



W.P.No.17380 of 2017 etc.

W.P.Nos.17380 of 2017; 31345 of 2014
and W.P.(MD) No.24243 of 2017

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THE HON'BLE CHIEF JUSTICE
and
J.SATHYA NARAYANA PRASAD,J.

(Order of the court was made by the Hon'ble Chief Justice)

Dr.B.R.Ambedkar, the Founding Father of our Constitution, said *"For ours is a battle not for wealth or for power. It is a battle for freedom. It is the battle of reclamation of human personality"*.

2. Courts are the bulwark of the Constitution and the laws. While the courts acknowledged the right of a human corpse for decent burial/cremation and right to sleep as fundamental rights, it is disheartening to note that the practice of manual scavenging, which is a dehumanizing practice, still subsists. The petitioners seek eradication of such practice root and branch, so also compensation for the deaths caused due to manual scavenging.

3. The practice of manually cleaning human waste without any protective gear, is a grave violation of human rights. Despite being



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outlawed in many countries, including India, manual scavenging continues to persist, perpetuating the cycle of oppression and discrimination faced by the individuals engaged in this hazardous profession, where they are exposed to a myriad of health hazards, including respiratory illnesses, skin diseases, and infections.

4. In W.P.No.17380 of 2017, Safai Karmachari Andolan/the petitioner therein, inter alia, seeks directions against the respondents to stop using manual scavenging method; take criminal action in cases of violation; compensate fully for the deaths owing to manual scavenging; use of machines for clearing septic tanks; and, to strictly enforce the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (for short, "*the Act of 2013*").

5. Time and again, orders have been passed by this Court giving various suggestions and directions to the authorities concerned to take preventive measures to eradicate the practice of manual scavenging.



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WEB COPY 6. We have heard Mr.Srinath Sridevan, learned Senior Counsel for the petitioner in W.P.No.17380 of 2017, so also learned advocates for other petitioners; learned counsel for the Corporations/ Municipalities and learned Government Advocates appearing on behalf of the State.

7. In the orders passed from time to time, this Court recorded about the deaths caused on account of the manual scavenging and the complaints filed. An assurance is given by the Corporations/ Municipalities to use machines.

8. Despite such assurances given by the authorities, the enactment/existence of various laws and policies prohibiting manual scavenging, the practice continues to persist due to deep-rooted social norms, caste-based discrimination, and systemic failures. The lack of effective enforcement mechanisms and social awareness further perpetuate the problem, allowing manual scavenging to thrive in the shadows of society.



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WEB COPY 9. The persistence of manual scavenging is a stark reminder of the deep-rooted inequalities and discrimination that continue to pervade our society, perpetuating the cycle of poverty, oppression, and exclusion faced by marginalized groups.

10. We boast of the ground-breaking growth, but still there exists a community which makes its living by entering into septic tanks and manholes.

11. A "Manual scavenger" is defined under Section 2(j) of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993. The same reads thus:

"(j) "manual scavenger" means a person engaged in or employed for manually carrying human excreta and the expression 'manual scavenging' shall be construed accordingly."

12. The writ petition seeks eradication of manual scavenging and rehabilitation of all scavengers to more dignified job opportunity



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within the State of Tamil Nadu.

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13. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 was enacted about 46 years after independence with an intention to do away with the most atrocious and dehumanizing practice of manual scavenging. Practically, the said Act came into effect only in the year 1997. The said Act appears to be not sufficient to tackle the menace of manual scavenging. Subsequently, in the year 2013, the Act of 2013 was enacted pursuant to Entry 24 of the Concurrent List.

14. In the year 1993, another Act, namely, National Commission for Safai Karamcharis Act, 1993, was enacted. It mandated the National Commission for Safai Karamcharis to study, evaluate and monitor the implementation of various schemes for Safai Karamcharis as an autonomous organization and also to redress their grievances.

15. Apart from the National Commission, Committees were



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also appointed, namely, Malkani Committee. The said Committee insisted that dry latrines be eradicated so as to eradicate manual scavenging. The Committee on Customary Rights insisted that customary relationship between a house owner and scavenger should be cut out by bringing in a lot of awareness. The Pandya Committee recommended the enactment of a Central Legislation to regulate the working conditions, living conditions of the sweeper and scavenger communities and also recommended creation of adequate and efficient enforcement mechanism.

16. On 25.11.2019, this Court passed the following order:

"The disclosure made in the affidavit accompanying this application is far more than shocking. It discloses loss of 21 lives that were reportedly lost on account of they having been employed in manual scavenging in spite of the deterrents as contained in the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Apart from the said statutory prohibition, this also raises serious questions of not only fundamental rights guaranteed under the Constitution, but also human rights and in spite of such enactment being in place, the facts as



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disclosed prima facie are sufficient for this Court to invoke the extraordinary jurisdiction for taking appropriate action in the matter.

