

(2017) 10 DEL CK 0124

In the Delhi High Court

Case No : Civil Writ Petition No. 1758 Of 2005, 1783 Of 2014, Civil
Miscellaneous Application No. 19009-19010 Of 2015

Lt. Col. B.B. Sharan (Retd)

APPELLANT

Vs

MCD And Anr

RESPONDENT

Date of Decision : 30-10-2017

Acts Referred:

Citation : (2017) 10 DEL CK 0124

Hon'ble Judges : S. Ravindra Bhat, J;Sunil Gaur, J

Bench : Division Bench

Advocate : Anil Grover, Kanika Singh, Mishal Vij, Rishi Vohra, Jitender. K. Tripathi, Tarveen Singh Nanda, Rahul Singhal, Satyakam, Akshay Agarwal, Sakshi Popli, Rajan Tyagi, Bhagvan. S. Shukla, Shambhu Chaturvedi, Rajeev Bansal, Shlok Chandra, Ritesh Kumar Sharma,

Judgement

S. Ravindra Bhat, J

1. These two petitions were preferred in public interest at different points in time. Col. B.B. Sharan filed W.P.(C) 1758/2005 initially, focusing on the functioning jurisdiction of Magistrates appointed by this Court to ensure that there is no littering; he also sought reliefs of a general nature to ensure the proper functioning of Inspectors/Assistant Sanitary Inspectors of the areas, and the legal action to be taken against sanitation staff, including Inspectors. This petition was listed about 79 times, during the last 12 years and various directions issued. During the course of the proceedings, the Court took note-at different times, the problems of the city, focused on abysmal unsanitary and hygiene conditions, clogging of public (and notified drains), the role of civic authorities towards de-silting drains at regular intervals, etc. In recent times, the Court has through various orders, attempted to ensure that significant de-silting of drains, their proper maintenance to ensure cleanliness of environs and also hygiene in the city.

2. The Court has taken cognizance of deaths, which occurred, due to manual

scavenging and is currently monitoring the process of implementation of the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, in the previous public interest litigations of Ashok Agarwal v. Union of India & Ors [W.P.(C) 841/1998] and National Campaign for Dignity and Rights of Sewerage Workers [W.P.(C) 5232/2007]. Those proceedings too, are listed on 8th November 2017. This Court is of opinion that though the issues concerning those proceedings are specific to the obligation of the State to eliminate the practice of manual scavenging, there is an overlap between that petition and Col. Sharan's writ petition.

3. This Court has further been made aware of directions made by the National Green Tribunal (NGT) in OA No. 6/2012 (Manoj Mishra v Union of India), where elaborate and detailed directions were issued concerning the cleaning of river Yamuna, especially the steps to be taken to prevent construction activities near drains, in Delhi, to avoid discharge of effluents, leading to river contamination, removal of constructions that abut drains, unauthorized activities on flood plains, etc. Those directions are being monitored by further orders and proceedings by the NGT from time to time.

4. In the second proceeding, Ebbani Agarwal v. South Delhi Municipal Corporation [W.P.(C) 1783/2014], the public interest litigant is seeking general directions to ensure a clean, healthy and safe environment in Dwarka; the nature of directions issued in that petition include construction of proper and adequate garbage bins, their timely collection and disposal, monitoring the proper repair of pavements, etc. Some issues, such as garbage collection and disposal, and the need to monitor them are common to Col.

5. Having regard to these facts, the Court is of opinion that for proper assistance during the proceedings, it is necessary to consider the issues in a complete and wholesome manner; at the same time, it is essential that the civic and local agencies' efforts are not multiplied and duplicated (not only on account of the orders of this Court, but also on previous orders made by the NGT and the progress reported in their implementation).

6. In this view of the matter, the Court hereby appoints Mr. A.J. Bhambhani, learned senior counsel, to assist in the two proceedings [W.P.(C) 1758/2005 and W.P.(C) 1783/2014] as *amicus curiae*. The Court also nominates Ms. Richa Kapoor, learned counsel, who was appointed as Local Commissioner to assist Mr. A.J. Bhambhani, as *amicus curiae*. The Registry is directed to ensure that copies of entire records in both writ petitions are furnished to both the learned *amicus curiae*, in electronic form as well as in hard copy format, so that they are acquainted with the issues. The public interest litigants are also required to co-operate and assist the amici so that proceedings can be conducted in an orderly and sequential manner; they may provide such summaries of issues and the previous orders, as they think are relevant for these proceedings. For facility and convenience, the Registrar General of the NGT is also requested to provide copies of the orders in OA 6/2012 and the status reports filed before the Tribunal, from

time to time, pursuant to the order dated 13th January 2015.

7. These petitions are directed to be listed for further proceedings, on 8th November, 2017. Copy of this order shall be provided dasti under signatures of Court Master to the petitioners; learned counsel for parties and the two amici appointed by this order.