

ITEM NO.12

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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I N R E : O U T R A G E A S P A R E N T S E N D L I F E A F T E R C H I L D ' S D E N G U E D E A T H

Date : 12-12-2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

Mr. Colin Gonsalves, Sr. Adv. (AC)
Mr. Choudhary Ali Zia Kabir, Adv.

For Petitioner(s)

For Respondent(s) Mr. A.N.S. Nadkarni, ASG
Mr. Zoheb Hossain, Adv.
Mr. Zaid Ali, Adv.
Mr. G.S. Makker, Adv.

Mr. S. Wasim A. Qadri, Adv.
Mr. Hemant Arya, Adv.
Ms. Saudamini Sharma, Adv.
Mr. B.V. Balram Das, AOR

Mr. Chirag M. Shroff, AOR

Mr. B. Krishna Prasad, AOR

Mr. Avijit Roy, Adv.

U P O N h e a r i n g t h e c o u n s e l t h e C o u r t m a d e t h e f o l l o w i n g
O R D E R

We have heard learned *amicus curiae* as well as learned Additional Solicitor General appearing on behalf of the Ministry of Environment, Forests and Climate Change (MOEF).

We have also been taken through the Solid Waste Management Rules, 2016 (for short "the Rules").

It has been brought to our notice by learned ASG that Rule 23 of the Rules requires the setting up of a State Level Advisory Body (SLAB). He has placed before us a communication dated 16th November, 2017 sent by the Central Pollution Control Board to the Director in MOEF. It is stated in the letter that in the first meeting of the Central Monitoring Committee on implementation of the Rules held on 27th January, 2017, the CPCB was asked to review the status of constitution of the State Level Advisory Body and issue directions under the Environment (Protection) Act, 1986 to the defaulting States and Union Territories for constitution of SLAB.

In compliance with the above decisions, the CPCB had issued directions on 7th September, 2017 under Section 5 of the Environment (Protection) Act, 1986 for constitution of the SLAB. It is stated in the communication that only 15 States and Union Territories have responded and in some of those States not even one meeting has been held of the SLAB.

It is quite clear from the above that there is no seriousness attached to the management of solid waste to the extent that even the SLAB has not been set up and in some cases where the Body has been set up it has not even met once in six months.

Accordingly, the MOEF will issue a communication to all the State Governments within two weeks from today requiring information from the State Governments about

the setting up of the SLAB and the names of its members, the number of meetings held, the decisions taken and steps taken for implementation of the Rules including amendment of any Bye-laws that may be necessary.

Learned Additional Solicitor General has drawn our attention to Rule 22 of the Rules. Rule 22 contains the time line for implementation of the Rules. For example, identification of suitable sites for setting up of solid waste processing facilities has to be completed within one year. Similarly, door to door collection of segregated waste and its transportation in covered vehicles to processing or disposal facilities has to be completed within two years. Clearly, no positive steps appear to have been taken to adhere to these time lines.

It may be noted at this stage that the Rules came into force on 8th April, 2016 and more than one and half years have gone by.

It is stated in the affidavit of the MOEF that the Government of India has launched a Swachh Bharat Mission for which there is a total outlay of Rs.36,829 crore out of which Rs.7,424 crores have been made available by the Central Government. Therefore, it is quite clear that there is absolutely no shortage of funds, but there is only absence of any initiative or lack of any willingness to take any positive steps for solid waste management.

It is time that some of these issues are looked at with all due concern and seriousness by the State

Governments, particularly in the context of the Swachh Bharat Mission.

Learned *amicus curiae* has drawn our attention to the minutes of the meeting held on 31st October, 2016 with the Municipal Commissioners, MLAs of Bhalsawa, Okhla and Ghazipur and other stake holders in Delhi. It is recorded that the meeting was held under the Chairmanship of the Chief Secretary of Delhi.

In the minutes of the meeting, it is further recorded that a Committee of Persons with the Health Minister of Delhi, Mr. Satinder Jain as Chairman is required to make a policy regarding waste disposal. It was decided that Ms. Almitra Patel and Ms. Bharati Chaturvedi will be inducted in that Committee.

We are told that Ms. Almitra Patel and Ms. Bharati Chaturvedi have not yet been inducted in that Committee.

Learned counsel appearing on behalf of Government of NCT of Delhi is unable to tell us why no steps have been taken in this regard.

Learned *amicus curiae* has also pointed out that there is a substantial body of literature and information available with regard to solid waste management and that the CEO of United Residents Joint Action, the apex body of RWAs in Delhi strongly suggested that segregation should be done at the colony level and the colony should be made responsible for segregation and composting.

The CEO also volunteered to assist the Committee chaired by the Health Minister, Mr. Satinder Jain. It is for Mr. Satinder Jain to take a decision in this regard.

We are mentioning these facts only to indicate that there is strong support for cleaning up the land fills in Delhi and remove the garbage, that is lying at Bhalsawa, Ghazipur and Okhla. However, there does not seem to be any strong desire of the authorities in Delhi to take steps in this regard.

The matter has to be taken up very seriously by all concerned not only in Delhi, but also in other parts of India because we are told by learned *amicus curiae* as well as by learned Additional Solicitor General that the issue of solid waste management is not confined only to Delhi, but is a problem in almost every large city in the country. It is suggested that Delhi could be a model which could be replicated in the other parts of the country, but if the authorities in Delhi themselves take no interest, we are afraid that the model will be a complete failure.

We, accordingly, request the Health Minister of Delhi, Mr. Satinder Jain to urgently call a meeting of the Body which he is chairing with regard to solid waste management and to include Ms. Almitra Patel and Ms. Bharati Chaturvedi in that Body and if he feels appropriate he may also induct the CEO of the United Residents Joint Action.

Whenever the meeting is held, Mr. Colin Gonsalves, learned *amicus curiae* should be invited to participate in the meeting.

We would expect a definite plan of action to be prepared as also a strategy for solid waste management in Delhi so that it can be replicated in other parts of the country.

We request the Health Minister of Delhi, Mr. Satinder Jain, to call a meeting within four weeks from today and proceed with due dispatch.

We direct the MOEF to follow up the matter with the State Governments in terms of our order and make it clear to the State Governments that in case they do not provide full, correct and accurate information to the MOEF, they are likely to be burdened with very heavy costs. The State Governments should keep in mind the fact that availability of funds is not a problem under Swachh Bharat Mission and also keep in mind that solid waste management is a huge problem being faced by the country at this stage.

List the matter on 6th February, 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER