

IN THE SUPREME COURT OF INDIA AT NEW DELHI

[EXTRAORDINARY WRIT JURISDICTION]

WRIT PETITION (CIVIL) NO. _____ OF 2020

[Under Article 32 of the Constitution of India read with Order
XXXVIII, Rule 12 (1) (d) & (2) of The Supreme Court Rules,
2013]

IN THE MATTER OF PUBLIC INTEREST LITIGATION:

HARNAM SINGH

.....Petitioner

Versus

1. UNION OF INDIA
THROUGH CHIEF SECRETARY
MINISTRY OF HOUSING AND URBAN AFFAIRS
NIRMAN BHAWAN, MAULANA AZAD ROAD,
NEW DELHI-110011
2. UNION OF INDIA
THROUGH CHIEF SECRETARY
MINISTRY OF HOUSING AND URBAN AFFAIRS
NIRMAN BHAWAN, MAULANA AZAD ROAD,
NEW DELHI-110011
3. STATE OF ANDHRA PRADESH
THROUGH CHIEF SECRETARY
BUILDING NO. 1, FIRST FLOOR,
INTERIM GOVERNMENT COMPLEX,
A.P. SECRETARIAT, VELAGAPUDI,
GUNTUR
4. STATE OF ARUNACHAL PRADESH
THROUGH CHIEF SECRETARY
CIVIL SECRETARIAT, ITANAGAR - 791111

5. STATE OF ASSAM
THROUGH CHIEF SECRETARY
BLOCK- C, 3RD FLOOR,
ASSAM SACHIVALAYA
DISPUR - 781006, GUWAHATI
6. STATE OF BIHAR
THROUGH CHIEF SECRETARY
MAIN SECRETARIAT, PATNA - 800015
7. STATE OF CHATTISGARH
THROUGH CHIEF SECRETARY
MAHANADI BHAWAN, MANTRALAYA
NAYA RAIPUR - 492002
8. STATE OF GOA
THROUGH CHIEF SECRETARY
SECRETARIAT, PORVROIM, BARDEZ,
GOA – 403521
9. STATE OF GUJARAT
THROUGH CHIEF SECRETARY
1ST BLOCK, 5TH FLOOR
SACHIVALAYA, GANDHINAGAR – 382010
10. STATE OF HARYANA
THROUGH CHIEF SECRETARY
ROOM NO. 4, 4TH FLOOR HARYANA
CIVIL SECRETARIAT, SECTOR-1,
CHANDIGARH – 160019
11. STATE OF HIMACHAL PRADESH
THROUGH CHIEF SECRETARY
H P SECRETARIAT, SHIMLA – 171002
12. GOVERNMENT OF JAMMU AND KASHMIR
THROUGH CHIEF SECRETARY
R. NO. 2/7, 2ND FLOOR
MAIN BUILDING, CIVIL SECRETARIAT,
JAMMU - 180001
ALSO R. NO. 307, 3RD FLOOR, CIVIL SECRETARIAT,
SRINAGAR – 190001

13. STATE OF JHARKHAND
THROUGH CHIEF SECRETARY
1ST FLOOR, PROJECT BUILDING, DHURWA,
RANCHI- 834004
14. STATE OF KARNATAKA
THROUGH CHIEF SECRETARY
ROOM NO. 320, 3RD FLOOR
VIDHANA SOUDHA,
BENGALURU- 560 001
15. STATE OF KERALA
THROUGH CHIEF SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM – 695001
16. STATE OF MADHYA PRADESH
THROUGH CHIEF SECRETARY
MP MANTRALAYA, VALLABH BHAVAN
BHOPAL – 462004
17. STATE OF MAHARASHTRA
THROUGH CHIEF SECRETARY
CS OFFICE MAIN BUILDING,
MANTRALAYA 6TH FLOOR,
MADAME CAMA ROAD,
MUMBAI – 400032
18. STATE OF MANIPUR
THROUGH CHIEF SECRETARY
SOUTH BLOCK, OLD SECRETARIAT
IMPHAL-795001
19. STATE OF MEGHALAYA
THROUGH CHIEF SECRETARY
MAIN SECRETARIAT BUILDING
RILANG BUILDING, ROOM NO. 321
MEGHALAYA SECRETARIAT,
SHILLONG - 793001
20. STATE OF MIZORAM
THROUGH CHIEF SECRETARY
NEW SECRETARIAT COMPLEX,
AIZAWL – 796001

