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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 524/2010 & CM Nos. 4600/2010 and 10299/2010

PEOPLES UNION FOR DEMOCRATIC  
RIGHTS & OTHERS

..... Petitioner

Through: Mr. Tariq Adeeb, Advocate with  
Ms. Moushumi Basu, Secretary of  
petitioner organization.  
Mr. Subhash Bhatnagar, Member of  
Welfare Board of NMPS.  
Mr. Amjad Hassan, General Secretary,  
Delhi Asangathit Nirman Mazdoor Union.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through: Mr. Sanjeev Sachdeva, Advocate for  
UOI.  
Mr. Nazimi Waziri, Advocate for  
GNCTD  
Mr. K.C. Kaushik, Advocate with  
Mr. Rahul Kaushik and Ms. Shilpi  
Kaushik, Advocates for DMRC  
Mr. Ajay Verma, Advocate for DDA  
Ms. Suparna Srivastava, Advocate  
for MCD  
Mr. Anil Amrit, Advocate for NDMC.  
Mr. Atul Sharma, Advocate with  
Mr. Arjun Natarajan, Advocate for DIAL.  
Mr. Anil Grover and Ms. Noopur Singhal,  
Advocates for SAI.  
Ms. Asha Menon, Member Secretary,  
DLSA.

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Court Master  
High Court of Delhi  
New Delhi

**CORAM:  
HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE MANMOHAN**

**ORDER**  
22.09.2010

On the earlier occasion, various directions were issued. Before we advert to each direction, first we shall take up the fatal accidents that took place while the workmen were working under Delhi Metro Rail Corporation (in short, "DMRC") who is the Principal employer.

It is not disputed that 109 accidents occurred. It is also not in dispute that in 65 cases, compensation has been paid by the DMRC.

Ms. Asha Menon, Member Secretary, Delhi Legal Service Authority (in short, "DLSA") submitted that 44 cases remain unsettled.

Mr. K.C. Kaushik, learned counsel for the DMRC submitted that in 9 cases, compensation has already been paid. The details of the same be supplied to Ms. Asha Menon, Member Secretary, DLSA so that a report in that regard can be filed before this Court by the next date of hearing.

As far as 18 cases are concerned, we have been apprised by Mr. Kaushik that the legal heirs of the deceased workmen are not eligible to

get the amount from the Labour Welfare Fund constituted by the DMRC as the death had occurred prior to the constitution of the Fund. Be that as it may, an affidavit be filed in that regard so that this Court would be in a position to address the same.

As far as rest of the cases, namely 17 in number, are concerned, as submitted by Mr. Kaushik, they are under process and same shall be finalized by the Labour Welfare Fund Committee by holding a meeting.

Pending decision by the Committee, it is directed that ex-gratia payment amounting to ₹ 2 lacs be paid within a period of two weeks from today by way of bank draft to the legal heirs of the deceased workmen on proper identification. The said amount shall not include any sum that has already been paid. The said amount shall be subject to the final adjudication by the Labour Welfare Fund Committee and the Committee while adjudicating the quantum shall keep in view the amount of ex-gratia paid to the legal heirs of the deceased workmen who come within the last 65 cases.

We have said so as the doctrine of parity has to be given paramountcy while granting ex-gratia payment.

We have been apprised by Mr. Kaushik, learned counsel for the DMRC that ex-gratia is made over and above the amount that has been

paid by the Workmen's Compensation Commissioner under the Workmen's Compensation Act, 1923.

At this juncture, Mr. Tariq Adeeb, learned counsel for the petitioner being assisted by Ms. Moushumi Basu submitted that 109 tragedies had occurred in respect of the workers who were working under DMRC but there are other Public Sector Undertakings who have engaged the labourers but have not taken any steps for making any payment. It is submitted by them, the labourers are working under DMRC, CPWD, MCD, NDMC, PWD, DIAL and other respondents herein.

