

Date	Events
27.01.2020	AICCTU holds a protest at Town Hall, Bengaluru, in context of the death of two workers who died cleaning a tank in a private trust in Bengaluru and submitted a detailed representation submitted to the Labour Commissioner, Department of Labour, Government of Karnataka who came to the protest site to receive the memorandum. The said representation demanded that the State Government set up a Legislative Committee to conduct a probe into all the deaths that have taken place, the status of the investigation and trial of these cases and submit a report within a period of two months. Additionally, it was demanded that in all cases of acquittal, the direction of the Supreme Court in <i>State of Gujarat vs. Kishanbhai and Ors.</i> [(2014) 5 SCC 108] should be followed and the Home Department of every State, should examine all orders of acquittal and to record reasons for the failure of each prosecution case and the concerned investigating/prosecuting official(s) responsible for such acquittal must necessarily be identified and appropriate departmental action must be taken.
06.06.2020	1 worker, Shri Murugan (38 years) died while being engaged in manual scavenging at Hanumala Gram Panchayat, T. Narsipura, Mysore.
08.06.2020	2 workers, Shri James (24 years) and Sri Anand (32 years), died while being engaged in manual scavenging at Anekal, Bengaluru Rural.
	Post the decision of this Hon'ble Court dated 22.06.2015 in W.P. No. 30221/2009, at least 22 such incidents have taken place and at least 41 persons have died in the course of manual scavenging. As per the knowledge of the Petitioner, not a single conviction has taken place in regard to the death of a manual scavenger in Karnataka.

The Petitioner, AICCTU, is a central trade union and is filing this petition in public interest drawing the attention of this Hon'ble Court to the continuing illegal and inhuman practice of manual scavenging across the State of Karnataka, which is resulting in numerous deaths of workers, and seeking for appropriate relief towards ensuring the abolition of this degrading practice.

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Belonging almost entirely to the Scheduled Caste community, manual scavengers are forced into this occupation by birth.

Manual scavenging is a direct affront to a person's right to life with dignity and respect. Furthermore, the direct handling of human excreta involved in manual scavenging has severe health consequences. Unfortunately, the practice of manual scavenging, beyond the cleaning of dry/insanitary latrines and septic tanks etc, has evolved and become institutionalized in various forms including in underground drainage, solid waste managements, cleaning of private STPs, through the railways, in the defense establishment and during certain religious festivals.

In fact, this Hon'ble Court in W.P. No. 30221/2009 had constituted a Committee that submitted its report on the conditions of pourakarmikas and sanitary workers across the State of Karnataka, titled "*Report filed by the Member Secretary, KSLSA, Bangalore. Chairman of Committee constituted by Hon'ble High Court of Karnataka in W.P. 30221/09 (GM-RES) (Public Interest Litigation)*" dated 28.03.2011 showing incomplete underground drainage, a large number of septic tanks cleaned manually, and making recommendations, inter alia, for mechanization on a war footing. The State Government committed to the implementation of this report.

Post the decision of this Hon'ble Court dated 22.06.2015 in W.P. No. 30221/2009, at least 22 such incidents have taken place and at least 41 persons have died in the course of manual scavenging. As per the knowledge of the Petitioner, not a single conviction has taken place in regard to the death of a manual scavenger in Karnataka.

The enumeration of manual scavengers, in rural and urban areas, in the country, including the State of Karnataka, is far from complete. Despite the enactment of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, as well as prior litigation pertaining to manual scavenging, the practice continues to be prevalent on a wide scale. No action appears to have been taken on the multiple representations issued by the Petitioner to the Respondents.

The continued prevalence of the practice of manual scavenging is violative of the fundamental rights in Articles 14, 15, 17, 19, 21 and 23 and the directive principles in Articles 38, 39, 46 and 47 of the Constitution of India. It is also in direct violation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Cumulatively, there has been a total failure on the part of the respondents to complete the process of systematic

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identification of manual scavengers. Not only identification and enumeration, but also the subsequent step of rehabilitation and assistance of manual scavengers is lacking. Additionally, there is a failure to take prosecution of accused to the logical conclusion of conviction. Thus, at each stage of the State's responsibility towards manual scavengers, there appear to be lapses.

Hence this Petition.

Place: Bengaluru

Date:

Advocate for the Petitioner

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and grant the following prayers:

GROUNDS FOR INTERIM PRAYER

117. That the Prohibition of Employment of Manual Scavengers and their Rehabilitation Act, 2013, recognizes a constitutional obligation to correct the historical injustice and indignity suffered by manual scavenging communities and under Section 5 prohibits any form of engagement/employment, either directly or indirectly, of any person to for manually clean, carry, dispose of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of. However, despite such a clear prohibition, manual scavenging in various forms continues in a complete violation of Article 21 of the Constitution. The prima facie case is in favour of the cause espoused by the Petitioner.

