

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. ____ OF 2019

In the Matter of

Violation of Articles 14, 21 and 226 of
the Constitution of India

AND

In the matter of The Prohibition of
Employment as Manual Scavengers and
their Rehabilitation Act 2013

Abha Singh



.... Petitioner

Versus

1. State of Maharashtra,

Through Public Prosecutor,

Criminal Appellate Jurisdiction High Court, Bombay,

2. The Secretary,

Social Justice and Special Assistance Department,

Government of Maharashtra,

Mantralya, Mumbai – 400032.

3. Municipal Corporation of Greater Mumbai,

Mahanagar Palika Marg,

CST, Mumbai – 400 001

4. Thane Municipal Corporation,

New Administrative Building,

Mahapalika Bhavan, Almeda Road,

Chandan Wadi, Pachpakhadi, Thane West- 400602

5. The Commissioner of Police, Mumbai

Dr DN Road, Fort, Opposite Crawford Market

Mumbai - 400001

6. The Commissioner of Police, Thane

Near Kalawa Bridge,

Thane, Maharashtra 400601

... Respondents

TO,
THE HON'BLE CHIEF JUSTICE
AND HIS COMPANION JUDGES
OF THIS HON'BLE COURT

THE HUMBLE PETITION OF THE
PETITIONER ABOVENAMED

MOST RESPECTFULLY SHEWETH:

The Petitioner most humbly and respectfully submits as under:

1. INTRODUCTION AND CAUSE OF ACTION:

1.1 Petitioner: The Petitioner is an Advocate and has been frequently taking up issues related to social oppression and corruption from time to time. She is known for taking up the causes of public and the rights of the women and other weaker section of the society.

1.2 Particulars of the Cause of Action: This Petition is being filed pursuant to repeated cases of deaths of sewage workers coming to light in the news. The alarming frequency of deaths indicates that the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (PEMSR Act, 2013) and the rules made thereunder (PEMSR Rules, 2013) are not being complied with. Hence this Petition seeks issuance of urgent writs to ensure that the right to life of sewage workers is protected and those found violating the law are brought to justice.

1.3 Declaration and Undertaking of the Petitioner:

A. That the present petition is being filed by way of Public Interest Litigation and the petitioner does not have any personal interest in the matter. The Petition is being filed in the interest of the public whose

fundamental rights under Articles 14 and 21 of the Constitution of India are getting undermined.

B. That the entire litigation costs, including the advocate's fee and other charges are being borne by the Petitioner.

C. That a thorough research has been conducted in the matter raised through the petition.

D. That to the best of the Petitioner's knowledge and research, the issue raised was not dealt with or decided and that a similar or identical petition was not filed earlier by her.

E. That the Petitioner has understood that in the course of hearing of this petition the court may require any security to be furnished towards costs or any other charges and the Petitioner shall have to comply with such requirements.

1.4 Chapterisation:

This Petition comprises the following chapters:

- 1.** Introduction and cause of action;
- 2.** Details of Respondents;
- 3.** Facts of the Matter in Brief;
- 4.** Grounds of Law;
- 5.** Additional Submissions;
- 6.** Prayers;

2. DETAILS OF RESPONDENTS:

2.1 Respondent No. 1 is State of Maharashtra, through the Office of the Public Prosecutor, Bombay High Court;

2.2 Respondent No. 2 is the Secretary, Social Justice and Special Assistance Department, Government of Maharashtra. He is the nodal authority vested with implementation of the PEMSR Act, 2013. Further he is also vested with comprehensive rule-making powers under the Act which include establishing the State Monitoring Committee, designating appropriate authorities etc.

2.3 Respondent No. 3 is Municipal Corporation of Greater Mumbai through the Commissioner, MCGM. The Municipal Corporation of Greater Mumbai, also known as Brihanmumbai Municipal Corporation, is the governing civic body of Mumbai, the capital city of Maharashtra. He is vested with the statutory authority for maintenance and upkeep of drains under the provisions of the Municipal Corporation of Greater Mumbai Act, 1888. Further it falls within the meaning of the term "Local Authority" as defined **Section 2(f)** of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

2.4 Respondent No. 4 is Thane Municipal Corporation through its Commissioner. The Thane Municipal Corporation is the governing body of the city of Thane in the Indian state of Maharashtra. The Municipal Corporation consisting of democratically elected members, is headed by a mayor and administers the city's infrastructure, public services and transport. Further it also falls within the meaning of the term "Local Authority" as defined **Section 2(f)** of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

2.5 Respondent No. 5 is the Commissioner of Police, Mumbai. All criminal cases involving deaths of Sewage Workers in Mumbai City and

suburbs are investigated by police stations falling under his supervision. He is competent to furnish before this Honourable Court details of all cases registered under the PEMSR Act, 2013 within its jurisdiction and their final outcomes.