21. STATE OF NAGALAND
THROUGH CHIEF SECRETARY
CIVIL SECRETARIAT, KOHIMA- 797004
22. STATE OF ODISHA
THROUGH CHIEF SECRETARY
GENERAL ADMINISTRATION DEPARTMENT
ODISHA SECRETARIAT
BHUBANESWAR – 751001
23. STATE OF PUNJAB
THROUGH CHIEF SECRETARY
CHIEF SECRETARY OFFICE,
6TH FLOOR, PUNJAB CIVIL SECRETARIAT -1,
SECTOR 1 CHANDIGARH, 160001
24. STATE OF RAJASTHAN
THROUGH CHIEF SECRETARY
SECRETARIAT,
JAIPUR – 302005
25. STATE OF SIKKIM
THROUGH CHIEF SECRETARY
NEW SECRETARIAT,
GANGTOK – 737101
26. STATE OF TAMIL NADU
THROUGH CHIEF SECRETARY
SECRETARIAT,
NAMAKKAL KAVIGNAR MAALIGAI,
FORT ST. GEORGE,
CHENNAI 600 009
27. STATE OF TELANGANA
THROUGH CHIEF SECRETARY
BURGULA RAMA KRISHNA RAO BHAVAN
9TH FLOOR, ADARSH NAGAR,
HYDERABAD 5000063
28. STATE OF TRIPURA
THROUGH CHIEF SECRETARY
NEW SECRETARIAT COMPLEX
SECRETARIAT, AGARTALA-799010

29. STATE OF UTTAR PRADESH
THROUGH CHIEF SECRETARY
1ST FLOOR, ROOM NO. 110
LALBAHADUR SASTRI BHAWAN
UTTAR PRADESH SECRETARIAT,
LUCKNOW – 226001
30. STATE OF UTTARAKHAND
THROUGH CHIEF SECRETARY
4 SUBHASH ROAD,
UTTARAKHAND SECRETARIAT
DEHRADUN – 248001
31. STATE OF WEST BENGAL
THROUGH CHIEF SECRETARY
NABANNA, 13TH FLOOR, 325,
SARAT CHATTERJEE ROAD, MANDIRTALA
SHIBPUR, HOWRAH - 711102
32. ANDAMAN AND NICBOAR ADMINISTRATION,
THROUGH CHIEF SECRETARY
ANDAMAN AND NICOBAR ADMINISTRATION
SECRETARIAT, PORT BLAIR
33. ADMINISTRATION OF DAMAN AND DIU
THROUGH ADMINISTRATOR
SECRETARIAT, FORT AREA,
MOTI DAMAN, DAMAN - 396220
34. ADMINISTRATION OF LAKSHADWEEP
THROUGH ADMINISTRATOR
SECRETARIAT BUILDING, KAVARATTI,
LAKSHADWEEP – 682555
35. GOVERNMENT OF PUDUCHERRY
THROUGH CHIEF SECRETARY
MAIN BUILDING, CHIEF SECRETARIAT,
PUDUCHERRY – 605001
36. GOVERNMENT OF N.C.T. OF DELHI
THROUGH CHIEF SECRETARY
DELHI SECRETARIAT
I.P. ESTATE, NEW DELHI

...Respondents

WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING A WRIT OF
MANDAMUS OR ANY OTHER APPROPRIATE WRIT,
ORDER, OR DIRECTION TO THE RESPONDENTS AND
OTHER APPROPRIATE MUNICIPAL AUTHORITIES AND
LOCAL SELF-GOVERNMENT AUTHORITIES TO ENSURE
PROTECTION OF THE RIGHT TO LIFE OF *SAFAI*
KARAMCHARIS/SANITATION WORKERS WHO ARE
ESSENTIAL SERVICE PROVIDERS DURING THE
NATIONWIDE CAMPAIGN FOR CURBING THE SPREAD
OF COVID-19 PANDEMIC

To,

The Hon'ble Chief Justice of India
And his companion judges
of the Supreme Court of India

Petitioner above named

MOST RESPECTFULLY SHEWETH:

1. The present Writ Petition under Article 32 of the Constitution of India has been filed by the Petitioner seeking directions ensuring protection of the Right to Life of *Safai Karamcharis/ Sanitation Workers* working selflessly towards maintaining hygiene and cleanliness in the country during the present

COVID-19 pandemic which has led to a complete lockdown in the country.

