

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CWP-35405-2019 (O&M)
Date of decision: 13.03.2024

Imran

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Prem Chand Chaudhary, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG Haryana.

Mr. Anil Chawla, Advocate for respondent No.5.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for issuance of directions to the respondent to conduct an enquiry into the unfortunate death of Sewer-man Dev Raj @ Toni, Caste Balmiki resident of Balmiki Basti, Purana Hamida, Yamuna Nagar, during maintenance work of Sewer line from Petrol Pump to Mini Secretariat, Sector-17, HSVP Jagadhari, Yamuna Nagar.
2. Learned counsel appearing on behalf of the petitioner contends that the petitioner is an illiterate poor rustic young labourer, carrying out multifarious works on daily wages basis. The petitioner had purchased a second class construction house of 100 Sq. Yards in village abadi of Mamidi within the Municipal Limits of Yamuna Nagar from its registered owner

namely Ram Niwas son of Jai Kishan, with hard earned money vide sale deed No.2567 dated 15.06.2017 registered with Sub-Registrar, Jagadhari, to provide shelter to his family. On 06.05.2019, the petitioner along with some other labourers including Dev Raj @ Toni were engaged by Sub-Divisional Engineer, Public Health Engineering Department, Yamuna Nagar, for doing the cleansing work of sewerage manhole in Sector-17, HUDA, Jagadhari, under the joint supervision and direct control of Public Health Engineering Department and Haryana Urban Development Authority, however, the mandatory safety requirements and saving devices were not made available to them. While undertaking the cleansing work, Sewer-man Dev Raj @ Toni died due to asphyxia of poisonous gases. With a view to save their own skin, the Sub-Divisional Engineer of both the Public Health Engineering Department and the Haryana Urban Development Authority, made the petitioner as scape goat in FIR No.493 dated 06.05.2019 registered under Section 304-A IPC at Police Station City Jagadhari.

3. The Sub-Divisional Engineer of both the Public Health Engineering Department and the Haryana Urban Development Authority had also managed to get a notice issued dated 08.05.2019 issued to the petitioner by projecting him as a Contractor under Section 10-A of the Employee's Compensation Act, 1923 from the Commissioner under Employee's Compensation Act and an assessed compensation of Rs.7,78,560/- was also ordered to be paid. It is further alleged that they conspired, colluded and connived with Contractor Amandeep Singh to arrange payment of above amount of compensation and got Rs. 7,50,000/-

deposited in the bank account of the petitioner on 20.05.2019 by way of transfer from account of the Amandeep Singh so as to make payment of compensation amount to the Commissioner under the Employee's Compensation Act, 1923 in lieu of the said amount and obtained an agreement of sale dated 15.05.2019 w.r.t. residential house of the petitioner. It is alleged that the above said transactions were under pressure, fear and due to poverty and illiteracy. Various complaints were submitted by the petitioner to the competent authorities but the same were not replied to. A legal notice was thereafter sent on 14.08.2019 whereupon, the HSVP conveyed that the issue does not relate to the them and the same was to be taken up by the Public Health Engineering Department.

4. Reliance was placed upon Section 12 of the Employee's Compensation Act, 1923 to contend that the petitioner was not a Contractor and was rather engaged as a labour to carry out the said work along with others including Sewer-man Dev Raj @ Toni, who accidentally died during the said work.

5. Written statement through the Superintending Engineer, Public Health Engineering Circle, Ambala Cantt. had been filed on behalf of respondents No.1 to 4, wherein it was averred that the sewer line of size 900 mm was laid down and maintained by the Haryana Urban Development Authority, Jagadhari-now Haryana Sahari Vikas Pradhikaran. The sewer line was choked near Preak Filling Station due to which the adjacent colonies were affected badly. A request was sent by the Executive Engineer, Public Health Engineering Department to Executive Engineer, HSVP to ensure that

the blockage is clear. The engagement of Sewer-man was undertaken by the HSVP on 06.05.2019 and during the said work Sewer-man Dev Raj @ Toni died in an unfortunate incident. An enquiry was conducted by Sub-Divisional Engineer, Public Health Engineering Department, Sub-Division No.1, Jagadhari, and it was found that the petitioner had engaged Sewer-man/worker for cleaning the blockage on the asking of Sitar Ali, Supervisor of HSVP, Department. The Public Health Engineering Department had also made a reference to the statement of the petitioner as per the which he had been engaged by the HSVP to carry out the said work and their department has no concern with the same.

6. A separate reply had also been filed by the Superintending Engineer, HSVP, Karnal, wherein the said office has reported that there was sewerage complaint and the said line belongs to both HSVP and Public Health Engineering Department and that the incident took place when the Public Health Engineering Department was in the process of routine cleaning of sewerage lines to remove the blockages. It was further submitted in the said reply that Executive Engineer, Public Health Division No.1 had even though communicated to the Executive Engineer, HSVP Division, Karnal to clear the blockage of sewerage line, however, the same was actually removed by the Public Health Engineering Department at their own level.

7. Evidently, the Public Health Engineering Department as well as HSVP are shifting the burden while the reply filed by the Public Health Engineering Department submits that the work of cleaning was being

undertaken by the HSVP and have placed reliance on the statement of the petitioner as per which the Supervisor of HSPV had engaged him to ensure that the sewerage is run properly, the said aspect is denied in its entirety by respondent-HSVP.

8. Under the given circumstance, the present petition is **disposed of** with a direction to the Additional Chief Secretary/Principal Secretary, Department of Public Health Engineering, Haryana, to ensure that an enquiry is conducted into the manner of the incident and as to which department was undertaking the work of clearing the blockage of sewer line at that point of time. Further, the said authority shall also determine as to how and under what circumstances, the petitioner had been engaged and as to whether he had been engaged as daily wager or contractor to carry out the work in question at his own level. Let the entire exercise be concluded **within a period of 04 months** of the receipt of certified copy of this order.

13.03.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No