

6.

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 524/2010

PEOPLES UNION FOR DEMOCRATIC RIGHTS & OTHERS
..... Petitioners

Through Mr. Colin Gonsalves, Sr. Advocate
with Mr. Tariq Adeeb, Advocate.

versus

UNION OF INDIA AND OTHERS Respondents

Through Mr. Sanjeev Sachdeva, Mr. Preet Pal
Singh, Mr. Sanjeet Ranjan & Mr. Vaibhav
Verma, Advocates for respondent Nos. 1, 5
and 6.

Mr. Ajay Verma, Advocate for DDA.

Mr. Anil Amrit, Standing Counsel for NDMC
with Secretary (NDMC).

Ms. Suparna Srivastava, Standing Counsel for
MCD with Commissioner of MCD.

Mr. Atul Sharma, Mr. Milanka Chaudhury & Mr.
Abhishek Sharma, Advocates for respondent
No. 11-DIAL.

Mr. K.C. Kaushik, Mr. Rahul Kaushik & Ms.
Shilpi Kaushik, Advocates for respondent No.
12-DMRC.

Ms. Noopur Singhal, Advocate for Mr. Anil
Grover, Advocate for SAI.

Mr. Manmeet Singh, Supt. (Admn.), DLSA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

09.02.2011

%

This Court on earlier occasion had directed personal presence

of competent authorities of certain organizations. In pursuance of the earlier order, Mr. Anil Kumar Singh, Labour Commissioner-cum-Secretary of the Board, Mr. Virender Prasad, General Manager (HR), DIAL, Mr. D. Sarkar, Secretary, DDA, Mr. K.S. Mehra, Commissioner, MCD, Mr. Santosh Vaid, Secretary, NDMC and Mr. N.K. Prasad, Chief Labour Commissioner, Union of India are present.

2. At the commencement of the hearing, Mr. Sanjeev Sachdeva, learned Standing Counsel for Union of India has given a chart relating to the number of establishments, number of contractors, who have submitted the records, number of workers involved and the number of contractors, who have not submitted the records and details of defaulting contractors and the action taken. For the sake of convenience, we incorporate the first page of the chart:-

SI No	Name of P.E.	No. of Notices	No. of Contractors who submitted Records	No. of Workers involved	No. of Contractor who not submitted record.	Detail of defaulting Contractors	Remark
1	DIAL	99	80	90391	19	As per list-A	Prosecution Sanctioned and filing of Complaint before the court is under Process
2.	DDA	20	19	8109	01	As per list-B	
3.	CPWD	10	10	2838	-	-	
4.	DMRC	41	38	5867	03	As per list-C	
5.	S.A.I.	02	01	214	01	As per list-D	

6.	D.U.	02	02	1091	-	-	-do-
7.	NDMC	09	09	927	-	-	
8.	MCD	02	02	52	-	-	-do-
9.	Others	04(NBC C)-1 (ONGC) -1 (AIR/C CW)-1 (RITES) -1	04	1530	-	-	
Total			189	165	111019	24	-
							-

3. On a perusal of the chart, it is perceived that out of 99 contractors engaged by DIAL, 80 contractors have submitted their records. The number of workers engaged by DIAL goes upto 90391. 19 contractors have not submitted any record. The amount of cess that was required to be deposited on behalf of DIAL is Rs.48 crores. Out of the said amount, Rs.31 crores has been deposited. Let the rest of the amount be deposited as required under the Cess Act of 1996 by 25th March, 2011.

4. As far as DDA is concerned, name of only one contractor was required to be submitted and it is contended by Mr. Ajay Verma, learned counsel appearing for the DDA that the same has already been submitted and total amount of cess of Rs.9,62,57,903/- has been deposited.

5. As far as CPWD is concerned, the names of the workers have been given and the amount of cess deposited is Rs.17.94 crores. In respect of DMRC, names of the three contractors have not been submitted. It is submitted by Mr. K.C. Kaushik, learned counsel for the DMRC that complete list of names has already been submitted. Learned counsel for Union of India shall verify the same. As far as the amount of cess in respect of DMRC is concerned, it is submitted by the learned counsel that it is approximately Rs.128 crores out of which Rs.127/- crores has been deposited. Let the balance amount be deposited within two weeks hence.

6. As far as SAI is concerned, name of one contractor has not been submitted. Learned counsel shall verify whether SAI has paid any cess and we shall address to the said aspect on the next date. As far as Delhi University is concerned, out of 2 contractors they have given the list of two contractors. Mr. N. Waziri, learned Standing Counsel for the Board shall address the Court about the payment of cess.