2. That the Petitioner is a social activist and former chairman of the Delhi Commission for Safai Karamcharis, Govt. of NCT of Delhi. The Petitioner has been working tirelessly for eradication of casteism and upliftment of marginalized classes especially the *Safai Karamcharis*. The Petitioner belongs to the Scheduled Caste community and has been concerned with the plight of *Safai Karamcharis*, most of whom are persons belonging to the Scheduled Castes across the Country. The Petitioner was the Chairman of the Monitoring Committee set up to enquire into the deaths of sanitation workers by Hon'ble Mr. Justice A.K. Sikri, when his Lordship was the Acting Chief Justice of the Delhi High Court. The Petitioner is also the recipient of the Ambedkar Ratna Award from the Govt. of NCT of Delhi for championing the cause of manual scavengers and sanitation workers.

The Mobile No. of the Petitioner is 9810385968, and his email address is singh25harnam@gmail.com. His Aadhar Number is 2960 9865 9838. The annual income of the Petitioner is Rs. 5,00,000. Postal address of the Petitioner is WZ-860A, Naraina Village, South West Delhi, Delhi, 110028.

It is stated that there is no civil, criminal, or revenue litigation involving the Petitioner which has or could have a legal nexus with the issues involved herein. It is further stated that the Petitioner does not have any personal interest or oblique motive in filing the present petition.

3. Respondent No.1 is the Union of India through Secretary, Ministry of Housing and Urban Development, which is the apex authority of Government of India at the national level to formulate policies, sponsor and support programmes, coordinate the activities of various Central Ministries, State Governments and other nodal authorities and monitor the programmes concerning all the issues of housing and urban affairs in the country. Much of the functions entrusted Respondent No. 1 have been delegated to Urban Local Bodies after the promulgation of the Constitution (74th Amendment) Act, 1992. Yet Respondent No. 1 retains considerable influence over local bodies by being responsible for policy formulation and allocation of funds and other resources.
4. Respondent No. 2 is the Union of India, through Secretary, Ministry of Health and Family Planning. Respondent No. 2 is responsible for formulation of health policy and research, and

presently for coordination of all efforts for combating public health concerns such as the impending spread of COVID-19.

5. Respondent Nos. 3 to 36 are the governments/administrations of various states and union territories which have direct administrative interaction with the local municipal bodies.

6. Brief facts leading to the filing of the present Petition are as follows:

I. A novel virulent disease with pneumonia like symptoms, caused by the Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), was identified in China in December 2019. Since being first transmitted and identified between the local population in China, the disease has become global health pandemic, causing widespread disruption in public life and services, including imposition of nationwide lockdowns on movement of people in several countries.

II. The disease has since then been named as "Coronavirus Disease 2019", shortened as "**COVID-19**", and has been identified as a serious global health hazard primarily owing to its tendency to

spread rapidly, and its high death rate in certain sectors of the population. Health professionals and bodies have recognized that the virus spreads from human to human through respiratory droplets produced during coughing, sneezing, talking, even regular breathing. The virus has been known to stay alive on various surfaces for up to seventy two hours. Complications due to infection include pneumonia and acute respiratory distress. There is no prescribed treatment for the disease, and no vaccinations are available. Risk of mortality dramatically increases with factors such as presence of other physical ailments, old age or infancy, and inability to afford and access healthcare.

- III. Even though the disease had originated in China, it had spread to various parts of the world, with countries such as Italy, the United States, and Spain suffering an extraordinary rate of infection. The Governments, including local/state governments, in these countries responded with strict lockdown measures with exceptions for essential services.