2. From the facts as brought on record, the allegations appear to be warranting not only a reply from the State Government but also from the respective Municipalities where these deaths have been reported viz., Coimbatore City Municipal Corporation; Villupuram Municipality; Nagapattinam Municipality and Kumbakonam Municipality as well as the Greater Chennai Municipal Corporation.

3. The response should be specific including as to how the deaths occurred inasmuch as it is not only for the purpose of taking action, but also for issuing directions for adopting measures for prevention in future and therefore, we direct learned counsel for the petitioner to implead all the aforesaid Corporation/Municipalities as party respondents in the main petition during the course of the day.

4. The newly impleaded Municipalities/Corporation as well as the State Government, through the Principal Secretary, Municipal Administration and Water Supply Department, shall file appropriate affidavits explaining their stand on the allegations so made with details of action taken or otherwise keeping in



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view the provisions of the 2013 Act and further come forward with a schedule as to what steps are required to be taken for preventing any such mishaps in future.

5. Affidavits be filed within two weeks.

6. Copy of pleadings may be served on the learned counsel for the newly impleaded respondents.

Put up on 10.12.2019, as prayed for.”

17. The Coimbatore City Municipal Corporation; Villupuram Municipality; Nagapattinam Municipality and Kumbakonam Municipality as well as the Greater Chennai Municipal Corporation were added as parties. The stand taken by the Corporation/Municipalities cannot be countenanced for the following reasons:

“Coimbatore City Municipal Corporation:

It is stated that post the 2013 Act, five accidents took place till the filing of affidavit and the municipality in its usual fashion has blamed the private parties and the contractor for the same and compensation of Rs.10 lakhs has been paid.



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Villupuram Municipality:

It is stated that since 26.06.2014 underground sewerage system has been used which was constructed at a cost of Rs.4,936 lakhs. The explanation given for the two deaths is that there has been a slip and fall and an unexpected mishap. The blame is shifted on a private contractor.

Nagapattinam Municipality:

It is stated that 2 deaths had occurred because of the fault of the private contractor and investigation is pending in that matter and that compensation has been paid.

Kumbakonam Municipality:

It has been stated that the municipality is providing underground drainage facilities for the past 30 years and that the cause of the death was imputed to a private contractor, namely Infra En Consulting Private Ltd. It is shown that compensation has been paid.

Great Chennai Municipal Corporation:

It has been stated that contractors were not engaged any more as in compliance with the order passed by



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the Hon'ble Apex Court in W.P No. 583 of 2003 and that 5 deaths that have happened were also compensated in accordance with law as against the contention of the petitioner and the Chennai Corporation has been taking all due steps to eradicate manual scavenging.

18. The Apex Court, in the case of *Safai Karamchari Andolan v. Union of India, (2014) 11 SCC 224*, has issued a slew of suggestions. The same are summarised as under:

"23.1. The persons included in the final list of manual scavengers under Sections 11 and 12 of the 2013 Act, shall be rehabilitated as per the provisions of Part IV of the 2013 Act, in the following manner, namely: -

(a) such initial, one time, cash assistance, as may be prescribed;

(b) their children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) they shall be allotted a residential plot and financial assistance for house construction, or a ready-built house with financial assistance, subject



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to eligibility and willingness of the manual scavenger as per the provisions of the relevant scheme;

(d) at least one member of their family, shall be given, subject to eligibility and willingness, training in livelihood skill and shall be paid a monthly stipend during such period;

(e) at least one adult member of their family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on sustainable basis, as per the provisions of the relevant scheme;

(f) shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

23.2. If the practice of manual scavenging has to be brought to a close and also to prevent future generations from the inhuman practice of manual scavenging, rehabilitation of manual scavengers will need to include:-

(a) Sewer deaths – entering sewer lines without safety gears should be made a crime even in emergency situations. For each such death, compensation of Rs. 10 lakhs should be given to the family of the deceased.



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(b) Railways – should take time bound strategy to end manual scavenging on the tracks.

(c) Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.

(d) Provide support for dignified livelihood to safai karamchari women in accordance with their choice of livelihood schemes.

23.3. Identify the families of all persons who have died in sewerage work (manholes, septic tanks) since 1993 and award compensation of Rs.10 lakhs for each such death to the family members depending on them.