2.6 Respondent No. 6 is the Commissioner of Police, Thane. All criminal cases involving deaths of Sewage Workers in Thane City are investigated by police stations falling under his supervision. He is competent to furnish before this Honourable Court details of all cases registered under the PEMSR Act, 2013 within its jurisdiction and their final outcomes.

3.0 FACTS OF THE MATTER IN BRIEF CONSTITUTING THE CAUSE:

3.1 The Petitioner as mentioned above is deeply committed to work for the betterment of underprivileged and workers who are working in hazardous conditions and those who face challenges in regular day - to- day activities.

3.2 The Petitioner further states that on 31st August 2018, she filed a RTI application dated 31st August 2018 addressed to Chief Engineer (sewerage operation) of Municipal Corporation of Greater Mumbai (Respondent No. 3) under Right to Information Act, 2005 seeking information of deaths, casualties and injuries caused to sewage and septic tank workers in Mumbai. In addition to above, the said RTI was filed for seeking information regarding the protective gears provided by Municipal Corporation of Greater Mumbai to sewage and septic tank workers. A copy of RTI dated 31st August 2018 addressed to Respondent No. 3 is hereby attached and marked as **EXHIBIT – "A"**.

3.3 Pursuant to the above mentioned RTI dated 31st August 2018, the Respondent No. 3 replied vide letters dated 17th September 2018, 18th September 2018, 1st October 2018 and 3rd October 2018 and provided some information regarding the protective gears provided by Respondent No. 3 to sewage and septic tank workers. Copies of the letters dated 17th September 2018, 18th September 2018, 1st October 2018 and 3rd October 2018 are hereby attached and marked as **"EXHIBIT – B (Colly)"**.

3.4 It is relevant to note here that the Respondent No. 3 via a letter dated 1st October 2018 replied that no death, casualties and injuries caused or happened in the concern department from the year 2014 to

till date. A copy of the letter dated 1st October 2018 sent by Respondent No. 3 is hereby attached and marked as **"EXHIBIT - C"**.

3.5 That on 5th May 2019 an article published in Hindustan Times reported that three (3) people died while cleaning the septic tank of a residential building in Nalla Sopara, a Mumbai suburb. The reason of death was that they had no safety equipment, and they suffocated to death after inhaling methane trapped in the drain. Further, in the month of October 2018 before this incident happened, five (5) people died after inhaling toxic gases in a well contaminated with industrial and domestic sewage in Kalyan, another suburb.

3.6 However, in the same month, three (3) workers died in Dombivli, Thane. In addition to these deaths, in the month of January 2018, four (4) men choked to death after they entered a sewage duct in Powai, Mumbai. Shockingly, in the month of September 2018, five (5) men were killed in Delhi's Moti Nagar, while cleaning a sewage treatment plant in a residential complex. The reason behind for all these deaths are same that these workers were working without any safety equipment. A copy of the article dated 5th ^{Nov} ~~May~~ 2019 published in ^{Hindustan} ~~Hindustan~~ Times is hereby attached and marked as **"EXHIBIT - D"**.

3. Unfortunately, despite having special laws mandating safe working conditions for sanitation workers, the deaths of these workers are increasing in numbers and the reason are common that they are deprived of the safety equipment and have to inhale dangerous gases. Whereas, "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013" prohibits manual cleaning of toilet wastes, sewers, and septic tanks without safety gear and mechanised equipment. The law protects both municipal employees and casual workers employed by contractors hired by government agencies.

3.10 The Petitioner further submits that on 11th May 2019 an article published in the Times of India reported that just after a week, three (3) sanitation workers died in the septic tank of a building in Dhokali area in Thane. The safety equipment could have save these lives of the workers. The provisions of law which regulates and govern the Manual Sewage Cleaning are deliberately violated and the deaths are still persisting. Further, the Respondent No. 2 and 3 are under obligations to provide all safety kits to these workers. On 12th May, 2019, an article published in the Times of India reported that Hsg Soc. Office-bearers among 4 held for deaths. The Copies of the said news articles are hereto annexed and marked as **EXHIBIT-"E"**.

