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

Date of decision: 27th February, 2020

+ **W.P.(C) 7850/2018**

BIBHUTI BHUSHAN MISHRA & ANR.

..... Petitioners

Through: None

versus

DELHI URBAN SHELTER IMPROVEMENT BOARD AND ORS.

..... Respondents

Through: Ms. Mini Pushkarna, Standing Counsel-Delhi Urban Shelter Improvement Board with Ms. Swagata Bhuyan, Ms. Khushboo Nahar and ms. Latika Malhotra, Advs. for R-1/DUSIB Ms. Urvi Kapoor for Mr. Sameer Vashisht, Addl. Standing Counsel(Civil)-GNCTD

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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27.02.2020

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 7850/2018

1. When the matter is called out, nobody appears for the petitioner.
2. This Public Interest Litigation has been preferred with the following prayers :

“(A) Issue a writ of mandamus or any other writ directing the respondents to ensure that the poor people are provided Community toilet blocks as per the Swachh Bharat Mission in guidelines (SBM (Urban) Component II: Community toilets) in T Huts, H Block, Jhuggi under Metro Bridge, Near Yamuna Bridge, Shashtri Park, New Delhi be constructed within a period of four weeks.

(B) Issue a writ of mandamus or any other writ directing the respondents to ensure immediate installation of mobile public toilets till the time permanent public toilets are constructed.

(C) Issue a writ of mandamus or any other writ directing the respondents to take care of the problem of water logging as currently being faced by the residents.

(D) Pass an order directing the Department of women and child development for the proper arrangement of Anganwadis for hundreds of poor and deprived children. So, that they are able to get basic nutrition.

(E) Pass an order directing the Delhi Urban Shelter Improvement Board and Department of women and child development for the proper medication and care to these poor slum dwellers.

(F) Pass any such directions or order which this Hon'ble court deems fit and proper in the facts and circumstances of the above mentioned case.”

3. We have heard learned counsel appearing for the respondent nos. 1 and 2 at length who have taken us to their respective counter affidavit filed by them in detail.

4. Learned counsel appearing for the respondent no.1 submits that detailed counter affidavit has been filed. Paragraph nos. 5, 6 and 7 of the counter affidavit of respondent no.1 read as under :

“5. That the aforesaid area i.e. T Huts, H Block, Jhuggi under Metro Bridge, New Yamuna Bridge, Shashtri Park, New Delhi, is not a notified Slum and JJ Cluster, and does not figure in the list of notified Slum and JJ Cluster in Delhi. Moreover, it is a low-lying area which is lying on the bed of River Yamuna which is known as Khadar. Therefore, since the Jhuggi Cluster in question, is existing on the bed of River Yamuna, it is not possible to develop any drainage system in the area in question. Further, even as per the Swachh Bharat Mission, no direct waste water/sewage line can be laid or drained in the stream of river. Since no system of drainage and sewer line can be laid in the aforesaid area being a River bed, it is neither possible to provide facilities for a permanent toilet facility or any mobile public toilet. These facilities cannot be provided as no outlet can be provided owing to the fact that no waste water/sewage can be laid in the stream of the river.

6. That further, it is not even possible to provide toilet complex with septic tank in the area in question. Since the cluster lies on river bed of River Yamuna and is a low lying

area, construction of septic tank in the area is neither feasible nor allowed.

7. *That therefore, the DUSIB cannot be faulted in any manner for not providing any toilet block or drainage system in the aforesaid area, as the topography of the area does not permit to lay/construct any drainage system on the river bed. No drainage/disposal can directly be provided to the River Yamuna, thus, disposal of drainage is not possible into River Yamuna. Any such action will lead to pollution of River Yamuna, which is already a highly polluted river.”*

5. In view of the aforesaid submissions, it appears that due to low laying areas near Yamuna Bridge, for which this writ petition has been preferred, development of drainage system is not possible for construction of Community Toilet Blocks. However, learned counsel for the Delhi Urban Shelter Improvement Board (DUSIB) submits that they will explore the possibility of installation of bio digester toilet facilities after receiving the response from Electrical Division in this regard.

6. As far as providing the facilities under the Integrated Child Development Scheme (ICDS) of the respondent no.2 are concerned, paragraphs 3 and 4 of the affidavit of the respondent no.2 read as under:

“3. *That on 22nd to 30th September, 2018, a survey of the area referred in the present petition i.e. concerned i.e. T Huts, H Block, Jhuggi under the Metro bridge, near Yamuna Bridge, Shastri Park, New Delhi was done by Smt. Neena, Supervisor of concerned area ICDS (Integrated Child Development Scheme) project, Geeta Colony and a report of such survey was*

submitted to the CDPO (Child Development Program Officer) of the concerned project. The details observed in the survey are as under :-

- 1. Total Houses in the area - 56*
- 2. Total population of the area - 286*

Details of the beneficiaries of the above mentioned area concerned in ICDS Project Geeta Colony, Deptt. Of W&CD are as under :

- 1. Pregnant and Lactating mother - 08*
- 2. Children (07 months to 01 year)- 03*
- 3. Children (01 years to 03 years) - 15*
- 4. Children (03 years to 06 years) - 08*

Therefore, the

Total no. of beneficiaries is - 34

It has further been submitted by the CDPO concerned that, as per norms, an Anganwadi cannot be opened in the said area due to the population of the said area being lesser than the minimum population required for establishment of an Anganwadi. However, it has been suggested by the CDPO Concerned Smt. Achala Rani, that the beneficiaries of the said area can be covered by the nearby Anganwadi i.e. AWC No.49. True copy of letter by Government of India, Ministry of Women

and Children Development bearing no. F No.14-1/2004-CDI (Vol.II) is annexed as Annexure A-1.”

7. In view of the above, we see no reason to further monitor this case as the respondents are already taking care of the issues raised in this petition.

8. Moreover, respondent no.1/DUSIB is also exploring the possibility of installation of bio digester toilet facilities as construction of Community Toilet Blocks are not possible due to low lying areas in question where development of sewage/drainage system is not possible at all. Similarly respondent no.2 is ready to provide nearby Anganwadi facilities from nearly Anganwadi Centre, i.e. AWC No. 49 to the residents of the area in question.

9. We hope and expect from the respondent no.1 that after getting a response from the Electrical Division, looking to the priority of the works pending with them, bio digester toilet shall be provided at the aforesaid place as early as possible and practicable.

10. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

FEBRUARY 27, 2020/kr