The said organizations are directed to give the requisite information to the Labour Commissioner. The Labour Commissioner and the Deputy Labour Commissioner shall personally visit each site and find out the number of deaths that have occurred.

Be it noted, the said authority should not feel that their job is over because the Member Secretary, DLSA is holding legal aid camps or assisting them. If the said authorities forget their statutory obligations, we may think of directing the State Government to initiate disciplinary proceedings against them.

At this juncture, we may note that Mr. Tariq Adeeb, learned

counsel for the petitioner and Ms. Moushumi Basu have brought to our notice that there was an accident yesterday as a consequence of which a foot overbridge near Jawahar Lal Nehru Stadium collapsed and in the said accident 27 construction workers have been injured out of which, 4 are critical.

Mr. N. Waziri, learned Standing counsel for GNCT of Delhi fairly admitted the said position and, in fact, produced the names of the workmen who have been injured and who have been critically injured. The said report submitted by Mr. N. Waziri be kept on record.

We have also been apprised that for the workmen who have suffered injuries, the State Government has announced ₹ 50,000/- and the persons who have been critically injured ₹ 1,00,000/- as compensation to be paid.

At this juncture, Mr. Amjad Hassan, General Secretary, Delhi Asangathit Nirman Mazdoor Union submitted that many of the workmen have suffered fractures and compound fractures. He also admitted that 6 persons have been discharged but 4 persons are extremely critical.

Having heard both the sides, we are inclined to direct as an interim measure subject to final finding in the appropriate proceedings

or in this writ petition, the State Government shall pay a sum of ₹ 3,00,000/- to the critically injured persons immediately or their legal heirs, if they are not in a position to receive the same, by way of bank drafts. Needless to say, the same shall be adjusted at the time of final adjudication. Quite apart from the above, the State Government shall see that all the injured persons are given adequate medical treatment.

As far as persons who have suffered minor injuries like fractures, they shall be given ₹ 1,00,000/- by way of bank draft within a week hence. The State Government shall cause an inquiry and fix the responsibility and thereafter realise the aforesaid amount either from the contractor, the officers or from any other person, who are responsible in overseeing the work.

At this juncture, Ms. Moushumi Basu and Mr. Amjad Hassan submitted that despite the orders of this Court, the contractors are not providing the safety materials as a result of which, this kind of unwarranted accidents take place.

As far as yesterday's accident is concerned, the contractor is one M/s. P & R Infra Project Limited of which one Mr. C.M. Pillai, is a General-Manager.

We have been apprised by Mr. N. Waziri that FIR has been launched regarding the accident.

Keeping in view the gravity of the accident, we direct the DCP (Crime Branch) to investigate and proceed as per law.

The Labour Commissioner, Deputy Labour Commissioner and the Assistant Labour Commissioner shall visit all the sites within a week from today and file personal affidavits that all the workers have been given the safety equipments failing which, we may be compelled to initiate contempt proceedings.

Be it noted, certain sites are under Delhi Government and certain sites are under the Central Government.

Mr. Sanjeev Sachdeva, learned counsel for Union of India submitted that the competent officers of the Labour Department of the Central Government shall also go to the sites and verify the position, failing which serious action shall be taken against them. The aforesaid direction shall apply on all four to other Principal employers, who are respondents herein.

Presently, we shall take up the issue of registration as well as issuance of the pass books.

As far as registration and the benefit of registration is concerned, an affidavit has been filed by the Deputy Labour Commissioner. In paragraphs 4 and 5 of the affidavit, it has been stated as follows:-

*"4. That as far as processing of pending registration forms is concerned, it is humbly submitted that in the year 2009-10, 3217 children were given financial assistance for studying in GNCTD schools. An amount of Rs. 78,33,000/- was disbursed to them. Annual renewal/verification forms for the same wards were sent to the Labour Department apropos the same beneficiaries.*

