

**(2023) 04 TEL CK 0035**

**In the Telangana High Court**

**Case No :** Writ Petition Nos. 34636, 34639, 34641 Of 2018

P.Ganga

APPELLANT

Vs

Chief Secretary

RESPONDENT

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**Date of Decision :** 12-04-2023

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2023) 04 TEL CK 0035

**Hon'ble Judges :** E. V. Venugopal, J

**Bench :** Single Bench

**Advocate :** A. Sathya Sri, Y. Koteswara Rao, G. Narender Reddy, Jyosthna Devi

**Final Decision :** Partly Allowed

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## **Judgement**

1. The Writ Petition No.34636 of 2018 is filed under Article 226 of Constitution of India for the following relief/s:-

"... to issue a Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the representation of the petitioners dated 29.08.2018 as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents

i. to consider the regularize of employment of the 2nd petitioner with the Hyderabad Metropolitan Water Works & Sewerage Board.

ii. to consider to allot Double bed room house as promised by the State.

iii. to consider to pay compensation of Rs.10.00 lakhs, compensation as per the Judgment of the Hon'ble Supreme Court in W.P. (Civil) No.583 of 2003 and pass such other order or orders..."

2. The Writ Petition No.34639 of 2018 is filed under Article 226 of Constitution of India for the following relief/s:-

"... to issue a Writ or Order or Direction more particularly one in the nature of

Writ of Mandamus declaring the action of the respondents in not considering the representation of the petitioners dated 29.08.2018 as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents

i. to consider the regularize of employment of the 1st petitioner with the Hyderabad Metropolitan Water Works & Sewerage Board.

ii. to consider to allot Double bed room house as promised by the State.

iii. to consider to pay compensation of Rs.10.00 lakhs, compensation as per the Judgment of the Hon'ble Supreme Court in W.P. (Civil) No.583 of 2003 and pass such other order or orders..."

3. The Writ Petition No.34641 of 2018 is filed under Article 226 of Constitution of India for the following relief/s:-

"... to issue a Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering the representation of the petitioners dated 29.08.2018 as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents

i. to consider the regularize of employment of the 1st petitioner with the Hyderabad Metropolitan Water Works & Sewerage Board.

ii. to consider to allot Double bed room house as promised by the State.

iii. to consider to pay compensation of Rs.10.00 lakhs, compensation as per the Judgment of the Hon'ble Supreme Court in W.P. (Civil) No.583 of 2003 and pass such other order or orders..."

4. Since, all the three writ petitions are arising out of same subject matter, they are disposed of by way of common order.

5. Heard Ms. A. Sathya Sri, learned counsel representing Mr. Y. Koteswara Rao, learned counsel for the petitioners and Mr. G. Narender Reddy, learned Standing Counsel appearing for Hyderabad Metropolitan Water Works & Sewerage Board and Ms. Jyosthna Devi, learned Assistant Government Pleader representing learned Government Pleader for Services-III appearing for the respondents in respective writ petitions.

6. The deceased husband of the 1st petitioner in all the writ petitions were daily labourers and they used to attend manual scavenging works. They were entrusted with the said work by one G.S.K. Infra Contractor to clear the man hole near 100 feet, Ayyappa Society, Madhapur, Hyderabad on 13.08.2016 in the evening. While so, the husbands of the 1st petitioners along with two others fell into the man hole and died due to the emission of toxic gases. Crime Nos.453 and 454 of 2016 were registered by the Station House Officer, Madhapur Police Station on 13.08.2016 against the Contractor. The 4th respondent-District Collector paid an amount of Rs.50,000/- under Aapadh Bandu Scheme and the 2nd respondent-Managing Director paid an amount of Rs.2,50,000/- as ex-gratia.

The petitioners made representations to the respondents for compensation and other benefits. It is submitted that the petitioners lost the bread winners in their families and they are put to severe financial loss and hardship.

7. Learned counsel for the petitioners submitted that this Court by order dated 21.02.2022 in W.P.(PIL) No.178 of 2021 re-iterated the decision of the Hon'ble Supreme Court in "Safai Karamchari Andolan V. Union of India (2014) 11 SCC 224" in W.P. (Civil) No.583 of 2003 wherein it was directed that a sum of Rs.10,00,000/- (Rupees ten lakhs only) has to be paid to the family members of the deceased scavengers. Since, the respondents failed to pay the said amount, the present writ petitions are filed.