PRAYERS

In the abovementioned facts and circumstances, the Petitioner prays that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order in the nature of a Writ of Mandamus as follows:

1. Immediately discontinue the practice of allowing/forcing sanitary workers to physically enter manholes, sewer lines, septic tanks, drains, pits, gutters, sewage treatment plants or any other place to physically handle filth in all areas of Karnataka forth with, permanently and what ever be the emergencies.
2. Direct the State Government, Urban Development Department and Directorate of Municipal Administration to ensure that Urban Local Bodies comply with Section 33 and use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control, within six months.
3. Direct the State Government and the Rural Development and Panchayati Raj Department to ensure that Rural Local Bodies use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control, within six months.
4. Directing the State Government shall clarify that the powrakarmikas (permanent, contract and daily-wage) shall also be included as manual

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scavengers, where the workers, where as part of their work they clean human excreta, either due to open defecation or while cleaning open drains into which human excreta and urine is directly discharged.

5. Direct the State Government to ensure that all Urban Local Bodies and Panchayats across the State shall undertake the survey of manual scavengers within a period of three months.
6. Direct the State Government to effect a comprehensive survey of insanitary latrines and toilets with septic tanks/soak pits in all private and public properties across the State of Karnataka and ensure that the same are either connected to UGD immediately and cleaned mechanically until such time thereby preventing manual scavenging.
7. Direct the State Government to frame a "*Rehabilitation Policy for Manual Scavengers*" along the lines of the provisions of Part IV of the Act, providing for the following, among others:
 - a. One time, cash assistance;
 - b. Scholarships for the children of manual scavengers
 - c. Details of the entitlement to residential plots and financial assistance for house construction, or a ready- built house with financial assistance
 - d. Imparting of training in livelihood skill and shall be paid a monthly stipend during such period to the members of the family of manual scavengers
 - e. Provision of subsidy and concessional loan for taking up an alternative occupation to adult members of the family of manual scavengers
 - f. Details of the legal and programmatic assistance to be extended to manual scavengers
8. Direct the State Government to formulate a time-bound "*Implementation Plan*" for the implementation of the various directions of the Hon'ble Supreme Court in *Safai Karamchari Andolan and Ors vs. Union of India and Ors* [(2014) 11 SCC 224], including the following specifically:
 - a. Rehabilitation of manual scavengers as per the "*Rehabilitation Policy for Manual Scavengers*"
 - b. Providing Rs. 10 Lakhs compensation to the next of kin of all deceased who have lost their lives manholes, sewer lines, septic tanks, etc. since 1993

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9. Direct the Railways to implement the specific direction of the Hon'ble Supreme Court in *Safai Karamchari Andolan and Ors vs. Union of India and Ors* [(2014) 11 SCC 224], to come up with a time bound strategy to end manual scavenging on the tracks.
10. Direct the State Government to ensure that manual scavenging is abolished in the Railways within the State of Karnataka.
11. Direct the Union Government to, in regard to defence establishments in the State of Karnataka, implement the recommendations of the 3-Member Official Committee titled "*Proposed Road Map and Guidelines for the Comprehensive Development of Safai Karmacharis*" dated 20.06.2013, within a fixed time-frame and, further, direct the and Karnataka State Monitoring Committee to oversee the implementation of these recommendations by the Union Government.
12. Direct the State Government issue instructions to the police stations to invoke section 3(1)(j) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, in FIRs relating to manual scavenging where the victims are Scheduled Castes or Schedules Tribes.
13. Direct the State Government, through the Social Welfare Department, to ensure that all victims and witnesses of manual scavenging are provided the various rights under section 15-A including protection, legal aid, relief and rehabilitation, in instances of manual scavenging.
14. Direct the State Government to implement the recommendations of the "*Report of the Committee constituted by the Hon'ble High Court in W.P. No. 30221/2009 (PIL) dated 28.03.2011*" within a fixed time-frame and, further, direct the Karnataka State Monitoring Committee to oversee the implementation of these recommendations by the State Government.
15. Direct the State Government to implement the recommendations of the IPD Salappa Report and the Report of the 3-Member Official Committee titled "*Proposed Road Map and Guidelines for the Comprehensive Development of Safai Karmacharis*" dated 20.06.2013, within a fixed time-frame and, further, direct the and Karnataka State Monitoring Committee to oversee the implementation of these recommendations by the State Government.
16. Issue a writ of mandamus or any other appropriate writ, order or direction striking down Section 262 of the Karnataka Municipal Corporations Act, 1976, insofar as it criminalises those who allow themselves to be employed



for wages or salary for carrying night-soil as head-load or by the manual handling thereof.

17. Issue a writ of mandamus or any other appropriate writ, order or direction striking down Section 227 of the Karnataka Municipalities Act, 1964 insofar as clause 2 penalises the manual scavenger for certain acts in conjunction to removal of night soil.
18. Grant such other order or orders that this Hon'ble Court may deem just and necessary and thus render justice.

INTERIM PRAYER

Pending disposal of the above Writ Petition, the Petitioner respectfully prays this Hon'ble Court may be pleased to grant an order of ad-interim injunction restraining forthwith the Respondents from allowing any person, whether directly employed or through contract labour or on daily wage or any other mode of employment, to physically enter into manholes, sewerage lines, soak pits, septic tanks, sewage treatment plants (STPs), open drains, etc. in Karnataka pending disposal of the writ petition and thus render justice.