*5. It is submitted that 13,026 forms for request of financial assistance were sent back by Labour Department to the various GNCTD schools concerned verification since they lacked the necessary information/particulars. Of these 5,925 (including 3217) have been found eligible for financial assistance. As regards the remaining applications as verification report is awaited from the District Resource Centers concerned, who are required to verify the profession, age and 90 days employment (as a construction worker) of the applicant parent, which is a pre-requisite for availing the benefits available to a registered construction worker from the Construction Board. The Labour Department, GNCTD is pursuing the applications with DRCs and it is expected that the verification exercise would be completed within six weeks."*

Regard being had to the aforesaid, we direct the exercise in respect of 13,026 applications, as has been mentioned in paragraph 5 of the affidavit, be dealt with and finalized within four weeks from today.

Be it noted, we have granted four weeks' time as Mr. N. Waziri submitted that 6000 applications have been processed and benefit has been granted to 3217 applicants. An affidavit should be filed, why the benefit has not been granted to the rest.

At this juncture, a question emerged as regards the discrepancy in the figures of workmen working at the various Common Wealth Games sites and the registration and giving of pass books.

It is submitted by Ms. Basu, Mr. Subhash Bhatnagar and Mr. Amjad Hassan that though they submitted the requisite applications of the workmen, yet the Department of Labour sits over it or eventually sends a denial. The said allegation is disputed by Mr. N. Waziri, learned Standing counsel for the GNCT of Delhi.

Be that as it may, the Labour Department shall accept the applications\* submitted from Ms. Moushumi Basu, Mr. Subhash Bhatnagar and Mr. Amjad Hassan and proceed with the registration within a span of 30 days from the date of receipt of applications. The result of the same shall be intimated to Ms. Asha Menon, Member Secretary of DLSA. On any enquiry being made by Ms. Asha Menon, Member Secretary, DLSA, the Labour Department as well as the NGO and the Union Leaders shall also apprise her about the real picture

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Court Master  
High Court of Delhi  
New Delhi

prevalent at the work sites.

We have been apprised by Mr. Tariq Adeeb, learned counsel for the petitioner that though this Court had directed with regard to improvement of living conditions of the workmen, yet nothing has been done.

Mr. Waziri, learned Standing counsel for GNCT of Delhi submitted that it is the duty of the Principal employers.

Mr. Sanjeev Sachdeva, learned counsel for Union of India did not dispute the said position.

A report has been filed that the living condition has not been improved. We have been apprised that it is the duty of the Principal employer to ensure that the living conditions are adequate so that the workmen live in a living healthy condition. What is submitted by Mr. Sanjeev Sachdeva, learned counsel for Union of India is that whenever officers have gone to sites, they have issued show cause and launched prosecution.

In view of the aforesaid, we direct the Principal employers, namely, the respondents herein, to ensure that the living conditions are improved and the proper safety measures are provided as they cannot treat the workmen as unpersons.

To have a complete picture, we direct that the Chairman of NDMC, Commissioner of MCD, Vice-Chairman of DDA, Director General of Sports Authority of India, Director General of CPWD, Managing Director of Delhi International Airport Limited and Executive Director of DMRC shall be personally liable if any deviancy is shown.

The said authorities are further directed to depute responsible officers to remain personally present on the next date of hearing before this Court so that this Court can get appropriate assistance.

We may further note that the contractors who have been given the work, shall work with responsibility by following all the norms of law, failing which this Court may think of taking appropriate action against them as we are inclined to think, as advised at present, they are not cooperative with the authorities. If a contractor thinks that he is the law unto himself, he is under an illusion. The Principal employers shall issue a notice incorporating this aspect to all the contractors.

The other aspects shall be addressed to on the next date of hearing.

List the matter on 06<sup>th</sup> October, 2010.

Order dasti under signature of Court Master.

**CHIEF JUSTICE**

**MANMOHAN, J**

**SEPTEMBER 22, 2010**

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*Attested True Copy*  
*js*  
Court Master  
23/9/10  
High Court of Delhi  
New Delhi