Sanitation workers have generally being exempted from closure of services, being regarded as essential. Further the World Health Organization (WHO) had regarded Sanitation workers as being vulnerable to contracting COVID-19 due to the nature of their service. The WHO therefore had issued a Technical Brief on 03.03.2019, and an Interim Guidance on 19.03.2019, remarking that sanitation workers have to wear appropriate Personal Protective Equipment (PPE) which includes protective outerwear, gloves, boots, goggles or a face shield, and a mask while carrying out their duties. Hereto annexed and marked as **ANNXURE P-1 (Colly)** are copies of Technical Brief dated 03.03.2020 and Interim Guidance dated 19.03.2020, both titled as 'Water, Sanitation, Hygiene and waste management for the COVID-19 virus'.

- IV. Owing to the spread of COVID-19, the Government of India issued similar directions for lockdown on 24.03.2020. An order issued by the Ministry of Home Affairs provided guidelines on the measures

to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments, and State/Union Territory Authorities for containment of COVID-19 Epidemic in the country. The order provided for closure of several public services, industries, and places, including government offices. The order also provided for exceptions, and sanitation workers were permitted to continue performing their services which were determined to be essential. Annexed hereto and marked as **ANNEXURE P-2** is a copy of the order dated 24.03.2020 issued by the Ministry of Home Affairs calling for closure of several public services and allowing sanitation workers to continue their functions.

- V. The Petitioner is filing the present petition as he is concerned about the plight of the *Safai Karamcharis*/Sanitation Workers who are working tirelessly and selflessly during the present COVID-19 pandemic that has gripped the Country leading to the aforementioned Lockdown.

- VI. The Petitioner submits that the *Safai Karamcharis/Sanitation Workers* carry out the essential service of keeping every city, town and village clean, sweep the roads, carry waste of every household, clean sewers etc. In order to carry out the said work, these *Safai Karamcharis/Sanitation Workers* are not equipped with any COVID- 19 protective gear/Personal Protection Equipment (PPE) to safeguard them from the highly infectious Corona Virus. The COVID-19 protective gear/PPE consists of long-sleeved gown, gloves, boots, masks, and goggles or a face shield.
- VII. It is submitted that these *Safai Karamcharis/Sanitation Workers* are poorly paid and live in densely populated clusters. Hence, if any *Safai Karamchari/Sanitation Worker* is infected while carrying out his duties of cleaning and handling waste, the chances of infection spreading within these clusters is extremely high.
- VIII. The Petitioner submits that the fact that *Safai Karamcharis/sanitation workers* are especially vulnerable to infection has also been recognized by

the WHO in its Technical Brief dated 03.03.2020 and Interim Guidance dated 19.03.2020, both titled as 'Water, Sanitation, Hygiene and waste management for the COVID-19 virus' which mandates that sanitation workers have to wear appropriate Personal Protective Equipment (PPE) which includes protective outerwear, gloves, boots, goggles or a face shield, and a mask while carrying out their duties.

- IX. That some sanitation workers in Mumbai (Dharavi) have already tested positive as reported in India Today ^{A L L ABOUT LAW} Hereto annexed and marked as **ANNEXURE P-3** is copy of Article dated 02.04.2020 titled 'Coronavirus in India: Another Dharavi-related case, 54 year-old sanitation worker tests positive' from the website of India Today reporting that a 54 year old sweeper from the locality tested positive for Covid-19. Hence, it is imperative that urgent steps are taken to ensure that Safai Karamcharis/sanitation workers are provided with Personal Protection Equipment(PPE)/COVID-19

protective gear on an urgent basis to prevent the pandemic through community transmission.

