

अनुराग यादव, भा.प्र.से.
सचिव



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उत्तर प्रदेश शासन
नगर विकास विभाग

आवेदन/प्र. नं. 15/21

कृपया इस पत्र के साथ संलग्न राष्ट्रीय मानव अधिकार आयोग द्वारा निर्गत एडवाइजरी R-28/1/2021-PRPP(RU-3) दिनांक 24 सितम्बर 2021 का अवलोकन करने का कष्ट करें। इस विषय में उक्त को निदेशालय के पोर्टल पर अंकित करने के साथ-साथ समस्त नगर आयुक्त एवं अधिशासी अधिकारियों को उपरोक्त के अनुपालन हेतु अपने स्तर से भी निर्देशित करने का कष्ट करें।

संलग्नक—यथोक्त

21/1/22

भवदीय

(अनुराग यादव)

सुश्री शकुन्तला गौतम,
निदेशक,
नगरीय निकाय निदेशालय उ0प्र0।

"Ignorantia juris non excusat"



राष्ट्रीय मानव अधिकार आयोग National Human Rights Commission

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R-28/1/2021-PRPP (RU-3)

Sub: Advisory on Protection of Human Rights of the Person Engaged in Manual Scavenging or Hazardous Cleaning

The National Human Rights Commission (NHRC) is mandated by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all people in the country. Towards the fulfilment of its mandate, the Commission is especially concerned about the rights of the vulnerable and marginalised section of the society engaged in the manual scavenging and hazardous cleaning of sewer and septic tanks.

2. The practice of manual scavenging is banned in India since 1993, but this 'dehumanizing practice' which mainly employs members of the marginalized community, still exists in the country. Therefore, the Commission issues this "Advisory on Protection of Human Rights of the Person Engaged in Manual Scavenging or Hazardous Cleaning" to the Union and State Governments and local authorities with an objective to ensure complete eradication of this dehumanizing practice.

3. All concerned authorities of the Union/ State Government(s)/ UTs are advised to implement the recommendations made in the advisory and to send an Action Taken Report (ATR) within three months for information of the Commission.

24/9/21
(Bimbhadhar Pradhan)
Secretary General

Encl: Advisory

- 1. The Secretary to the Government of India**
Ministry of Social Justice and Empowerment
C-Wing, Shastri Bhawan, New Delhi, Delhi 110001
- 2. The Secretary to the Government of India**
M/o Housing and Urban Affairs
Nirman Bhawan, C-Wing, Rajpath Area, Central Secretariat, New Delhi, Delhi 110011
- 3. The Secretary to the Government of India**
National Commission for Safai Karmcharis
B Wing, 4th Floor, Lok Nayak Bhawan, Khan Market, New Delhi 110003
- 4. Chief Secretaries/ Administrator (all States and UTs)**



NATIONAL HUMAN RIGHTS COMMISSION

ADVISORY ON PROTECTION OF HUMAN RIGHTS OF THE PERSONS ENGAGED IN MANUAL SCAVENGING OR HAZARDOUS CLEANING

The Commission issues this advisory to the Union and State Governments and local authorities with an objective to ensure to provide security cover to workers involved in scavenging and other allied matters including hazardous cleaning of sewer and septic tanks, and accordingly, make the following recommendations;

1. **Ensuring proper protective gear/ safety equipment for sanitary workers:**
 - i. All sanitary workers entering/ cleaning septic tanks/ sewer lines must be provided with helmet, safety jacket, gloves, mask, gumboots, safety eyeglasses, torchlight along with oxygen cylinder. Employers to ensure that no body part of the sanitary worker remains exposed while undertaking hazardous cleaning.
 - ii. It should be the responsibility of the local authority/ hiring agency to provide all necessary personal protective gear/safety equipment to the sanitary workers irrespective of their type of employment, i.e., permanent, temporary, part-time or contractually hired/ engaged.