3.11 It is relevant to note here that offences under the act are Cognizable and non-bailable. The deaths of the sanitation workers are increasing in spite of the provisions under the law under Section 7 and 9 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013. Whereas, the Act includes "Contractors" who engage these workers in the hazardous working conditions. Further, no serious actions were taken against the concern authority or contractors after having incidents. Moreover, right to life guaranteed under Article 21 of the Constitution of India is deliberately violated. The Copy of PEMSR Act, 2013 and the PEMSR Rules, 2013 is hereto annexed and marked as **"EXHIBIT - F (Colly)"**.

4. GROUNDS:

4.1 Section 7 of the PEMSAR Act, 2013 prohibits Employment of People for Hazardous Cleaning of Sewers or Septic Tanks - Deaths of Sewage Workers point to continued violations of this Provision:

A. It is submitted that Section 7 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 prohibits any person, local authority or agency, to engage or employ any person for hazardous cleaning of a sewer or septic tank.

B. Section 7 of the PEMSAR Act, 2013 is reproduced hereunder for reference:

"Section 7: Prohibition of Persons from engagement of employment for hazardous cleaning of sewers and septic tanks:

No Person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank."

C. Section 2(d) of the PEMSAR Act, 2013 defines "hazardous cleaning" as under:

"Section 2(d): "hazardous cleaning" by an employee, in relation to a sewer or septic tank, means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force or rules made thereunder;"

D. A combined reading of Section 7 read with Section 2(d) leads to the following conclusion:

1. They apply to all persons (Individuals, Housing Societies, Associations, Companies etc.);

2. They apply to all local authorities (Municipal Corporations, Councils, Panchayats etc.);

3. They prohibit cleaning of sewers and septic tanks, whether public or private, without safety gear, precautions or cleaning machines;

E. From the large number of deaths of sewage workers reported in the news it becomes apparent that Sections 2(d) and 7 of the PEMSR Act, 2017 were violated in letter and spirit. It is needless to add that any violation of Section 7 is a criminal offence punishable with up to five years imprisonment under Section 9, which states as under:

"Section 9: Penalty for Contravention of Section 7:

Whoever contravenes the provisions of section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both."

F. Thus, in the present cases the contractors and employers, whose decisions, actions and lapses led to the deaths of the sewage workers were liable to face prosecution and punishment under Sections 7 and 9 of the PEMSR Act, 2013. However, given the callous approach of the authorities it is highly probable that such criminal proceedings may not have been instituted at all, or even if they were, may have been allowed to languish. The fact that the deaths of sewage workers is on the rise only underscores this possibility.

4.2 GROUND NO. 2: Section 10 of the PEMSR Act, 2013 imposes a Paltry Three (3) Month Limitation Period for Filing Criminal Complaints for Offences Committed under the Act - This increases the Chances for an Offender to

go Scot-Free and Reduces the Possibility for a - Hence It is liable to be Quashed as Unconstitutional:

A. It is submitted that Section 10 of PEMSR Act, 2013 imposes a paltry three-month limitation period for any person to file a complaint in respect of offences committed under it. As a consequence, if a sewage worker is made to clean a septic tank in a housing society in a hazardous manner, the cause of action will lapse with the passage of three months. This would make it impossible for any public-spirited citizen to take-up the cause and seek justice.

B. Section 10 of the PEMSR Act, 2013 is reproduced hereunder for reference:

"Section 10 - Limitation of Prosecution:

No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence."

C. The essential requirements of Section 10 can be summarised as hereunder:

- 1.** The Complaint can be filed by any person;
- 2.** It should be filed within three months from the date of occurrence of the alleged commission of the offence;

D. While cases involving deaths of sewage workers make the news, there are endless instances of hazardous sewer cleaning, especially in private housing societies, which do not make headlines. The workers, desperate for wages, are too scared to complain against unscrupulous contractors and employers. Hence it frequently falls upon public-spirited individuals to take up the cause and bring the perpetrators to justice.

E. Further the three-month limitation period under Section 10 even undercuts Section 468 of the Code of Criminal Procedure, 1973 by a

massive margin. Under Section 468 Cr.P.C. there is no limitation period prescribed for filing complaints against offences punishable with imprisonment for more than 3 years. While offences under Section 9 of the PEMSAR Act, 2013 are punishable with imprisonment of up to five years, they would not attract any limitation period under Section 468 Cr.P.C. However, Section 10 counters this by imposing a paltry three-month period. As a result, social activists and public-spirited individuals, who lack the investigative machinery of the state and have to toil for weeks and months to uncover information, would be severely disadvantaged.