23.4. Rehabilitation must be based on the principles of justice and transformation.

19. The Apex Court, in the case of *People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1473*, has held as under:

"13. ... It is therefore clear that even if a person has contracted with another to perform service and there is consideration for such service in the shape of



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liquidation of debt or even remuneration he cannot be forced, by compulsion of law or otherwise, to continue to perform such service, as that would be forced labour within the inhibition of Article 23. This article strikes at every form of forced labour even if it has its origin in a contract voluntarily entered into by the person obligated to provide labour or service (vide Pollock v. Williams [322 US 4: 88 L Ed 1095]). The reason is that it offends against human dignity to compel a person to provide labour or service to another if he does not wish to do so, even though it be in breach of the contract entered into by him."

20. In *Dr. Balaram Singh v. Union of India, 2023 INSC 950*, the Apex Court held:

"97. If we are to be truly equal, in all respects the commitment that the constitution makers gave to all sections of the society, by entrenching emancipatory provisions, such as Articles 15 (2), 17, 23 and 24, each of us must live up to its promise. The Union and the States are duty bound to ensure that the practice of manual scavenging is completely eradicated. Each of us owe it to this large segment of our population, who have remained unseen, unheard



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and muted, in bondage, systematically trapped in inhumane conditions. The conferment of entitlements and placement of obligations upon the Union and the States, through express prohibitions in the constitution, and provisions of the 2013 Act, mean that they are obliged to give real meaning to them, and implement the provisions in the letter and spirit. Upon all of us citizens lie, the duty of realizing true fraternity, which is at the root of these injunctions. Not without reason does our Constitution place great emphasis on the value of dignity and fraternity, for without these two all other liberties are chimera, a promise of unreality. It is all of us who today proudly bask in the achievements of our republic, who have to awake and arise, so that the darkness which has been the fate of generations of our people is dispelled, and they enjoy all those freedoms, and justice (social, economic and political) that we take for granted.”

21. In the recent decision, the Apex Court increased the compensation of Rs.10 lakh to Rs.30 lakh and further directed that survey be conducted within one year by the National Commission for Safai Karamcharis; the National Commission for Scheduled Castes;



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and the National Commission for Scheduled Tribes.

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22. In *Re: Deaths of Sanitation Workers v. State of Odisha and others*, 2021 SCC OnLine Ori 383, a Division Bench of the Orissa High Court made the following observations:

"When Article 17 was written into the Indian Constitution more than seventy years ago, abolishing untouchability, forbidding its practice in any form and declaring that enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law, it was with the hope that the practice of untouchability in general and manual scavenging in particular would not continue in a free and independent India. It is inexplicable that a democratic country governed by the Constitution, the Preamble to which assures to all Indians social justice, equality of status and of opportunity, fraternity assuring the dignity of the individual, should witness, and condone, in the 21st century, the deplorable practice of making humans enter sewer lines and septic tanks that require cleaning, without protective gear, and in that process sacrifice their lives for the better health of their fellow beings. According to the Ministry of Social



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Justice and Empowerment, Government of India, in the last five years at least 340 sanitation workers in India lost their lives cleaning sewers and septic tanks.”

23. In *Delhi Jai Board v. National Campaign for Dignity and Rights of Sewerage and Allied workers*, (2011) 8 SCC 568, the Apex Court observed thus:

“31. It is the duty of the judicial constituent of the State like its political and executive constituents to protect the rights of every citizen and every individual and ensure that everyone is able to live with dignity.

32. Given the option, no one would like to enter the manhole of sewage system for cleaning purposes, but there are people who are forced to undertake such hazardous jobs with the hope that at the end of the day they will be able to make some money and feed their family. They risk their lives for the comfort of others. Unfortunately, for last few decades, a substantial segment of the urban society has become insensitive to the plight of the poor and downtrodden including those, who, on account of sheer economic



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compulsions, undertake jobs/works which are inherently dangerous to life. People belonging to this segment do not want to understand why a person is made to enter manhole without safety gears and proper equipment. They look the other way when the body of a worker who dies in the manhole is taken out with the help of ropes and cranes. In this scenario, the Courts are not only entitled but are under constitutional obligation to take cognizance of the issues relating to the lives of the people who are forced to undertake jobs which are hazardous and dangerous to life.

33. It will be a tragic and sad day when the superior Courts will shut their doors for those, who without any motive for personal gain or other extraneous reasons, come forward to seek protection and enforcement of the legal and constitutional rights of the poor, downtrodden and disadvantaged sections of the society..."

24. It would appear that the Apex Court has also taken cognizance of the evil of manual scavenging and has issued directions from time to time, but, still the manual scavenging is not



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completely eradicated.

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25. The instances placed on record in the present matter are testimony to the said fact. The deaths caused of the manual scavengers are on record. The First Information Reports are also filed to that effect testifying that the manual scavenging still exists.

