

IN THE HIGH COURT OF ORISSA AT CUTTACK

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

In Re: Deaths of Sanitation Workers ***Petitioner***
Mrs. Pami Rath
Mr. B.P. Tripathy, Amicus Curiae

-versus-

Chief Secretary and others ... ***Opposite Parties***

Mr. P.K. Muduli, Additional Government Advocate
Mr. Debasis Nayak, Advocate for Opposite Party (CMC)
Mr. Pabitra Ku. Nayak, Advocate for Contractor Deepak Nayak

**CORAM:
THE CHIEF JUSTICE
JUSTICE B. P. ROUTRAY**

**ORDER
30.10.2021**

Order No.

7. 1. At the outset Mr. P.K. Muduli, learned Additional Government Advocate states that he has only recently been entrusted with the paper book and needs some time to study them and make submissions.
2. The Court would like to draw attention of the Mr. Muduli to the issue highlighted by this Court in para 6 of its order dated 6th July, 2021 where reference was made to an incident in Phulbani in Kandhamal district in which two persons who entered into a newly

constructed septic tank of a house in Pitabari village in Phulbani died after becoming unconscious. One of them was an Ex-serviceman and the other was a labourer. Mr. M. S. Sahoo, who was then appearing as AGA, had undertaken to file a detailed report and state whether compensation has been paid to the family of the labourer who died. Till date there is no report that has been filed in this regard.

3. A direction is issued to the Collector, Kandhamal to immediately enquire into the matter, ensure that the compensation payable is immediately disbursed by the State and file a report as well as the compliance affidavit before this Court before the next date.

4. It is unfortunate that in the meanwhile on 20th October, 2021 there have been deaths of three more Sanitation Workers due to asphyxiation while cleaning the toilet tank in an under-construction building in the Panchayat village of Sankarda Panchayat in Kasipur, Rayagada. A memo has been filed by the learned Amicus Curiae before this Court in this regard. It is seen that F.I.R. No.126 of 2021 has been registered in Tikiri Police Station under Kasipur Judicial Magistrate, First Class.

5. The Court directs the District Collector, Rayagada to immediately enquire into the matter, ensure that compensation is paid by the State as mandated in the judgment of Supreme Court of India in *Safai Karmachari Andolan v. Union of India (2014) 11 SCC 224* as well as the provisions of the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013 ('PEMSR Act'). The report along with the compliance

affidavit be filed by the Collector, Rayagada in this Court before the next date.

6. As far as the incident in Cuttack is concerned, in para 5 of the order dated 10th May, 2021 this Court had issued notice to the contractor Mr. Deepak Nayak. Advocate Mr. Pabitra Kumar Nayak informs the Court that he has entered appearance for Mr. Deepak Nayak and will file his reply before the next date.

7. A reply has been filed by Opposite Party Nos.1 to 3 today in response to the notes of learned AC. Copies of the reply be served on the two AC.

8. An affidavit has been filed by the Secretary, District Legal Services Authority (DLSA), Mayurbhanj as regards disbursement of the compensation to the legal representatives of Sunaram Sardar, one of the victims of the incident at Bhubaneswar. It is stated that although the Project Manager of M/s.LC Infrastructure Pvt. Ltd., i.e. the Contractor, informed the Secretary DLSA over telephone that Reliance General Insurance company had already issued a cheque of Rs.21,62,278/- in favour of the Commissioner for Employees' Compensation-cum-Joint Labour Commissioner, Bhubaneswar covering the insurance claim of both deceased persons, i.e. Sunaram Sardar and Silup Birua, the Commissioner when contacted by the Secretary, DLSA on 30th August, 2021 stated that since the family members of Sunaram Sardar had already received Rs.6,91,475/- under the Employees' compensation Act, 1947, they are not entitled to receive compensation twice under the said statute.

9. The Court considers the above response of the Commissioner not proper since the question of payment of compensation twice under the Employees' Compensation Act does not arise as it was an insurance claim of the contractor with the Reliance General Insurance company which has honoured the claim and was for the specific purpose of meeting the contingency of death of sanitation workers engaged by the contractor. The said amount cannot be denied to the families of the two deceased sanitation workers.

10. Accordingly, a direction is issued to the Commissioner to immediately disburse the said amount of Rs.21,62,278/- pro rata to the families of the two deceased sanitation workers forthwith on the strength of this order. The secretary, DLSA is directed to ensure that this direction is complied with by the Commissioner promptly. A certified copy of this order will be produced by the Secretary, DLSA, Mayurbhanj before the Commissioner for this purpose. Simultaneously Mr. Muduli is directed to furnish the Commissioner immediately with the certified copy of this order.

11. Apart from the above the Registry will send forthwith by Special Messenger to the Collector, Kandhamal, the Collector, Rayagada and the Commissioner for Employees' Compensation-cum-Joint Labour Commissioner, Bhubaneswar certified copies of the present order forthwith for compliance.

12. The name of Mr. Debasis Nayak, Advocate for the CMC be reflected in the cause list. The notes of learned Amicus Curiae be served on Mr. Nayak by the Registry within one week.

13. List on 4th December, 2021.

14. An urgent certified copy of this order be issued as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(B.P. Routray)
Judge

M.K. Panda