- X. The Petitioner submits that there is a known tendency to ill-treat persons belonging to the Scheduled Castes and in the event of any *Safai Karamchari*/Sanitation Worker testing positive for COVID-19 and the said infection being transmitted within the clusters in which they live, all persons belonging to the Scheduled Castes will be blamed and vilified as deliberate spreaders of the Virus, and hence it is of utmost importance that all local Authorities in each State are directed not to force the *Safai Karamcharis*/Sanitation workers to carry out their duties without being provided with COVID-19 protective gear/PPE and to ensure that all *Safai Karamcharis* are provided with COVID-19 protective gear/PPE on an urgent basis within 24 hours.
- XI. It is further submitted that a combined reading of Sections 2(1) (d), 7 and 9 of The Prohibition of Employment As Manual Scavengers and Their Rehabilitation Act 2013 makes it amply clear that cleaning of sewers or septic tanks without protective

gear amounts to “hazardous cleaning” and any agency or authority who has employed any person for such hazardous cleaning is liable to be punished with imprisonment and fine which may extend to Rs. 2,00,000 (Rupees Two Lakh) on the first contravention.

7. That the Petitioner is therefore constrained to approach this Hon'ble Court on the following grounds amongst others, which are being taken without prejudice to one another:

GROUND

- A. Because the Government has recognised the rapid spread of Corona Virus as a pandemic and declared a Lockdown in the whole country to arrest its spread.
- B. Because it has been established that the Corona Virus is highly infectious.
- C. Because every Safai Karamchari/Sanitation Worker is entitled to the Right to Life as guaranteed under Article 21 of the Constitution of India.
- D. Because Safai Karamcharis/Sanitation Workers who are carrying out the essential service of cleaning and handling household waste of possible infected

persons, are the most vulnerable as they have no adequate protective gear and are not even aware if the household from which the waste is being carried has any person showing symptoms of the dreaded virus.

- E. Because these Safai Karamcharis/Sanitation Workers live in dense clusters thereby rendering the situation even more serious as one infected Safai Karamchari/Sanitation Worker would pose a potential threat to the entire cluster.
- F. Because the present system of making the Safai Karamcharis/Sanitation Workers clear household waste and clean areas which carry the risk of potential infections of the Corona Virus, without the COVID-19 protective gear/PPE, puts the Safai Karamcharis/Sanitation Workers at a grave risk to their life and health as well as the life and health of their families and neighbours, in the areas where they live.
- G. Because the present system of making the Safai Karamcharis/Sanitation Workers clear household waste and clean areas which carry the risk of

potential infections of the Corona Virus, without the COVID-19 Protective Gear/PPE, is callous and amounts to violation of their fundamental right to life.

- H. Because the present system of making the Safai Karamcharis/Sanitation Workers clear household waste and clean areas which carry the risk of potential infections of the Corona Virus, without the COVID-19 protective gear/PPE, amounts to exploitation by the State of its citizens who belong to the economically weaker section and Schedule Castes.
- I. Because, in order to contain the spread of the Virus within the community, the COVID -19 protective gear/PPE has been recognised as the basic requirement for all those who may be exposed to the said Virus.
- J. Because, unlike the doctors who work in a more controlled and sanitised environment, the Safai Karamcharis/Sanitation Workers work in abysmally unsanitised environments and run a higher risk of being infected.

- K. Because doctors as well as Safai Karamcharis/Sanitation Workers are being exposed to the Corona Virus and are facing a high risk of infection and while doctors are being provided with the COVID-19 protective gear/PPE, the Safai Karamcharis/Sanitation Worker are being discriminated against and made to risk their lives and the lives of their family and others belonging to the Scheduled Castes.
- L. Because even a combined reading of Sections 2(1) (d), 7 and 9 of The Prohibition of Employment As Manual Scavengers and Their Rehabilitation Act 2013 makes it amply clear that cleaning of sewers or septic tanks without protective gear amounts to "hazardous cleaning" and attracts penal consequences.
- M. Because all the agencies undertaking sanitation facilities, Municipal Boards, Panchayats, Cantonment Board, Railway Authority, some of them falling under the jurisdiction of the Respondents have been blatantly flouting the provisions of The Prohibition of Employment As

Manual Scavengers and Their Rehabilitation Act 2013, especially Sections 2(1) (d), 7 and 9 of the said Act.

8. The Petitioner craves leave to plead and refer to additional grounds at the time of hearing.
9. The Petitioner has not moved/approached to government authority for the relief sought in the petition. The Petitioner has no other alternative and efficacious remedy but to approach this Hon'ble Court.
10. The Petitioner has not filed any other Petition either before this Hon'ble Court or any High Court seeking the relief sought in the present petition.
11. The present Petition is filed bona-fide and in the interests of justice.