F. It may be further noted that incidents of hazardous cleaning of septic tanks in private buildings are usually kept under wraps and come to light only when some unfortunate tragedy happens. Otherwise neither the contractors nor labourers report the matter to statutory authorities. In such circumstances, it is imperative that Section 10 of the PEMSAR Act, 2013 which prescribes a three-month limitation period for filing complaints be declared unconstitutional and quashed.

4.3 GROUND NO. 3: Sections 24 to 42 of the PEMSAR Act, 2013 lay down a Comprehensive Legal Framework to Detect, Monitor and Pursue Cases under the Act - Appears to Be a Paper Tiger:

A. It is submitted that Sections 24 to 32 of the PEMSAR Act, 2013 lay down a comprehensive statutory framework to detect, monitor and pursue cases under the Act. However, the repeated deaths of sewage workers in septic tank incidents and lax conviction rates lead to the inescapable conclusion that these provisions have remained paper tiger, never to put to use. Either the committees and statutory bodies

have not been constituted or, if they have, remained paper tigers incapable of performing their duties.

B. A brief overview of Sections 24 to 32 of the PEMSR Act, 2013 is given as under:

Section 24: Vigilance Committees: Constituted by the State Government for each District/Sub-Division;

Section 25: Functions of Vigilance Committees: To advise, oversee, coordinate and monitor (i) Registration, Investigation and Prosecution of Offences (ii) Implementation of the PEMSR Act, 2014;

Section 26: State Monitoring Committee: Constituted by State Government for entire State;

Section 27: Functions of State Monitoring Committee: Monitor, co-ordinate, advise on proper implementation of Act, functions of all agencies and incidental matters;

Section 28: States and Union Territories duty bound to send reports to the Central Government regarding proper implementation of the Act;

Section 29: Central Monitoring Committee: At the National Level;

Section 30: Functions of Central Monitoring Committee: To monitor and advise the Central and State Governments for effective implementation of the Act and co-ordinate the functions of all concerned agencies;

Section 31: Prescribes the functions of the National Commission of Safai Karamcharis;

Section 32: Empowers the State Government to designate and appropriate authority to monitor implementation of the PEMSR Act, 2013;

C. It is needless to submit that had the Respondents adhered to the above statutory provisions in letter and spirit, such a deplorable situation would not have arisen. However, it is apparent that this was not done, leading to the spurt in deaths of sewerage workers in the City of Mumbai.

4.4 GROUND NO. 4: Section 33 of the PEMSAR Act, 2013 vests Local Authorities and Other Agencies with a Statutory Duty to use Modern Technology for cleaning of Sewers - This Mandate too appears to have been violated in the light of recent Tragedies:

A. It is submitted that Section 33 of the PEMSAR Act, 2013 confers a statutory duty upon local authorities to use modern technology for cleaning of sewers and eliminate manual handling of excreta. It also mandates fiscal and other incentives to facilitate the same.

B. Reference may be made to Section 33 which states as under:

"Section 33 - Duty of local authorities and other agencies to use modern technology for cleaning of sewers etc:

(1) It shall be the duty of every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control with a view to eliminating the need for the manual handling of excreta in the process of their cleaning.

(2) It shall be the duty of the appropriate Government to promote, through financial assistance, incentives and otherwise, the use of modern technology, as mentioned in sub-section (1);"

C. The essential requirements of Section 33 can thus be summarised as hereunder:

- 1.** It applies to local authorities (Municipal Corporations, Councils and Village Panchayats);
- 2.** Modern technologies should be used to clean sewers and septic tanks;

D. Appropriate fiscal and other incentives should be provided to facilitate widespread adoption of modern technology for sewer and septic tank cleaning;

E. In the present case the Respondents have demonstrated a lethargic and callous approach to the problem. All the deaths of sewer and septic

tank cleaners took place because they were forced to descend into these dangerous zones which were filled with noxious gases and toxic substances. In not a single instance were modern suction machines and other appliances used. Hence the Petitioner submits that the local authorities who are respondents to this petition have failed to discharge the duty bestowed upon them by Section 33. Hence, she prays for the necessary writs to be issued as outlined in the prayer clause of this Petition.

GROUND NO. 5: Gross violations of the PEMSR Rules, 2013 have been committed - Complete failure at all levels - Need to Issue Stringent Directions to ensure Compliance:

A. It is submitted that the Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules of 2013 lay down comprehensive guidelines for the safety of sewage workers and the manner in which septic tanks and sewers should be cleaned. They also prescribed the types of technological appliances that may be used in the process.

