

* **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, Adv.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through Mr.Sanjeev Sachdeva with
Mr.VibhuVerma, Adv. R-1, 5 and
6.

Ms. Noopur Singhal, Adv.

Mr.Ajay Verma, Adv. R-DDA

Mr.Rahul Srivastava with

Mr.Anshum Jain, Adv. R-MCD

Mr.Anil Amrit, Adv. R-7

Mr.Atul Sharma with Mr.Abhishek
Sharma, Adv. R-11/DIAL

Mr.K.C. Kaushik with Mr.Rahul
Kaushik, Adv. R-12

Ms.Asha Menon, Member

Secretary with Mr.Harish Dudani,
OSD, DLSA

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **19.01.2011**

This Court on earlier occasion had issued series of directions. In course of hearing today a submission was made by Mr.Colin Gonsalves, learned senior counsel for the petitioners that the amount collected by the principal employers has not yet been deposited with the Board.

2. Mr. K.C. Kaushik, learned counsel for the DMRC submitted that a

sum of Rs.1,26,47,00,000/- has already been deposited with the Board. Whether the aforesaid amount is the full amount or something remains to be deposited, shall be clarified by the next date of hearing by filing an affidavit. It is submitted by Mr. Atul Sharma, learned counsel for DIAL that a sum of Rs.31,90,00,000/- has been deposited with the Board and a further sum of Rs. 17,00,00,000/- shall be deposited on or before 30th March, 2011. Be it noted, though such a statement has been made but no affidavit has been filed. Let an affidavit be filed in that regard within two weeks hence. As far as other principal employers are concerned, oral statements have been made. It has been submitted that the cess amount has been deposited. The same has not been quantified. Let an appropriate affidavit quantifying the amount be filed within two weeks hence.

3. At this juncture, it is apt to note that on many an occasion this Court had directed the principal employers to verify the names of the employees engaged by the contractors, who were awarded contract by them and furnish the names of the workers to the Union of India, GNCTD and the Board. Be it noted, some of the principal employers are DIAL, MCD, DMRC, DDA, CPWD, NDMC and PWD.

4. Mr. Sanjeev Sachdeva, learned counsel for the Union of India submitted that 42 contractors working under various principal employers

have not yet submitted the details to the principal employers. It is also urged by him that though in some cases the names have been supplied but no address has been given. Mr. Colin Gonsalves, learned senior counsel for the petitioners has pointed out that in the affidavit filed by the MCD, in some cases only the name of the employee is given without any address and parentage. In view of the aforesaid, it is directed that all the principal employers shall provide the address of the employees engaged by the contractors to the authorities, namely, Union of India, GNCTD and the Board constituted under the Building and Other Construction Workers (Regulation of Employment and Condition of Services) Act 1996 (for short, 1996 Act). Till the names of the workers are not supplied, any amount that is due to the contractors shall not be paid by the principal employers, failing which the authority paying the amount shall be liable for contempt of this Court. A statement in this regard be filed before this Court. The information, which has been directed to be supplied, shall be in accordance with the Delhi Building and Other Construction Workers (Regulation of Employment and Condition of Services) Rules 2002 (for short, Rules 2002). Needless to say, the forms appended to the Rules 2002 has to be treated as a part of the Rules.

5. If any contractor has violated the Act and the Rules, the competent

authority under the Act shall launch prosecution against them. The statutory authority, which has been conferred power to do so, must act in quite promptitude.

6. This Court on earlier occasion had directed the Labour Commissioner to act in a pro-active manner. We have been apprised by Mr. Waziri, learned Standing Counsel for the GNCTD that the Labour Commissioner is the Secretary of the Board. While he is functioning in a dual capacity, the responsibility is accentuated and hence, it is incumbent on him to do the needful. As we require the assistance of the Labour Commissioner, who is the Secretary of the Board, he shall remain personally present on the next date of hearing.

7. It will be appropriate to note as submitted by Mr. Waziri, learned Standing Counsel for the GNCTD and also by learned counsel for the Board that approximately 42000 employees have been registered. Mr. Gonsalves, learned senior counsel for the petitioners submitted that the registration is not good enough inasmuch as no benefits as enshrined under the Rules have been made available to the workers.

8. The real issue that has been disturbing this Court is how to make the benefits under the Rules, 2002 and the schemes, namely, the financial assistance for education, financial assistance for marriage, family

pension, recovery of advances and loans, refund of contribution of deceased member, benefits under the LIC policy, maternity benefit etc. reach and availed of by the workmen. We have been apprised by Mr. Gonsalves, learned senior counsel for the petitioners, who is assisted by Mr. Subhash Bhatnagar, that hardly 1200 workmen have received the benefit. Mr. Amjad Hassan, who represents another union, submitted that workmen who have been registered with them, only 700 have received the benefit. Mr. Waziri, learned Standing Counsel for the GNCTD submitted that about 5000 children of the registered workmen are being given the benefits available under the scheme. The figure as we perceive is far from being satisfactory. Regard being had to the factum of registration so far made, a number of workers are still deserve to be registered. At this juncture, Mr. Gonsalves, learned senior counsel for the petitioners after taking instructions from Mr. Subhash Bhatnagar, submitted that 13,000 applications are pending with the Board. Without getting into this aspect, at this juncture, we would like the Board to devise a rational, logical and acceptable scheme to reach out to the workers. Awareness drive has to be launched. For the purpose of explaining benefits, a holistic scheme shall be filed before this Court within two weeks hence. Certain suggestions have been prepared by Mr.

Colin Gonsalves, learned senior counsel which have been handed over to Mr. Waziri, learned Standing Counsel for the GNCTD. The Board shall take the same into consideration as the moto of everyone is to see that the registered workers get the benefit.

9. The next aspect that we shall advert to is about the compensation that was supposed to be given to the persons, who have met with accidents. An affidavit has been filed by the DLC that 45 persons have been granted compensation. Let a further affidavit be filed, on the basis of the material placed on record, explaining why other beneficiaries have been excluded. We say so as we have been apprised by Mr. Gonsalves that there were 140 deaths and their representatives are entitled to get compensation.

10. At this stage, Mr. Amjad Hassan has submitted that 27 workers were injured but additional sum of Rs.25,000/- has not been paid to the 11 workers. It is submitted by him that this amount is payable and demand drafts are kept ready in the office of the Deputy Labour Commissioner, South. It is further submitted by him that 3 workers are not in a position to collect the drafts because of injuries suffered by them. Rest 8 workers shall collect demand drafts within two weeks from today. The 3 workers shall be given drafts through Mr. Amjad Hassan, with

appropriate instructions by the competent authority, namely, Deputy Labour Commissioner so that the said money cannot be transferred to any other person except to the workmen. Needless to say, the aforesaid amount that has been paid or which shall be paid has nothing to do with the claim advanced under the Workmen Compensation Act, 1923.

11. Let the matter be listed on 9th February, 2011. On that date, Labour Commissioner-Secretary of the Board, Secretary DDA, Commissioner MCD, General Manager HR DAIL, Secretary NDMC and the Chief Labour Commissioner, Union of India shall remain personally present in the Court failing which they shall be visited with grave consequences. It is hereby made clear that no application for exemption from personal appearance shall be entertained. We hope and trust that the said authorities shall not go out of the country without prior leave of this Court unless there is real emergency and exigency.

Order dasti under signature of the Court Master.

CHIEF JUSTICE

JANUARY 19, 2011
NA

SANJIV KHANNA, J.