26. In the seminal book, "*Where India Goes*", the Authors Diane Coffey and Dean Spears, on the basis of facts and figures have demonstrated the impact of germ exposure causing stunted growth in children as a direct consequence of open defecation and manual scavenging. The families of Safai Karamcharis are particularly vulnerable to this negative impact. The cognitive abilities, height, BMI etc. of children in these families are adversely affected as a result of frequent ailments of the stomach in their formative years. With a vast majority of Safai Karamcharis being from the oppressed classes, this State sanctioned casteism is a hindrance in ensuring a life of dignity to the Safai Karamcharis and their families, as is enshrined in the Constitution of India under



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Article 21. In the past there may have been a need for manual scavenging in the absence of technology. The situation as it stands in 2024 is different, not a single human being needs to be sent down a sewer. Doing so is nothing less than State sanctioned casteism in complete contravention of Constitutional ethos. Forcing a work upon a person as against his health, dignity and that of his family despite there being machinery available needs to be done away with. No bureaucratic redtape or claims of lack of funds can be an acceptable justification for not ensuring a life of health and dignity to the affected class of persons. This is nothing less than an extension of the notion of ritualistic purity and there needs to be a mind-shift change in the soul of the people. The buck starts and stops with the State. The Court being a protector and guarantor of fundamental rights, cannot be a mute spectator in such cases and allow a generational condemnation of an oppressed class to a life of poverty, ill-health and indignity in complete disregard of their fundamental rights enshrined in Article 21 of the Constitution of India.



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27. Apart from the physical health risks, manual scavenging also takes a toll on the mental health and well-being of those involved. The stigma and social ostracism associated with this work lead to feelings of shame, low self-esteem, and psychological distress among manual scavengers. The lack of alternative employment opportunities further perpetuates their socio-economic marginalization, trapping them in a vicious cycle of poverty and discrimination.

28. During the course of hearing, we were ably assisted by learned Senior Counsel, Mr.Srinath Srideven, who had taken pains to bring to the notice of this Court various instances of deaths caused of manual scavenging. One of the contentions of learned Senior Counsel is that the definition of "sewer" should also include "*storm water drain*". Sewer is defined under Section 2(q) of the Act of 2013. Sewer means an underground conduit or pipe for carrying off human excreta, besides other waste matter and drainage wastes. The storm water drains go through densely populated areas and commercial areas. While clearing the storm water drain,



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persons have to physically enter the drain to clear the drainage wastes.

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29. The definition of "sewer" under Section 2(q) is not a restricted definition. It includes not only the underground conduit or pipe for carrying off human excreta, but also includes other waste matter and drainage wastes. Considering the wide definition of "sewer" and the nature of work done by the persons who are required to enter the storm water drain occasionally, the definition of "sewer" will have to be read down to also include persons who are required to enter the pipes for clearing waste matter and drainage wastes. The same would also be extended to that extent to the storm water drains.

30. Safai Karamchari Andolan has given some suggestions. One of the requests made by learned Senior Counsel appearing on behalf of Safai karmachari Andolan is to issue continuous mandamus in the matter as is done by the Apex Court in the case of *Swaraj Abhiyan v. Union of India and others*, (2016) 7 SCC 498.



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WEB COPY 31. Efforts to eradicate manual scavenging should be taken forthwith with a view to prioritize the protection of human rights, dignity, and well-being of those engaged in this hazardous work. This requires a multi-faceted approach that includes legislative reforms, social awareness campaigns, skill development programs, and alternative livelihood opportunities for manual scavengers.

32. The government must take proactive measures to enforce existing laws, provide adequate protection and compensation to manual scavengers, and promote socio-economic empowerment initiatives to break the cycle of oppression and discrimination. Civil society organizations, activists, and the media play a crucial role in raising awareness, advocating for policy reforms, and holding governments and employers of such manual scavenging methods accountable for the violation of human rights.

33. The eradication of manual scavenging requires a concerted effort from all stakeholders, including governments, civil society



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organizations, employers, and communities. It is not only a moral imperative but also a legal obligation under international human rights laws to ensure the protection and well-being of all individuals, regardless of their caste, gender, or socio-economic status.

34. In our firm view, manual scavenging is a bane on society that perpetuates the violation of human rights and dignity of marginalized communities. It is a stark reminder of the deep-rooted inequalities and discrimination that continue to persist in our society, highlighting the urgent need for collective action to eradicate this hazardous practice and ensure the socio-economic empowerment and well-being of manual scavengers. All-out efforts will have to be made to eradicate the manual scavenging and see that the same is replaced by machines. The Corporations/ Municipalities, it appears, are taking steps in that direction. However, the same has to be fructified to its optimum.

