



2025:DHC:985-DB



\$~86

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 1717/2025 & CM APPLN. Nos.8295-96/2025****MUNISH KUMAR GAUR**

...Petitioner

Through: Mr. Umesh Sharma, Mr.
Siddharth Kaushik, Advocates
alongwith the petitioner in person.

versus

GOVT OF NCT OF DELHI & ORS

...Respondents

Through: Mr. Sameer Vashisht, Standing
Counsel (Civil), GNCTD with Mr.
Manashwy Jha, Advocate for R-1
to R-3.Ms. Manisha Agrawal Narain,
CGSC with Ms. Archana Kumar,
GP for UOI.

Dr. S.S. Hooda, Advocate for R-5.

%

Date of Decision: 12th February, 2025**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J : (ORAL)**

1. Present public interest litigation has been filed, *inter alia*, seeking the following prayers:-

*“a) Writ, order of direction in the nature of **MANDAMUS** or any other appropriate writ order or direction thereby directing the respondents to consider and deal with the representation dated 23/5/2024 as made by the petitioner consisting of all the irregularities*



and to deal and decide the same in accordance with law after holding a detailed enquiry in the matter.

*b) Writ, order of direction in the nature of **MANDAMUS** or any other appropriate writ order or direction thereby restraining the respondent no. 1 & 3 from releasing cess funds to their political cadres and those who are not entitled to receive the same.*

*c) Writ, order of direction in the nature of **MANDAMUS** or any other appropriate writ order or direction thereby directing the respondents to hold a detailed enquiry through investigating agency like CBI to investigate the defalcation of cess funds which has been constituted exclusively for construction workers has been disbursed to non construction workers since many years.*

*d) Writ, order of direction in the nature of **MANDAMUS** or any other appropriate writ order or direction thereby appointing a Commission headed by a retired High Court of Supreme Court Judge to enquire and unearth the operating nexus in defalcating the funds of the Delhi Building and Other Construction workers Board running into hundreds of crores so that remedial measures to protect the huge amount of Government money be taken by the Government.*

*e) Writ, order of direction in the nature of **MANDAMUS** or any other appropriate writ order or direction thereby directing the respondent NO. 1, 2 & 3 to act and comply with the audit findings and objections raised by the Respondent No. 5, fixing responsibility of the Government in defalcation of huge amount of government money in such brazen manner.*

f) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice"

2. The petitioner claims to have served for 32 years as an officer in the employment of the Labour Department of Government of NCT of Delhi. Petitioner's grievance stems from the claim that there is large scale irregularities, defalcation of accounts and fraud being committed by the officers of the Delhi Building and Other Construction Workers Welfare Board (hereafter the '*DBOCWW Board*') and the department in connivance/collusion with the political parties under the garb of Trade Unions siphon off hundreds of crores of rupees (Rs.300 crores) in the



name of providing weekly or monthly subsistence allowance or other monetary benefits to the building construction workers in Delhi. Petitioner claims that the Department purports to have on its rolls, approximately 13 lakhs registered building construction workers to whom such payments have been doled out. Petitioner stoutly suggests that most of such workers are bogus entries and not verified and the subsistence allowance and other benefits under the provisions of the Building and other Construction Workers Act, 1996 (hereafter the '*BOCW Act*'), have been siphoned and diverted into the hands of unscrupulous officials and their political bosses, particularly the previous regime.

3. Petitioner also informs that upon a formal complaint dated 30.10.2017 filed by the Labour Officer, West, the Anti Corruption Bureau of Delhi Police (hereafter the '*ACB*') had registered an FIR bearing FIR No.4/2018 under Sections 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 read with Sections 420, 468, 471, 120B, Indian Penal Code, 1860 in respect of similar fraud and siphoning of funds accrued from Cess being collected by the respondent/GNCTD mandatorily under the provisions of the Act. Petitioner states that the said cess collected are public funds of which the State is a guardian, thus responsible and answerable to the public at large. Petitioner also informs that in respect of the aforementioned FIR, no chargesheet has been filed till date.

