



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3359 OF 2024

1. Sharda Maroti Chopwad
Age : 30 years, Occ : Housewife,
Residing at : Maroti Chopwad,
at post Mahakali Galli, Tq. Mukhed,
Nanded District
Maharashtra - 431715
2. Bhaganbai Vyankati Ghumalwad
Age : 69 years, Occ : Housewife,
Residing at Mu post, Phule Nagar,
Taluka Mukhed, Nanded District,
Maharashtra - 431 715

... PETITIONERS

...VERSUS...

1. The State of Maharashtra
Through Principal Secretary,
Social Justice Department,
Mantralay Mumbai
2. The District Collector,
Collector's Office, Nanded District,
1st floor, National Informatics Centre,
Station Road, Near BSNL office,
Vazirabad, Nanded, Maharashtra - 431601
3. Tukaram Suryawanshi
Ashok Nagar, Mukhed Taluka,
Nanded District - 431 715

... RESPONDENTS

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- Ms. Abha Singh a/w Mr.Avinash M. Reddy, Advocate for Petitioners
 - Mr. P.K. Lakhotiya, AGP for Respondent/State
 - Mr. G.R. Ingole, Advocate for respondent no.3.
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CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL – JADHAV, JJ.

RESERVED ON : MAY 08, 2026

PRONOUNCED ON : JULY 06, 2026

J U D G M E N T [Per Vaishali Patil – Jadhav, J.] :

“For ours is a battle not for wealth or for power; it is a battle for freedom. It is a battle for the reclamation of human personality.”

— Dr. B. R. Ambedkar

1. The Hon'ble Supreme Court, in the case of *Balram Singh Vs. Union of India (UOI) and Ors.*, reported in [2023] 14 SCR 1083, while referring to the aforesaid statement of Dr. B. R. Ambedkar, observed that the Constitution of India promises dignity, equality and fraternity to every section of the society through humanitarian and emancipatory provisions such as Articles 15, 17, 21, 23 and 24 of the Constitution of India. The Hon'ble Supreme Court held that each one of us must live up to the promise of the Constitution and that the Union as well as the States are duty-bound to ensure complete eradication of the practice of manual scavenging. The conferment of rights and protections under the Constitution, coupled with the provisions of the Prohibition of Employment as Manual Scavengers and their

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2/20

Rehabilitation Act, 2013 (hereinafter referred to as "PEMSR Act, 2013", for short), casts an obligation upon the Union and the States to give real meaning to such constitutional and statutory guarantees and to implement the same in their true letter and spirit. The Court further emphasized that it is the collective responsibility of all citizens to ensure that the dignity of every human being is protected.

However, notwithstanding such constitutional mandates and judicial directions, incidents of manual scavenging and deaths occurring during sewer and septic tank cleaning operations continue to be reported even today.

Incidents of death due to manual scavenging compel us to introspect as to how far we have truly realised the constitutional vision of equality, dignity and fraternity. The continued existence of manual scavenging is a serious blot on a civilized society and reflects the collective failure to completely eradicate this inhuman and degrading practice.

The present is one such case where a widow is seeking compensation for the accidental death of her husband and a mother for her son, while engaging in cleaning septic tank.

2. Rule. Rule made returnable forthwith, heard finally with the consent of learned Advocates for the parties.

3. By the present Petition, the petitioners are seeking directions against the respondents to pay compensation of Rs.30,00,000/- each to petitioner Nos.1 and 2 on account of the death of their family members, namely, Maroti Rama Chopwad and Nagesh Vyankati Ghumalwad, who died while cleaning a septic tank at the premises of respondent No.3 on 19.09.2021. The petitioners are further seeking interest at the rate of 8% per annum on the compensation amount on account of delay and are also seeking directions regarding grant of rehabilitation measures to which the petitioners are entitled under the provisions of the PEMSR Act, 2013.

4. **Facts of the case, in brief, are as follows:**

Petitioner No.1 is the widow of deceased Maroti Rama Chopwad, whereas petitioner No.2 is the mother of deceased Nagesh Vyankati Ghumalwad. Deceased Maroti Rama Chopwad was working as a fisherman and also used to undertake construction and other labour work, earning approximately Rs. 12,000/- per month. He was the sole breadwinner of petitioner No.1's family. Petitioner No.1 has a son aged about nine years, studying in 4th standard. After the death of her husband, petitioner No.1 was compelled to work as an agricultural labourer on daily wages.