8. Counter affidavits are filed by respondent Nos.1, 2, 3 and 5 stating that the General Manager (Engg), Project Dn.VIII, Hyderabad Metropolitan Water Works & Sewerage Board (for short, "HMWS & SB") reported that while breaking the brick wall constructed inside the manhole at Ayyappa Society, Madhapur, Hyderabad on 13.08.2016, four (4) individuals namely Sri P. Satyanarayana, Sri O. Nagesh, Sri P. Srinivas and Sri N. Gangadhar were dead. Immediately, the Board has overseen rescue operations along with the police and public representatives. It is further submitted that in order to provide maximum compensation to the petitioners, the Board has examined the entire matter as per the directions of the Hon'ble Supreme Court in W.P. (Civil) No. 583 of 2003 in Safai Karamchari Andolan case ((2014) 11 SCC 224 supra) and an amount of Rupees ten lakhs was paid as compensation to the legal heirs of the deceased individuals. The legal heirs of the deceased individuals were employed in the Office of the HMWS & SB on out sourcing basis vide proceedings dated 17.09.2016 and 27.02.2017.

9. Reply affidavits filed by the petitioners re-iterating the averments made in the writ petitions.

10. Learned Assistant Government Pleader submitted that the 2nd respondent has already paid an amount of Rs.10,00,000/- by way of three installments i.e., Rs.3,00,000/- each in cash paid by M/s. GSK-VISHWA (JV), Rs.2,50,000/- is paid by HMWS & SB by way of cheque drawn on ICICI Bank, Khairtabad and Rs.4,50,000/- is paid by HMWS & SB through cheque drawn on Axis Bank, Hyderabad to each of the 1st petitioner in all the three writ petitions. Therefore, there is no amount due to be paid to the petitioners. Hence, prayed to dismiss the writ petitions.

11. It is an admitted fact that respondent No.2 vide D.O. letter No.MD/B4/2016/3124/1398, dated 27.02.2017 requested the Collector and District Magistrate, Hyderabad District to examine and consider the demands of providing double bedroom house and compensation of Rs.10,00,000/- to the legal heirs of deceased individuals as per the advice of the National Commission for Schedule Castes, GOI and as per the directions of the Hon'ble Supreme Court in W.P.(CW) No.583 of 2003. Even after the said resolution, an amount of Rs.7,00,000/- is only paid to the writ petitioners by respondent Nos.2 to 5 which

is irrational. It is the responsibility of the Contractor to pay compensation to the deceased employees who died during the course of employment and accordingly, the Contractor has paid an amount of Rs.3,00,000/- each to the legal heirs of the deceased employees which is justifiable. Therefore, the compensation paid by the Contractor cannot be inclusive of the amount directed to be paid by the respondents.

12. Having regard to the submissions made by both the learned counsel, in view of the order dated 21.02.2022 passed by this Court in W.P.(PIL)No.178 of 2021 and upon considering the fact that the respondent Nos.2 to 5 shall pay an amount of Rupees ten lakhs as ex-gratia to the legal heirs of the deceased employee-1st petitioner in all the writ petitions, accounting the amount paid by the Contractor to the credit of respondent Nos.2 to 5 is not justifiable. Hence, it is the duty of the respondent Nos.2 to 5 to pay an ex-gratia of Rs.10,00,000/- as per the directions of the Hon'ble Apex Court. Therefore, this Court is inclined to direct the respondent Nos.2 and 5 to pay a further amount of Rs.3,00,000/- each to the credit of the legal heirs of the 1st petitioner in all the three writ petitions within a period of four (4) weeks from the date of receipt of a copy of this order. The respondents are further directed to consider to regularize the services of the legal heirs of the deceased employees in accordance with G.O.Ms.No.64 dated 29.03.2022.

13. With the above direction, the writ petitions are partly allowed. No costs. Miscellaneous Petitions, pending if any, shall stand closed.