

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14589 of 2021

In Re Death of Sanitation Workers

Mrs. Pami Rath
Mr. B.P. Tripathy
Amicus Curiae

-versus-

Chief Secretary and others

Opp. Parties
Mr.M.S. Sahoo, A.G.A.

CORAM:
THE CHIEF JUSTICE
JUSTICE SAVITRI RATHO

ORDER

06.07.2021

Order No.

05.

1. This matter is taken up through video conferencing mode.
2. As regards the compensation payable to the families of the victims in the Bhubaneswar incident it is pointed out by and Mr. B.P. Tripathy, learned Amicus Curiae (AC) that in paragraph-3 of the affidavit filed by Opposite Party No.10, i.e., Water Corporation (WATCO) it is stated that the families of each of the deceased persons viz. late Sri Sunaram Sardar and late Sri Sulabu Birua have been paid Rs.5 lakhs each. It is further stated that since they were involved in construction of the septic tank they are liable to be compensated as per Schedule-4 of the Employees Compensation Act.
3. In the affidavits of both WATCO as well as Opposite Parties 1 to 4, it is stated that further sums of Rs.5,16,169/- and Rs.1,26,287/- are payable to the families of late Sri Sulabu Birua and late Sri Sunaram Sardar respectively. These amounts

are stated to have been deposited with the Commissioner -cum- Joint Labour Commissioner, Bhubaneswar for disbursement. In the said affidavits it is further stated that apart from the above amounts, the families are also entitled to the insurance benefit to the tune of Rs.9.15 lakhs in respect of the death of late Sri Sunaram Sardar and Rs.14.84 lakhs in respect of the death of late Sri Sulabu Birua.

4. Mrs. Pami Rath, learned AC informs the Court that the District Legal Services Authority (DLSA), Mayurbhanj has been approached and will extend all possible assistance to the family of Sri Sunaram Sardar to receive the above compensation and insurance amounts. Mr. Sahoo, learned AGA also informs the Court that the State too will extend all possible assistance and assuring that the above amounts are paid to the families concerned by the next date.

5. The Court requests the DLSA at Mayurbhanj as well as the DLSA at Chaibasa, Jharkhand to extend every possible assistance to the families of the aforementioned two victims located in their respective jurisdictions to ensure that the above amounts are paid to them. The Secretaries of the DLSA, Mayurbhanj and the DLSA Chaibasa will file compliance affidavits in this Court before the next date. A copy of this order be sent to each of them forthwith by e-mail and conveyed telephonically by the Registry for compliance.

5. Mrs. Rath, learned AC, has filed a note as regards the compensation amount received by the wife of the deceased

victim P. Sankar in the incident in Cuttack. As far as the second deceased Bishnu Nayak is concerned, his family members do not stay in Cuttack. One of the relatives has informed the AC that the mother of the deceased has received Rs.10 lakhs from the government authorities and a matching sum from the private contractor.

6. The injured victim D. Siba was out on work. He appeared to have received Rs.2 lakhs from the private contractor but no compensation from the government authorities. Mr. M.S. Sahoo, learned AC, states that he will seek instructions in this regard and inform the Court on the next date.

6. As regards the unfortunate incident at Phulbani in Kandhamal Mrs. Rath has submitted a two-page note confirming that two persons who entered a newly constructed septic tank of a house in Pitabari village in Phulbani died after becoming unconscious. Of the two, one was an Army person and the other was a labourer. Mr. Sahoo, AGA, states that he will file a detailed report in this regard by the next date. The Court directs that the compensation amount payable as a result of the above incident should be immediately disbursed by the authorities/entities concerned to the families of the victims without delay and in any event by the next date.

7. It appears that in response to the intervention by this Court, the Housing and Urban Development Department, Government of Odisha on 7th May, 2021 issued a detailed advisory/set of instructions to all the Municipal Commissioners of the five

Municipal Corporations in Odisha, i.e., Bhubaneswar, Cuttack, Berhampur, Rourkela and Sambalpur, to the municipal authorities in four towns viz., Balasore, Baripada, Bhadrak and Puri, the Executive Officer of all Municipalities and Notified Area Councils (NACs), all other urban local bodies as well as to the Managing Director of WATCO, the Member Secretary, Orissa Water Supply Sewerage Board (OWSSB) on: ‘Prohibition of human entry into septic tank and sewer network –functioning of Emergency Response Sanitation Units’ (ERSU)’. Paragraph-2 of the said advisory reasons read as under:

“One of the foremost objectives is to ensure that, no person, local authority or any agency shall engage or employ, either directly or indirectly, any person or employee for manual cleaning of a sewer or a septic tank without the employer fulfilling his obligation to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed.”

सत्यमेव जयते

8 Annexure-C to the said circular is the “guidance to various stakeholders associated with providing sanitation services” and talks of their respective roles and responsibilities”, use of “appropriate technological appliances for cleaning of sewer network and septic tanks” and so on. The Court notes all the steps required to be taken in light of the said advisory/circular would not be limited to manual scavengers as statutorily defined but sewer cleaners and sanitation workers as well.

9. The Court would like to know, to begin with, if in fact in response to the above advisory, appropriate ERSUs have been

established in each of the five Municipal Corporations and four towns as mentioned therein. The Additional Secretary to Government, Additional Mission Director, SBM (Urban) is directed to file an affidavit before the next date confirming that the above ERSUs are functioning and are appropriately equipped to carry out all the steps indicated in Annexure-C to the said circular. The Secretary, OWSSB will also file an affidavit indicating the steps taken by that body by way of implementation of the above circular.

11. Both the AC state that they will examine the affidavit filed by Opposite Party Nos.1 to 4 and submit a note on the further directions required to be issued by the Court.

12. List on 2nd September, 2021.

13. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021.

(Dr. S. Muralidhar)
Chief Justice

(Savitri Ratho)
Judge