5. Deceased Nagesh Vyankati Ghumalwad was a daily wage labourer engaged in construction and other labour-intensive work and used to earn approximately Rs. 15,000/- to Rs. 17,000/- per month. After his death, the family consisting of petitioner No.2, her husband and two younger sons became dependent upon the income of the younger brothers of the deceased.

6. On 19.09.2021, the deceased persons were employed by respondent No.3 for cleaning a septic tank situated at his premises at Ashok Nagar, Mukhed Taluka, District Nanded. Petitioner No.2 received a phone call informing her that her son had drowned in the septic tank situated at the premises of respondent No.3. Both the deceased persons died due to asphyxia and drowning while cleaning the septic tank, as confirmed by the post-mortem report dated 20.09.2021. The deceased persons had entered the septic tank without any protective gear. No authorization from the concerned authority was sought by respondent No.3 for carrying out the cleaning work.

7. FIR No.0323/2021 dated 09.11.2021 came to be registered at Mukhed Police Station against respondent No.3 under Sections 7 and 9 of the PEMSAR Act, 2013.

8. Respondent No.3 had agreed to pay compensation of Rs.2,00,000/- each along with Rs. 50,000/- each towards funeral expenses through local persons. Petitioner No.1 states that she received only Rs.1,00,000/- out of the amount of Rs.2,00,000/-, which was deposited in the name of her son in a fixed deposit account, whereas the remaining amount of Rs.1,00,000/- was given to the elder brother of her deceased husband on account of repayment of the loan obtained by him. Petitioner No.2 states that her son-in-law received Rs.2,00,000/- from respondent No.3.

9. On 18.10.2023, a representation was submitted on behalf of the petitioners to the Collector, Nanded, seeking compensation of Rs.10,00,000/- each in terms of the directions issued by the Hon'ble Supreme Court in *Safai Karamchari Andolan and others Vs. Union of India (UOI) and others* reported in *(2014) 11 SCC 224* . However, the compensation has not yet been sanctioned. Thereafter, legal notice dated 08.11.2023 was issued on behalf of the petitioners to respondent No.3 for grant of ex-gratia payment, to which respondent No.3 replied on 28.11.2023, denying liability.

The family members of the deceased are facing severe financial hardship after the death of the earning members of the family.

Since, the amount of compensation is not paid, the petitioners have approached this Court by filing the present Petition.

10. Learned Advocate Ms. Abha Singh appearing for the petitioners submits that the deceased persons died while doing the hazardous work of cleaning a septic tank at the premises of respondent No.3. The said work was entrusted without providing any protective gear, safety devices or statutory safeguards as contemplated under the PEMSAR Act, 2013 and the Rules framed thereunder. It is submitted that respondent No.3 engaged the deceased persons for hazardous cleaning work in clear violation of Section 7 of the PEMSAR Act, 2013 and the relevant Rules.

The learned Advocate for the petitioners submits that despite the representation dated 18.10.2023 submitted to the Collector, Nanded, compensation has not been paid to the petitioners till date. It is therefore submitted that respondent Nos.1 and 2 are also liable to compensate the petitioners in view of the failure to effectively implement the statutory provisions prohibiting manual scavenging and hazardous cleaning of septic tanks.

While submitting that the petitioners are entitled to compensation, learned Advocate for the petitioners has placed reliance on the following judgments :-

- (i) *Safai Karamchari Andolan and others Vs. Union of India (UOI) and others [(2014) 11 SCC 224]*
- (ii) *Dr. Balram Singh Vs. Union of India (UOI) and others [(2023) 14 SCR 1083]*
- (iii) *Preeti Vs. Union of India and others in Writ Petition (C) No. 15156 of 2023 dated 23.11.2023* and
- (iv) *Vimla Govind Chorotiya and Ors Vs. State of Maharashtra and Ors in Writ Petition (L) No.15651 of 2021 dated 17.09.2021.*

11. Learned A.G.P Mr. P. K. Lakhotiya appearing for respondent No.2 submits that the deceased persons died while cleaning a septic tank in their individual capacity, at the private premises of respondent No.3.

Placing reliance on paragraph No.11 of the Government Resolution dated 12.12.2019 issued by the Department of Social Justice and Special Assistance, Government of Maharashtra, he submitted that since the incident occurred at the private premises of respondent No.3, respondent No.3 is liable to pay compensation of Rs.10,00,000/- each to the families of the deceased labourers. Accordingly, respondent No.2 has already directed respondent No.3 vide order dated 24.01.2022 and reminder letter dated 28.09.2022, to pay compensation of Rs.10,00,000/- each to the families of the deceased persons.