35. In view of the above, we are not inclined to dispose of these matters. We are issuing the following guidelines for the



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respondent authorities to consider and comply appropriately:

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- (i) Take stringent action against those engaging or employing persons for manual scavenging.
- (ii) Provide protective and safety equipments, in accordance with the Act, in case of using the manual scavengers for sanitary works.
- (iii) Ensure the clearing of sewer, septic tank, storm water drains etc. is completely mechanized.
- (iv) Ensure the strict implementation and compliance of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.
- (v) Sensitize sanitary workers and manual scavengers on the perils of manual scavenging.
- (vi) Sensitize sanitary workers and manual scavengers about the prohibition, legislative provisions and various schemes/initiates available for their rehabilitation and skill



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development for alternative employment.

(vii)The compensation for the death fixed at Rs.30 lakh under G.O.Ms.No.5, Municipal Administration and Water Supply Department, dated 23.1.2024 may be increased once in three years.

(viii)The compensation for the persons, who died pending the present public interest litigation i.e. from the year 2017 may be enhanced from Rs.10 lakh to Rs.20 lakh depending upon the injury and the same to be paid to the legal heirs of the person, who died as per the list provided in the affidavit filed in support of W.M.P.No.6849 of 2021.

(ix)The compensation to the injury suffered by the person is fixed at Rs.10 lakh in G.O.Ms.No.5, Municipal Administration and Water Supply Department, dated 23.1.2024 (or) Rs.20 lakh in the case of permanent disability.



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- (x)The above payment of injury compensation shall be paid to the persons, who suffered injuries/scavenging related ailments disabilities pending the present public interest litigation.
- (xi)The State Government is directed to frame a scheme for offering compassionate appointment to one member of the family of the deceased scavenger and the same is applicable only from the year 2017 when the present public interest litigation is filed.
- (xii)The manual scavenging must be fully eradicated at least in a phased manner may be by the year 2026.
- (xiii)In order to rehabilitate, the manual scavengers must be provided employment in the Group-IV posts according to their qualification by the Government.
- (xiv)The authorities may verify the list of manual scavengers provided by the petitioners and



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issue identification cards, as permissible under the relevant statute.

(xv) More deterrent action in respect of cases of manual scavenging should be taken:

(a) Filing FIRs only against the contractors is not sufficient. The FIR should be lodged against the head of the local body in question may be the Panchayat, Municipality, Municipal Corporation etc.

(b) Currently, FIRs are being filed only in cases of deaths. That too, it is done by identifying a convenient scapegoat, typically a lowly employee of the contractor. The heads of the local bodies get away scot-free. There is no disincentive for such persons.

(c) In the event any death or disability occurs in the course of manual scavenging, in deserving cases, the FIR must be lodged against the following persons: Commissioner-



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Death within a City Municipal Corporation. (In cases arising in Chennai, the Senior Officers of the Chennai Metropolitan Water Supply and Sewerage Board must also be arrayed as accused)

Municipal Commissioner – Death within a Municipality.

Commissioner of Panchayat Union – Death within a Panchayat.

The status report to be filed in relation to all the FIRs said to have been lodged.

(xvi)The manual scavengers should be given free health check ups in the Primary Health Centres (PHC's) or in the Government Hospital (GH) at the District Head Quarters or at the Revenue Divisional levels.

(xvii)The adequacy of equipment for clearing of sewers must be ensured by the State Government. To be placed before a Committee



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having expertise in urban planning so that a scientific ratio of equipments required per kilometre of sewer can be arrived/determined.

(xviii) Septic tanks:

(i) Provisions of Combined Building and Development Rules to provide for septic tanks, both future and legacy septic tanks.

(ii) Every local body must have a dedicated officer to attend to septic tank cleaning.

(iii) All septic tank cleaning must be only through the local body.

(iv) All septic tanks must be cleaned once every year and the local body must maintain a record and find household and premises that do not empty every year.

(xix) Educational facilities and scholarships:

(i) The scheme, if any, must be widely published so that families of manual scavengers will come forward to claim the



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benefits.

(ii) The details of the scheme may be provided so that the petitioner can respond on the adequacy of coverage.

36. We hope and trust that the aforesaid shall be scrupulously followed by the respondent authorities and that the respondent authorities should not consider the present petitions as adversarial litigation.

37. Place these matters on 05.08.2024.

(S.V.G., CJ.)

(J.S.N.P., J.)

29.04.2024

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THE HON'BLE CHIEF JUSTICE
and
J.SATHYA NARAYANA PRASAD,J.

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