

(2015) 03 MAD CK 0099
In the Madras High Court
Case No : Writ Petition No. 31345 of 2014

CHANGEindia

APPELLANT

Vs

Government of Tamil Nadu and Others

RESPONDENT

Date of Decision : 03-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0099

Hon'ble Judges : Sanjay Kishan Kaul, C.J.; M.M. Sundresh, J.

Bench : Division Bench

Advocate : S.T.S. Moorthy, Govt. Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sanjay Kishan Kaul, C.J.—The petitioner, through this Public Interest Litigation, seeks to raise the important issue of conditions of an unorganized contract workers, who are engaged by Urban Local Bodies, such as the Municipalities more specifically, the Corporation of Chennai / the 4th respondent and the Chennai Metro water Supply and Sewerage Board (CMWSSB) / the 3rd respondent, for manual cleaning of highly polluted and noxious, sewage filled storm water drains in the guise of de-silting during pre-monsoon and monsoon period to prevent flooding of roads and localities.

2. In the counter-affidavit filed by the second respondent being the Department of State Government, it is acknowledged that there is prohibition from deploying human beings to enter into manholes of storm water drains. Adequate funds are said to have been allocated under two programmes, (i) Chennai Mega City Development Mission for Chennai and its sub-urban areas and (ii) Integrated Urban Development Mission for all other Corporations, Municipalities and Town Panchayats. The Mission period is 2011-2016 and allocation of funds is for Sewerage, Storm Water Drains and Solid Waste Management. The Jet Rodding Machines, Desilting machines and other mechanical devices are stated to have been procured by the Urban Local Bodies for effective management of Sewerage

system and Storm Water Drains. Apart from these, funds have been allocated under Centralised Sponsored Programs.

3. The third respondent / CMWSSB has stated that the entry of sanitary workers into the sewerage system is no more taking place. There are Hydraulic Operated Desilting Machines, Jet Rodding Machines, Jetting cum Suction Machines, all used for sewers and sucking of sewage and silt from the manholes. It has been stated that it is the sewerage system which is under the control of this authority, while storm water drains are managed by the Corporation / the 4th respondent. Field training is stated to have been given to the workers to maintain the sewerage system without human entry and Special Committees and Sub-Committees have been formed to create awareness amongst public to prevent throwing of solid waste into the sewerage system.

4. It is also stated that 226 Sewage Pumping Stations in Chennai city are operated continuously during the rainy season and monitored closely and the sewage / septic tanks cleared by the sewage tankers are discharged into the decanting facilities provided in the Sewage Treatment Plants, by which sewage is being treated.

5. Learned counsel appearing for the third respondent has produced a booklet issued on ""Safety Practices in Sewage and Septage Management"", which gives a graphic picture of what is being done, along with the laws in force. The latest law is the Central legislation, being The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 and the Rules framed thereunder. Photographs of equipment used and the facilities for the manpower working have been set out. The effort to bring out this booklet by the third respondent must be complimented.

6. As far as the role of the fourth respondent is concerned, it is stated that they are managing the storm water drains, where machines have been deployed and only where blockages cannot be cleared by the machines, manual labour is deployed. In certain places, sewage is found to be let into the Corporation's Storm Water Drain network and the Corporation is stated to be taking action in collaboration with the third respondent to plug the sewage connections to prevent flowing into the storm water drains.

7. What is of concern to us, however, is that the Corporation is still at the stage of feasibility study regarding use of mechanical devices for removal of silt, surplus earth, sludge and solid waste from the storm water drains and to clear the blockages. ""It is proposed to engage consultant to conduct the above studies."" Thus, we are still at the stage of studies being made rather than implementation while parallel necessary action appears to have been taken by the third respondent and that experience is available to the fourth respondent.

8. It is averred in the counter-affidavit that contractors engaged in desilting operations of the storm water drains are expected to use suitable mechanical devices. But, it has not been stated as to whether while awarding the contract,

due care is taken to find out whether the contractors do have the devices available with them. It has also been stated that though there is endeavour for improvement of work for the construction of new storm water drains and canal desilting, there is some delay in the execution on account of encroachments on the canal banks. Suffice to say that such encroachments must be tackled urgently, as a larger public interest cannot be jeopardized merely because the encroachers decided to sit on Government lands.

9. We are of the view that the Corporation should set forth a clear road map of when the process of obtaining the requisite machines will be completed and the necessary work qua storm water drains carried out. We, thus, call upon them to file a better affidavit laying down the said road map, along with relevant documents including the existing storm water drain map with the proposed rain water drains, which are to be made, where the obstructions exist, when will they be removed, etc. This affidavit be filed within eight (8) weeks.

10. Writ Petition is disposed of with these directions.

11. List for compliance of the fourth respondent on 04.06.2015.