He further submitted that respondent No.2, adopting a humanitarian approach, forwarded a proposal to the Secretary, Department of Social Justice and Special Assistance, Government of Maharashtra, seeking sanction of financial assistance of Rs.20,00,000/-, i.e. Rs.10,00,000/- each to the families of the deceased labourers, by treating the matter as a special case at the Government level, in terms of the Government Resolution dated 12.12.2019 and for making the compensation amount timely available to the family members of the deceased labourers vide letter dated 10.07.2024. The response of the Government is awaited.

12. Learned Advocate Mr. G.R. Ingole appearing for respondent No.3 submits that the petitioners are not entitled to any relief against respondent No.3. He submitted that pursuant to the order dated 24.01.2022 passed by respondent No.2 under the provisions of the PEMSR Act, 2013, respondent No.3 has already paid an amount of Rs.2,00,000/- each to the petitioners by cheque and an additional amount of Rs. 25,000/- each in cash.

He further submitted that the Government Resolution dated 12.12.2019, the provisions of the PEMSR Act, 2013 and the judgments relied upon by the petitioners cast responsibility upon the State and Central authorities to protect the interests of manual

scavengers and to pay compensation to the dependents of deceased persons engaged in septic tank and sewer cleaning work. He submitted that the liability to pay compensation rests upon the State authorities and not upon respondent No.3. He is unable to pay any further amount as he is a pensioner and is burdened with monthly medical expenses. He lastly submitted that in view of the aforesaid facts and circumstances, the petition deserves to be dismissed.

13. Before we deal with the facts of this case, the law on the aspect of prohibition of manual scavenging, is noted below :-

(a) In the year 1993, the Parliament enacted the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, which prohibited the employment of manual scavengers as well as the construction or maintenance of dry latrines, and provided for the conversion of dry latrines into water-seal latrines.

(b) The Government of India also enacted the PEMSR Act, 2013 with an object of prohibiting the employment of manual scavengers, eliminating insanitary latrines, prohibiting hazardous cleaning of sewers and septic tanks, and providing for rehabilitation and welfare measures for persons engaged in such practices.

(c) The Statement of Objects and Reasons of the PEMSR Act, 2013 read as under :

"Statement of Objects and Reasons:- Elimination of dry latrines and manual scavenging and the rehabilitation of manual scavengers in alternate occupations has been an area of high priority for the Government. Despite the concerted efforts made in the past to eliminate the dehumanising practice of manual scavenging, the practice still persists in various parts of the country. Existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging. These evils are inconsistent with the right to live with dignity which is an essence of the Fundamental Rights guaranteed in Part III of the Constitution. Further, there is a related problem of serious health hazard and safety of the workers employed in the manual cleaning of sewers and septic tanks.

. It is also felt that the existing laws are not stringent enough to eliminate these evil practices. In view of above, there is a need to make comprehensive and stringent provisions for the prohibition of insanitary latrines and employment of persons as manual scavengers, rehabilitation of manual scavengers and their families and to discontinue the hazardous manual cleaning of sewers and septic tanks by the use of technology and for matters connected therewith.

With a view to eliminate manual scavenging and insanitary latrines and to provide for the rehabilitation of manual scavengers, a multi-pronged strategy has been worked out in the provisions of the Bill, which consists of legislative as well as programmatic interventions."

(d) Section 7 of the PEMSR Act, 2013 specifically provides that no person, local authority or agency shall, directly or indirectly, employ any person for hazardous cleaning of a sewer or septic tank. Further,

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Section 18 empowers the appropriate Government to confer powers and impose duties upon the local authorities and the District Magistrate for ensuring effective implementation of the provisions of the PEMSR Act, 2013.

(e) The duties of the authorities are enumerated under Section 19 of the Act, which, inter alia, provides that the authorities shall ensure that no person is engaged or employed as a manual scavenger within their jurisdiction. These provisions are significant as they cast a statutory responsibility upon the District Magistrate and other local authorities to ensure strict implementation of the provisions of the PEMSR Act, 2013 in its true letter and spirit.