B. It is important to note that Rule 3 of the PEMSR Rules, 2013 prohibits any manual cleaning of sewers except in the following circumstances:

- (a)** for the removal of concrete or FRP (Fibre Reinforced Plastic) or damaged manhole door where mechanical equipment cannot be put into operation;
- (b)** for interlinking the newly laid sewer main with the existing sewer main, in case of sewer of size of more than 300 mm diameter;
- (c)** for removal of submersible pump sets fixed at the bottom of the suction wells;

(d) For the reconstruction of manholes or rectification of sewer mains;

(e) Circumstances where manual cleaning is absolutely necessary and valid reasons are recorded in writing to allow such cleaning;

C. Under Rule 4 of the PEMSAR Rules, any person engaged to clean a sewer or septic tank shall be provided by his employer with protective headgear and safety devices which include:

(i) Air compressor for blower;

(ii) Breathing apparatus and a range of masks;

(iii) Devices to detect gas build-up and emergency indicators;

(iv) Protective suits, gloves, full-body wader suit etc;

(v) And a range of other appliances and devices;

D. Rule 6 further mandates that all safety gear and protective devices shall be checked every six months and necessary repair and replacements should be made as and when required. Further the atmosphere inside a septic tank should be tested for noxious gases and a minimum of three people, including the supervisor, should be present at all times.

E. Rules 7 to 8 further call for additional safeguards which, if provided, would have saved the lives of the sewage workers who died in the incidents narrated in this petition.

F. It is submitted that there has been a gross violation of PEMSAR Rules, 2013 at all levels. While housing societies, employers and contractors have neglected their statutory responsibility for reasons of pecuniary profits, the statutory Respondents have chosen to look the other way. It is further evident that the numerous committees constituted under the PEMSAR Act, 2013 have failed to discharge their duties as per law. Hence it is prayed that the writ reliefs sought in the prayers of this petition be granted and justice be done in the matter, before any further lives are lost.

GROUND NO. 6: Under the Municipal Corporation of Greater Mumbai Act, 1888, the Commissioner is vested with comprehensive powers for maintenance and upkeep of drains – Another Major Failure and Omission on the Part of the Respondents:

- A.** It is submitted that under the provisions of the Municipal Corporation of Greater Mumbai Act, 1888 the Commissioner is vested with comprehensive powers for maintenance and upkeep of drains. Had these powers been exercised in a diligent manner, the deaths of sewage workers would probably have been avoided.
- B.** The relevant provisions of the MCGM Act, 1888 which pertain to cleaning and upkeep of drains are reproduced hereunder:

Section 225: Cleaning Drains;

Section 232A – Power of Commissioner to Drain Premises in Combination: ...

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain, constructed, erected or fixed, or continued, for the special use and benefit only of such premises, and shall, in the proportion in which it is determined that the owner of such premises, are to contribute to the expenses incurred by the Commissioner under sub-section (1), be responsible for the expenses of maintaining every such drain in good repair and efficient condition, but every such drain shall from time to time be flushed, cleaned and emptied by the Commissioner at the charge of the municipal fund.]

Section 233A - Vesting and maintenance of drains for sole use of properties: ...

(b) be provided with all such further appliances and fittings as may appear to the Commissioner necessary for the more

effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleaned and emptied by the Commissioner at the charge of the municipal fund.

Section 238 - Commissioner may authorise person other than the owner of a drain to use the same or declare him to be a joint owner thereof: ...

(c) discharging any responsibility attaching to the person in whose favour the Commissioner's order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof."

C. It is clearly seen that had the provisions contained in the Municipal Corporation of Greater Mumbai Act, 1888 been adequately complied with, sufficient safeguards would have been present to prevent the deaths of sewage workers in question. It was clearly the failure of the Respondents to abide by their statutory responsibilities that led to the tragic incidents of deaths in septic tanks and sewers.

GROUND NO. 7: The Hon'ble Supreme Court in *Safai Karamchari Andolan v. Union of India & Ors.* 2014(4) SCALE 165 held that the duty pertaining to strict enforcement is upon all States and Union Territories to strictly enforce the implementation of the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

A. The Hon'ble Supreme Court in *Safai Karamchari Andolan v. Union of India & Ors.* 2014(4) SCALE 165 held that the duty pertaining to strict enforcement is upon all States and Union Territories to strictly enforce the implementation of the Employment of Manual

Scavengers and Construction of Dry Latrines (Prohibition) Act,1993. The Court found that there are about 96 lakh Dry latrines in the country which are still being cleaned manually by scavengers.