2. **Leveraging the use of suitable and worker-friendly technology and robotic machines:**
 - i. The States/ UTs and local bodies need to invest adequately for use of the latest technology and totally mechanize the cleaning of septic tanks, sewer lines or sewage treatment plants, etc.
 - ii. Use of duly acknowledged and recognized technological equipment e.g., Bandicoot, Sewer Crocs, KAMJET GR, Mobile septage Treatment Unit (MTU), etc., be encouraged by all stakeholders.
 - iii. The Ministry of Urban and Housing Affairs needs to regularly update the Directory on Sewers and Septic Cleaning Equipment.
 - iv. The Government of India to explore the possibility of manufacturing of such equipment under the Production Linked Incentive (PLI) scheme or such other schemes for providing such mechanized equipment at affordable cost.

3. **Welfare schemes: responsibility and accountability of the hiring agency/employer**
 - i. The State Government(s)/ local bodies should engage sanitary workers formally as required. Only the trained workers should be engaged in carrying hazardous cleaning work. Training program for this may be undertaken and certificate be provided.
 - ii. The hiring authority/employer must ensure that all sanitary workers are covered under the Ayushman Bharat Scheme.



- iii. The hiring agency/ employer should be made responsible for the risks associated with the job. Necessary precautions must be taken for the complete safety of the workers. The welfare/developmental schemes including the life insurance schemes should be extended to them.
- iv. Considering the risk of infection associated with the work, the sanitary workers be treated as frontline health workers for all purposes.

4. Fixing the responsibility and accountability of the concerned authorities:

- i. The States/ UTs should investigate all reports of non-conversion of dry/ insanitary latrines into sanitary latrines by both individual household and the local authority. Necessary action against the defaulters for non-compliance of the law be initiated.
- ii. In case of death of any sanitary worker while undertaking hazardous cleaning work, the local authority and the contractor/employer are to be held responsible and accountable, jointly and severally, irrespective of the type of hiring/engagement of the sanitary worker.
- iii. Considering the risk and technicalities associated with the cleaning of sewer and septic tanks, the local authorities should exclusively take up the responsibility of getting the work done under their direct supervision. If the said work is to be outsourced, it should be given to only those contractors who fulfill the requisite criteria. However, the responsibility of ensuring the safety of the sanitary workers will primarily remain with the local authority.
- iv. The State Government(s)/ local authority should be fully responsible for ensuring that the payment of one-time compensation and rehabilitation of all identified manual scavengers are completed in a time-bound manner.

5. Rehabilitation

- i. Providing one-time cash assistance and credit support is mandatory in accordance with "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013" (herein after referred as the Act of 2013). However, this should be in addition to access to the livelihood support necessary to be provided both immediate and long-term basis.
- ii. All cash assistance under the rehabilitation schemes must be provided through DBT (Direct Benefit Transfer) to check any pilferage.
- iii. Suitable NGOs/ community organizations may be identified/ selected for assisting in rehabilitation, and in finding alternate livelihood opportunities, and for continued long-term support to ensure sustainable alternative livelihood to such workers.
- iv. Livelihood programs should be gender-sensitive as well as considerate to the local conditions.
- v. Requisite efforts be made to integrate the livelihood program with the necessary training to enhance capability for earning livelihood. The existing schemes of various Ministries, National Urban Livelihood Mission, National Rural Livelihood Mission, etc., may be



- optimally used for the training of beneficiaries. The identified manual scavengers be given priority in all such skill development training programmes of Central/ State Government(s).
- vi. Educational advancement of the children of all identified and rehabilitated manual scavengers should be given priority in coordination with the educational institutions for utilizing the available scholarship schemes and other benefits.
 - vii. A nationwide database to be put in place for rehabilitated and trained/ skilled manual scavengers for providing requisite assistance.
 - viii. The private sector should be encouraged to provide employment to the identified/ rehabilitated/ trained/ skilled manual scavengers and incentives may be provided to them.

6. Access to Justice

- i. The Act of 2013 lays down the offences & penalties in Chapter III (Sec 5 to 9) and the role and functions of the implementing authorities in Chap V. The District Magistrates and the authorized officers under Sec 18 to ensure that persons contravening the provisions of Section 5, 6 & 7 of the Act are investigated & prosecuted as per the mandate of Sec 19. Requisite notification under Sec 18 be issued in case it has not been issued.
- ii. The State Government to ensure that a sufficient number of Inspectors are appointed as per Sec. 20 of the Act of 2013.
- iii. The District Magistrates/ notified Executive Magistrates to ensure expeditious trial of offences in accordance with the provisions of the Act of 2013.
- iv. As per directive of the Supreme Court in *Safai Karamchari Andolan & Ors v. UoI & Ors*, WP (Civil) 583/2003, 27th March 2014, entering sewer lines without safety gears be made a crime even in emergency situations.
- v. In case of death of such worker, police to promptly register FIR without fail, investigate and take action against the offenders under relevant sections of IPC and for violation of any other law in force.
- vi. As held by the Supreme Court in *Safai Karamchari Andolan (supra)*, the families of all persons who have died in sewerage work (manholes, septic tanks, etc.) since 1993 to be identified and awarded compensation of Rs.10 lakhs for each such death to the family members in accordance with the law, and the concerned authority should be held accountable in case of failure on their part in compliance of the same.
- vii. Any other crime such as threat, inducement, criminal intimidation, bonded labour, or atrocity under the SC/ ST Act in respect of such work, FIR be registered and investigated in a time bound manner.
- viii. In accordance with Sec 31 of the Act of 2013, the National Commission for Safai Karamcharis may ensure timely enquiries into the complaints and should recommend appropriate measures for compensation/punitive action against the offenders/errant State/local authorities.



- ix. A suitable scheme be formulated for providing compensation to the family of victim in the event of accidental death/ injuries that occurs due to fall in potholes/ open manholes/ sewer /septic tanks, etc.

7. Strengthening infrastructure for providing sanitary services

- i. Sewers and Drains should be designed in such a way that no difficulty arises in mechanized cleaning. The Ministry of Housing and Urban Affairs to prescribe a model design for the said purpose.
- ii. The concept of bio-toilet may be introduced in the water-stressed regions. In order to stop all forms of open defecation, proper toilet facilities be ensured with water as well as proper collection/ containing arrangements for all homeless persons and people living in slums and informal settlements.
- iii. In pursuance of the ODF++ protocol, the necessary steps be taken to ensure that faecal sludge/ septage and sewage is safely managed and treated, with no discharging and/ or dumping of untreated faecal sludge/ septage and sewage in drains, water bodies or open areas.
- iv. Railway infrastructure be modernized in a phased manner so that no toilet in the coaches would dispose off the faecal matter on the railway tracks.

8. Awareness/ Sensitization

- i. All the officials in the concerned departments at the Central, State, and local bodies should be sensitized properly so that they develop an empathetic attitude towards the sanitary workers. Necessary workshops should be arranged at regular intervals to make them well conversant about the ongoing schemes meant for welfare, development and also the provision of the Act of 2013.
- ii. All local bodies to sponsor street plays, etc., to portray the difficulties faced by such workers.
- iii. All schools and colleges may be advised to include events highlighting the issues of manual scavengers in their Annual Day Function or on the occasion of World Toilet Day, i.e., 19th November.
- iv. All local bodies to undertake requisite Information, Education and Communication (IEC) activities for sensitization of all stakeholders.

9. Replicating the best practices

- i. The best practices followed in various parts of the country to be identified and publicized through various means so that the same may be replicated by other States/ Local authorities, e.g., Garima Scheme of the State of Odisha.
- ii. All the State Governments/ Local bodies should constitute Responsible Sanitation Unit and Sanitation Response Unit at the earliest in accordance with the "National Action for



Mechanized Sanitation Ecosystem” issued by the Ministry of Social Justice and Empowerment.

10. Ensuring proper identification of persons engaged in manual scavenging

- i. As and when a fresh survey is undertaken, it should be ensured that all the persons who are cleaning un-decomposed septage manually are identified and listed as manual scavengers.
- ii. A survey for checking the existence of dry latrines may also be carried out and, if found in existence, should be immediately demolished in compliance with the Act of 2013.

11. Monitoring of Implementation of the PEMSAR Act, 2013

- i. The Central and State Monitoring Committee must hold their meeting at least once in six months as mandated under the Act of 2013.
- ii. All States and UTs should establish the State Monitoring Committee as required under the provision of the Act of 2013.
- iii. The State and UTs who are yet to notify the constitution of the Vigilance Committee as mentioned under the Act of 2013 should constitute it without any further delay.