(f) The Hon'ble Supreme Court, in the case of ***Safai Karamchhari Andolan (supra)***, while considering the enforcement of the provisions of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 issued various directions for the eradication of manual scavenging and for the rehabilitation of persons engaged therein. The Hon'ble Supreme Court emphasized that the practice of manual scavenging violates the constitutional guarantee of dignity, equality and freedom from exploitation and directed the authorities to ensure strict implementation of the statutory provisions enacted for its eradication.

(g) The Hon'ble Supreme Court observed that the practice of manual scavenging must be brought to an end in its entirety and that effective and time-bound steps are required to ensure that future generations are not compelled to continue in such inhuman and degrading occupations. The Court further emphasized that the rehabilitation of manual scavengers must be treated as an integral essential component of the process for eradication of manual scavenging, particularly in cases involving sewer and septic tank deaths.

(h) The Hon'ble Supreme Court further observed that mere prohibition of the practice would not suffice unless meaningful rehabilitation, social upliftment and opportunities for dignified livelihood are provided to the affected persons and their families. The Court specifically directed that entering sewer lines or septic tanks without adequate safety gear and protective equipment should be treated as a crime, even in emergency situations, and that for every such sewer or septic tank death, compensation of Rs.10 lakh shall be paid to the family members dependent upon the deceased.

(i) The Hon'ble Supreme Court directed the authorities to identify the families of all persons who had died while engaged in sewer or septic tank cleaning operations and manual scavenging since the year 1993 and to award compensation of Rs.10 lakh to the dependent family members of each such deceased person.

(j) Thereafter, in the case of ***Balram Singh (supra)***, the Hon'ble Supreme Court issued further directions in paragraph No. 96 of the judgment. Directions were issued to the Union and the States to ensure enhancement of compensation in cases of sewer deaths. The Hon'ble Supreme Court observed that the compensation amount of Rs.10 lakh, which was made applicable from the year 1993, required revision by granting its present equivalent amount of Rs.30 lakh, and further directed that such compensation shall be paid by the concerned agency, Union Territory or the State, as the case may be.

(k) In other words, the compensation payable in cases of sewer or septic tank deaths has been enhanced to Rs.30 lakh and the said amount is required to be paid to the dependents of the deceased. The Hon'ble Supreme Court further directed that in cases where sewer victims suffer disabilities, compensation depending upon the severity of the disability shall also be paid. In cases of permanent disability rendering the victim economically helpless, compensation of not less than Rs.20 lakh has been directed to be paid.

(l) This Court at Principal Seat in the case of ***Vimla Govind Chorotiya and Ors Vs. State of Maharashtra and Ors in Writ Petition (L) No.15651 of 2021 (Coram : Ujjal Bhuyan and Madhav Jamdar, JJ.)*** issued directions by order dated 17.09.2021 that, State of Maharashtra in the Social Justice and Special Assistance Department shall inform the

Court on the next date whether survey of manual scavenging in urban areas in terms of sections 11 and 12 of the 2013 Act and similar exercise by Panchayats in rural areas under sections 14 and 15 of the said 2013 Act has been carried out or not. State of Maharashtra to apprise the Court about the rehabilitation measures taken for persons identified as manual scavengers in terms of section 13 of the 2013 Act, further to inform the Court as to whether identification of families of all persons who died in sewerage work (manholes, septic tanks) since 1993 has been carried out and as to whether compensation has been awarded to the dependent family members in terms of paragraph 23.3 of *Safai Karamchari Andolan (supra)* and insofar Government Resolution dated 12/12/2019 is concerned, State shall look into the aspect as to whether it is in conformity with **Safai Karamchari Andolan (supra)**.

(m) In addition to the aforesaid directions issued by the Hon'ble Supreme Court in *Balram Singh Vs. Union of India (supra)*, this Court (*Coram : Nitin Jamdar & M.M. Sathaye, JJ*) at Principal Seat in *Shramik Janata Sangh and others Vs. State of Maharashtra and others in Writ Petition No.1570 of 2023* by order *dated 20/08/2024*, also issued additional directions to ensure effective implementation of the provisions of the PEMSR Act, 2013 and to strengthen the mechanism for prevention of manual scavenging.

This Court directed that the Department of Social Welfare shall publish on its website the composition of all the Committees constituted under the Act of 2013, namely the State Committees, District Level Committees and Vigilance Committees, along with the names of their members, except *ex officio* members. The Court further directed that the website shall also contain details regarding the actions taken by such Committees under the Act of 2013, except in cases where disclosure is prohibited by statutory provisions relating to confidentiality.

This Court further directed the Department of Social Welfare to create dedicated email addresses for every District Level Committee and Vigilance Committee and also to create social media handles through which citizens and non-governmental organisations may report incidents of manual scavenging for immediate consideration and action by the concerned authorities.

This Court also directed the Nodal Officer, namely the Commissioner, Social Welfare Department, to issue instructions to all Vigilance Committees in the State of Maharashtra to ensure that meetings are conducted regularly and within time, that agendas are circulated in advance, and that the outcome of the meetings together with the action taken reports are uploaded on the website.

This Court observed that such measures are necessary to assist the Social Welfare Department in discharging its statutory duties under the Act of 2013 and to ensure that incidents of manual scavenging are effectively prevented and monitored.

14. Now coming to the facts of the present case, we find that Respondent No.3 had privately engaged the services of the petitioner no.1's husband and petitioner no.2's son to clean the septic tank without providing safety gear. While doing the said work, they have met with the accidental death. The State considers this as an act of criminal negligence by a private individual and FIR is registered accordingly. District Magistrate has also applied to the State for sanction of Rs.20 Lakhs towards compensation of the petitioners/wife and mother of the victims on humanitarian grounds.

15. Issue now arises regarding the liability of the State or local authorities in cases where private person engages persons in sewer or septic tank cleaning operations without safety gear and then the person suffers death or injuries.

The Government of Maharashtra issued a Government Resolution dated 12.12.2019 for effective implementation of PEMSR

Act, 2013 and directions issued in ***Safai Karamchari Andolan (supra)***, wherein Rs.10 Lakhs compensation is to be paid to family members of deceased manual scavengers, who are employed by State or State agencies. But, where individuals have hired any person privately for the purpose of manual scavenging, then the responsibility is casted on the individual for payment of compensation of Rs.10 Lakhs. Accordingly, notice is issued to respondent no.3 for payment of Rs.10 Lakhs. Respondent No.3 in his affidavit has stated that he has already paid Rs.2,25,000/- to each petitioner and is not in a financial position to make any further payment.

16. This Court, in the case of ***Vimla Govind Chorotiya (supra)***, while dealing with a similar and identical situation observed that the Hon'ble Supreme Court had made it abundantly clear that the directions contained in the order dated 27/03/2014 in ***Safai Karamchari Andolan (supra)*** and ***Balram Singh (supra)*** would apply irrespective of the place of work i.e. even if engaged by private individuals. This Court in ***Vimla Govind Chorotiya (supra)*** further observed that under the Act of 2013, the Legislature has casted responsibility upon the authorities, including the District Magistrate, to ensure complete eradication of manual scavenging from society, and despite such stringent statutory provisions, incidents of sewer and septic tank deaths continue to occur and,

therefore, the State remains liable to pay compensation to the victims or their dependents. However, this Court has also clarified that the State would be at liberty to recover the amount so paid from the concerned contractor, agency or individuals responsible for such violations.

17. As the Principal Seat has already issued various directions for effective implementation of the PEMSR Act, 2013 and directions issued in *Safai Karamchari Andolan (supra) and Balram Singh (supra)* are being monitored, we do not find it fit to issue new directions, but, we do hope and trust that the concerned Government authorities under the Act are ensuring that the provisions of PEMSR Act and directions issued by the Apex Court and this Court are scrupulously implemented and followed.

18. This Court finds that the respondent State is liable to pay compensation of Rs.30 Lakh each to the petitioner no.1's wife and mother of petitioner no.2, who died while cleaning a septic tank without safety gear and the State may in its discretion also seek to recover the amount paid to the petitioners from respondent no.3. The authorities concerned to also examine the case under Section 13 of the Act of 2013 and take appropriate decision in this regard.

Hence the following order:-

ORDER

(i) Writ Petition is allowed in the following terms :-

(a) We direct respondent no.2 to submit proposal to pay Rs.30,00,000/- each to the petitioners within a period of four weeks from today.

On receipt of the said proposal, respondent no.1 shall process it and pay the compensation amount to the petitioners within a period of eight weeks thereafter, failing which the amount shall carry interest @ 6% p.a. till realisation of the amount.

(b) The respondents are directed to examine the case of the petitioners in terms of Section 13 of the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013 about their eligibility, and if they are found eligible then to rehabilitate them, in accordance with law, within a period of twelve weeks from the date of uploading of this order.

(ii) With these directions, Writ Petition is disposed of.

[VAISHALI PATIL – JADHAV, J.]

[NITIN B. SURYAWANSHI, J.]