PRAYER

It is therefore most humbly prayed that this Hon'ble Court may be pleased to:

- i. Issue a Writ of Mandamus or any other appropriate Writ directing the Respondents to instruct all the agencies undertaking sanitation facilities, Municipal Boards, Panchayats, Cantonment Board, Railway Authority, falling under its jurisdiction not to have any *Safai*

Karamcharis/Sanitation Workers carrying out any cleaning activity without being provided with the COVID - 19 Protective Gear/Personal Protective Equipment (PPE) which includes long-sleeved gown, gloves, boots, masks, and goggles/face shield.

- ii. Issue a Writ of Mandamus or any other appropriate Writ directing the Respondents to instruct all the agencies undertaking sanitation facilities, Municipal Boards, Panchayats, Cantonment Board, Railway Authority, falling under its jurisdiction to ensure that all Safai Karamcharis/Sanitation Workers are provided with the COVID-19 Personal Protective Equipment within 24 hours.
- iii. Issue a Writ of Mandamus or any other appropriate Writ directing the Respondents to carry out the testing of the Safai Karamcharis/ Sanitation Workers and their immediate families, for COVID-19 within 48 hours.
- iv. Issue a Writ of Mandamus or any other appropriate Writ directing the Respondents to ensure that the Implementing Authorities under The Prohibition of Employment As Manual Scavengers and Their Rehabilitation Act 2013, that are under their jurisdiction,

ensure strict compliance of Section 7 of the said Act and also ensure that the penal consequences as contained in Section 9 of the said Act are given effect to immediately on any violation.

- v. Pass any other or further orders as this Hon'ble Court deems fit in the facts of the present case.

FILED BY:

MANSOOR ALI

Advocate on Record For the Petitioner

DRAWN AND SETTLED BY:

Mehmood Pracha

Advocate

Place: New Delhi

Drawn and Filed on: 06.03.2020

IN THE SUPREME COURT OF INDIA AT NEW DELHI

[EXTRAORDINARY WRIT JURISDICTION]

WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF PUBLIC INTEREST LITIGATION:

HARNAM SINGH ...Petitioner

Versus

UNION OF INDIA & Ors. ...Respondents

A F F I D A V I T

- Live Law.in**
ALL ABOUT LAW
1. That I am the Petitioner in the above noted petition and being well conversant with the facts of the case, I am competent to swear this affidavit before this Hon'ble Court.
 2. That the contents of the accompanying Petition at pages __ to __, Synopsis & List of Dates at Pages B to D and the contents of accompanying Application(s) at pages __ to __, have been drafted by my counsel. I say that the contents thereof are true and correct to my knowledge, belief, and information derived from the record of the case and the submissions of law made therein are believed to be true and correct.

3. That the contents of para 1 to ___ and A to ___ of the accompanying petition have been drafted by my counsel under my instructions and believed to be true.
4. That the Annexures to the writ petition are true copies of their respective originals.
5. That the Petitioner has not preferred any similar or other petition in the above mentioned matter.
6. That I have gone through the Supreme Court (Public Interest Litigation) Rules and do hereby affirm that the present Public Interest Litigation is in conformity thereof.
7. That I have no personal interest in the litigation and neither myself nor anybody in whom I am interested would in any manner benefit from the relief sought in the present litigation save as a member of the General Public. This Petition is not guided by self-gain or the gain of any person, institution, body, and there is no motive other than of public interest in filing this petition.
8. That I have done whatsoever inquiry/investigation which was in my power to do, to collect all data/material which was available and which was relevant for the court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may have enabled this court

to form an opinion whether to entertain the petition or not and /or whether to grant any relief or not.

9. That the contents of the above paragraphs of the affidavit and the contents of the Petition/Application(s) herein above have been read over to me and the same has been well understood by me.

/ Deponent

VERIFICATION:-

Verified at New Delhi on this ___ day of April 2020 that the contents of my above affidavit are true and correct and no part thereof has been concealed.

/ Deponent.