4. By way of the present public interest litigation, the petitioner seeks direction to CBI to investigate into the allegations as well as appointment of a Commission headed by a retired High Court or



Supreme Court Judge to enquire and unearth the operating nexus in defalcating the funds of the DBOCWW Board and take the case to its logical conclusion, apart from other reliefs.

5. Though we have heard learned counsel for the petitioner who had argued at length, the petitioner-in-person also requested audience to urge additional submissions, which was granted, though ordinarily it is neither the tradition nor the practice.

6. The issue of registration of building construction workers under the BOCW Act with the DBOCWW Board and the disbursal of benefits accruing thereunder has been engaging the attention of this Court in two writ petitions bearing W.P.(C) 10617/2024 and W.P.(C) 2991/2020. In those matters, which are in the nature of PIL, this Court has been passing various orders and directions from time to time. In the last few dates of hearing, this Court had given positive directions to the Labour Department as well as the DBOCWW Board to collate the complete data in respect of the total number of construction workers who are working in various construction sites all over Delhi. Pursuant thereto, the Labour Department had divulged about 271 establishments/organisations registered with the Labour Department which may be undertaking various large scale construction projects in Delhi. The DBOCWW Board also has collated information and updated from time to time, the measures undertaken by it to register the construction workers in Delhi. Pursuant thereto, the DBOCWW Board has apprised this Court of the statistics involved therein. Though complete details are yet to be furnished, from the information already available, we gather that the DBOCWW Board has been able to register a substantial number of



building construction workers in Delhi.

7. The Supreme Court in ***M.C. Mehta vs. Union of India & Ors.***, W.P.(C) 13029/1985, in the recent past, has been passing positive and strict directions to various State governments and their departments including the GNCTD to forthwith release funds to the beneficiaries under the BOCW Act, i.e., the building construction workers. It would be pertinent to note that the Supreme Court had passed such orders keeping in view the Graded Response Action Plan (GRAP) conditions prevailing in Delhi during the months from October, 2024 to January, 2025 in the wake of uncontrolled and extremely high pollution levels. It appears that the Supreme Court was cognizant of the vulnerable financial situation of the construction workers, particularly in Delhi, largely being migrant population from other States who may not have any other means of livelihood. It appears that the Supreme Court clearly understood that the building construction workers were destitute and would have been in penurious condition in those days when construction work was stopped. The order dated 25.11.2024 passed by the Supreme Court in ***M.C. Mehta*** (*supra*) is extracted hereunder:-

“4. As we are continuing the Stage IV norms, pending further orders, we direct all the NCR States to use the funds which have been collected as labour cess for the welfare of the construction workers by providing them weekly subsistence allowance for the period which the construction activities are prohibited. In substance, all the NCR States will comply with the directions issued by this Court in terms of clause (ii) of the order dated 24th November 2021 relating to payment of the requisite amount by way of subsistence allowance. The action shall be taken immediately by the State Governments.”

Orders for compliance of the directions were being passed from



time to time by the Supreme Court.

8. It would be pertinent to note that in the order dated 03.02.2025, the Supreme Court in *M.C. Mehta (supra)* has noted that so far as payment of subsistence allowance to construction workers is concerned, various States including Delhi have been non-compliant. Possibly, it was in compliance of the orders passed by the Supreme Court as referred to above, the GNCT of Delhi may have released funds to the building construction workers. Except to express apprehension of huge sums of money having been released to allegedly unverified and bogus construction workers by the petitioner, no empirical data to substantiate the same has been placed on record. Thus, it may not be appropriate for this Court to venture into such apprehensions at this stage.

9. At the same time, keeping in view the gravity of the nature of the allegations expressed in the present PIL, and having due regard to not closing the right of the petitioner, we grant liberty to the petitioner to present an appropriate complaint/grievance alongwith all the evidence in his possession with the ACB, which is already cognizant of the FIR No.4/2018 as noted hereinabove.

10. In that view of the matter, no further orders are required to be passed and the PIL stands closed.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 12, 2024/rl