7. The NDMC out of 9 contractors has provided the list of 9 contractors. The cess amount of Rs.9.96 crores on behalf of NDMC has been paid.

8. As far as MCD is concerned, it is submitted by Ms. Suparna

Srivastava, learned Standing Counsel that the list given by the Union of India is absolutely erroneous inasmuch as the MCD had engaged 33 contractors and the entire list has been given. It is also submitted by her that the aforesaid 33 contractors were engaged in the Commonwealth Games. The amount of cess that has been deposited comes to Rs.7.79 crores and the same has been deposited. As far as the others, viz., NBCC, ONGC, AIR/CCW and RITES are concerned, they have engaged one contractor each and have given the names of the contractors.

9. As far as the amount of cess is concerned, the Board shall assess and if any amount remains payable by any of the establishments, the appropriate procedure shall be adopted to recover the same.

10. On a perusal of the chart, it appears that 111019 workers were engaged in Commonwealth Games. As far as the list provided is concerned, the number has to go more as the details that have not come into the custody of the Union of India and the error committed by Union of India in computing the list provided by the MCD.

11. Now, we shall advert to how the benefits can be made available to the workers. On the earlier occasion, we had enumerated various schemes available. The same need not be repeated. The fulcrum of

the matter is how the benefits can reach the workers. Mr. Waziri, learned Standing Counsel for GNCTD as well as the Board has submitted that the Board has sent letters to 43700 workers who have already been registered with the Board and the said list indicates the benefits which are available and the offices which are to be contacted. Learned counsel has submitted that the letters were dispatched a week ago and some response is expected within a week from today. Apart from the aforesaid mode, how to reach those registered workers and unregistered workers so that they can avail the benefits need to be addressed. Mr. Atul Sharma, learned counsel appearing for DIAL after obtaining instructions from Mr. Virender Prasad has submitted that DIAL is willing to deposit the registration fee and that may be intimated by the Board to the workers so that they do not require to pay registration fee as the same has been agreed to be paid by the principal employer, viz., DIAL. Be it noted, all other organizations, viz., DIAL, DDA, CPWD, DMRC, SAI, D.U., NDMC, MCD, NBCC, ONGC, AIR/CCW and RITES have also agreed to follow the same method and pay the registration fee for the workers. At this juncture, we have been apprised that about 25% of the workers are still in Delhi. Mr. Subhash Bhatnagar undertakes to take registered workers to the office of the Board so that the benefits can be extended to them.

He shall start taking the workmen from next Monday, i.e., 14th February, 2011. We hope and trust that Mr. Bhatnagar, who is the Secretary of Nirman Mazdoor Panchayat Sangam shall not betray the faith of the workmen deposed in him.

12. Apart from that Mr. Amjad Hasan, General Secretary of Delhi Asangthit Nirman Mazdoor Union (Regd.), Mr. R.K. Kakoti, Representative, Mahanagar Asangthit Mazdoor Union and Mr. H.R. Tiwari, President of Delhi Bhawan Va Anya Nirman Asangathit Mazdoor Sangh (Regd.) have also undertaken that they will assist the Board in getting the registered workers to avail the benefits and also apprise the workers to get themselves registered.

13. Mr. Waziri, learned Standing Counsel after obtaining instructions has very fairly submitted that the Board shall pay the travelling allowance to the proactive persons of the aforesaid unions whose names have been mentioned in the foregoing paragraph so that they can contact the workmen and bring the persons to the Board's office. The representative of the aforesaid unions whose names find mention shall remain personally present on every date the case is taken up.

14. We may note with profit as far as the earlier direction is concerned for handing over the drafts to the injured workmen, the drafts have been handed over to them by Mr. Amjad Hasan and the

Board is satisfied with regard to the said delivery.

15. Let the matter be listed on 23rd February, 2011. By that date all concerned including the trade unions which have shown voluntariness shall file their status report. As far as other aspects are concerned, especially relating to non-supply of names of contractors, etc., will be adverted to on that date. The officers who are present today need not remain personally present on the next date. If required in future, they shall be summoned again.

Copy of this order be given dasti to the learned counsel for the parties under signature of the Court Master.

CHIEF JUSTICE

SANJIV KHANNA, J.

**FEBRUARY 09, 2011
VKR**