing demand of sanitation in the towns. It was directed that the said scheme would be effective w.e.f. the date when Municipal Corporation adopts the same through Resolution. It is the case of the petitioners that Municipal Corporation, Amritsar, had duly adopted the said scheme, vide Resolution dated 03.01.1997.

3. It is not disputed that the petitioners were engaged as Sweepers by Mohalla Sanitation Committee for carrying out the work of sanitation in the respective colonies of their placement. For better appreciation, relevant Clauses of Mohalla Sanitation Scheme are extracted herein below:

“Constitution of the Committees:

xxx.... The Mohalla Sanitation Committee will consist of at least three members, out of which one member shall be the President the second member would work as Secretary & third member as a Cashier to the Committee. This Committee will be constituted unanimously by the inhabitants of Mohalla. In case of disagreement, the election of the said Committee will be held under the supervision of concerned Sanitary Inspector, any dispute in the conduct of election shall be referred to the concerned Executive Officer in the case of Urban Local Bodies and Officer Incharge of Sanitation Branch in case of Corporation whose decision shall be final. No appeal shall lie to any higher authority against his decision. The Committee so constituted shall get itself registered immediately with the concerned Local Body and will come into existence only after its registration.

Engagement of Safai Karamchari:

The Safai Karamchari will be engaged by the Mohalla Sanitation Committee and he/they will be absolutely under the control of Mohalla Sanitation Committee only.

Finance:

(i) The Mohalla Sanitation Committee will be overall incharge of all financial matters such as the payment of wages and collection of voluntary funds from the residents of the Beat area. The executive officer on behalf of the Local Body will provide an amount equal to 50% of the monthly minimum wage fixed under the

minimum wages Act from time to time as Grant-in-Aid to the concerned Mohalla Sanitation Committee per month if the sanitation area is more or lesser then proportionate amount shall only be released by the concerned Local Body after the submission of utilization certificate in the attached performa to the Executive Officer of the Local Body duly signed by the President/Secretary of the said committee in respect of the Grant-in-Aid of the previous month. xxx....”

4. A perusal of the above shows that the Elections of the Mohalla Sanitation Committee if not unanimous, are to be held under the supervision of concerned Sanitary Inspector of the Municipal Corporation and any dispute in conduct of the election is to be referred to the concerned Executive Officer. After Election, the Mohalla Committee is constituted which is the over all in charge of all financial matters such as payment of wages and collection of voluntary funds from the residents of the Beat area. The Executive Officer on behalf of the Municipal Corporation has to provide an amount equal to 50% of the monthly minimum wages fixed under the Minimum Wages Act, from time to time as Grant-in-Aid for further disbursement to the Sweepers/Sanitary workers engaged by the Mohalla Sanitation Committee. It is this disbursement for the period, qua petitioners no. 1 to 4 w.e.f. 01.08.2007 to 31.05.2008; qua petitioners No. 5 to 10 w.e.f. 01.08.2007 to 30.09.2008 and qua petitioners No. 11 to 14 w.e.f. 01.08.2007 to 31.07.2008 of which the grant-in-aid was not remitted by the Executive Officer to the Mohalla Committee. This led to the non payment of wages to the petitioners necessitating the filing of the present writ petition.

5. I have gone through the respective pleadings and the annexures appended thereto and having heard learned counsels for respective parties.

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6. I am of the opinion that the action of the respondent(s)/Municipal Corporation, Amritsar in withholding the grant-in-aid qua the wages of the Sweepers/Sanitary workers engaged by the Mohalla Committee does not stand the judicial scrutiny. The action of the respondent-Municipal Corporation, Amritsar, to withhold the said grant-in-aid is sought to be justified on the ground that the elections of the Mohalla Committee was since due, the petitioners had been removed and till the new Mohalla Committee was constituted, the said grant-in-aid cannot be disbursed as the claim had to be first verified by the elected Members of the Mohalla Committee.

7. Learned counsel for the respondent-Municipal Corporation draws support from letter annexed with its written statement as Annexure R1/1. This letter is written by Councillor of the Municipal Corporation, Amritsar to the Health Officer of the Municipal Corporation, Amritsar, informing that four Mohalla Sudhar (Sanitation) Committee in his Ward No. 52 were dissolved and all the persons engaged by the said Committee were discharged. He further states that he has no further responsibility of any kind. When confronted with the scheme, the learned counsel for the respondent(s) was unable to show as to how such a letter has got any validity in law in the teeth of Clause 4 and 5 of the Mohalla Sanitation Scheme which clearly empowers the Sanitary Inspector and the Executive Officer with regard to the management/election/dissolution of the Mohalla Committee.

8. In view thereof, I hold that the Councillor had no power to make any recommendation or any declaration that the Committee stood dissolved. Entirely, it was the responsibility and the jurisdiction of the Executive Officer, with the aid and assistance of Sanitary Inspector, to oversee the dissolution and election of the Mohalla Committee. Situation would have been entirely

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different if the Sanitary Inspector would have written any such letter to the Executive Officer saying that there is no representative of Mohalla Committee to verify the claims of the Sweepers or otherwise state that there are no Sweepers now engaged by the Mohalla Committee to carry out the duties of sanitation/removal of garbage.

9. The argument of learned counsel for Municipal Corporation is flawed by absurdly, inasmuch as the same would mean, that whenever, there are to be election for new elected body, then for the interregnum between the end of the term of the earlier elected body and until the formation of the new elected body, the entire work force shall have to be sacked and then re-engaged on formation of the new elected body. The same will mean total stoppage of sanitation work in the town and create utter chaos and vacuum in the functioning of not only the Mohalla Committee, but also in Municipal Corporation, if the same principle, as canvassed by the learned counsel for respondent, is applied to the Municipal Corporation.

10. Another aspect of the matter is that right to health, has been equated with right to life. It is the fundamental right of the citizens as enshrined under Article 21 of the Constitution of India to have good health conditions. To suggest that for the period, the Mohalla Committee has been dissolved and until the new one is elected under the supervision of Sanitary Inspector/Executive Officer, no sanitation work will be carried out in the Municipal limits of the town, is completely absurd, to say the least.

11. In view of the above observations and the conceded position that the Sweepers were engaged during the relevant period, a direction is issued to the respondent-Municipal Corporation, Amritsar through its Executive Officer to disburse its share of grant-in-aid, as per the scheme within a period of 02

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months from the date of receipt of certified order of this Court. Upon remittance thereof, the same be disbursed to the petitioners within a period of 15 days thereafter, by the respective Mohalla Committee.

February 11, 2019
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(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No