B. Hence, this Hon'ble Court be pleased to issue Writ of Mandamus or any other appropriate writ thereby directing the Respondent No. 2 and 3 to investigate into the death of manual scavengers and initiate criminal proceedings u/s 304 r/w 107/119 of the Indian Penal Code,1860 against the local authorities, agencies, contractors and any other officials/persons pertaining to death of persons either directly or indirectly employed or engaged by them, as manual scavengers.

5. MISCELLANEOUS:**5A. Source of Information:**

The Petitioner submits that he has obtained the information from the Newspapers as also from a reply to an Right to Information Act, 2005, filed with the concerned authorities.

5B. Nature and Extent of Injury Caused/ Apprehended:

The Petitioner submits that for the reason of the impugned acts, the fundamental rights, particularly "Right to Life" and "Right to Equality and Equal Protection of Laws" are getting affected. To that extent, the said acts are causing harm of the members of the public.

5C. Delay, if any, in filing the Petition and Explanation thereof:

The Petitioner humbly submits that there is no delay in filing this Public Interest Litigation.

5D. Documents relied upon:

The Petitioner would reply upon such documents which have been annexed and mentioned in the Index.

5E. Caveat:

The Petitioner humbly submits that he has not received any notice of caveat from any of the Respondents in this matter

5F. Additional Submissions:

A. The Petitioner affirm that they have not moved any other application on like cause of action before this Hon'ble Court or any other Court of Law.

B. That Petitioner has no other efficacious remedy except to approach this Hon'ble Court by way of this Public Interest Litigation under Article 226 of the Constitution of India as the entire cause of action has arisen

within the jurisdiction of the Hon'ble Court which, therefore, is competent to entertain this petition.

C. The Petitioner have not filed any other petition on the same subject matter either in Supreme Court, any other Court of Law or in this Hon'ble High Court except this present petition.

D. The Petitioner reserve the right to amend, add, modify or to rescind any contents of this petition if so required in the interest of justice.

E. The Petitioner herein have no personal gain, private motive or oblique reason in filing the present Public Interest Litigation. The Petitioners herein undertake to pay cost as ordered by the court, if it is ultimately held that the petition is frivolous or has been filed for extraneous consideration or that it lacks bona fides.

6. PRAYERS:

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

A. That a writ of mandamus be passed directing the Respondent Nos. 1 to 4 directing them to submit a report on the status of constitution of the necessary committees under the PEMSR Act, 2013 and, in particular, stating whether they have constituted the necessary committees, authorities and bodies under Sections 24 to 32 of the PEMSR Act, 2013;

B. That if it comes to light that the necessary committees mandated under the PEMSR Act, 2013 are not constituted, stringent directions (Writ of Mandamus) may be issued directing Respondents 1 to 4 to constitute them within a period of six weeks from the date of passing the order;

C. That comprehensive guidelines of a preventive nature be framed in order to prevent any hazardous manual cleaning of septic tanks; To this effect guidelines may be framed stating that only licensed contractors shall be permitted to clean septic tanks and advance intimation of every cleaning activity shall be given to the Local Authority or Committees constituted under the PEMSR Act, 2013 so that proper supervision is maintained at all times;

D. That a writ of mandamus be issued directing Respondent Nos. 1 and 2 to comply the provisions of the PEMSR Act, 2013 in letter and spirit and constitute all the committees and statutory authorities mandated to be established under the Act;

E. That a writ of mandamus be issued directing the State of Maharashtra (Respondent Nos.2) to comply the provisions of the

PEMSR Act, 2013 in letter and spirit and constitute all the committees and statutory authorities mandated to be established under the Act;

F. That directions be issued to the Respondent Nos. 5 and 6 directing them to place on record status reports of cases filed and prosecutions instituted under the PEMSAR Act, 2013 and report of convictions and pendency therein (along with details of conviction rate);

G. Issue a Writ of Mandamus or any other appropriate writ, declaration, or order to declare Section 10 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 which prescribes a three-month limitation period for filing complaints be declared as *ultra vires* to the Constitution of India and hence be quashed and the period of limitation be made subject to Section 468 of the Cr.P.C;

H. That a writ of mandamus be issued to the Respondents directing them to comply with the provisions of the PEMSAR Act, 2013 in letter and spirit and report compliance with a period of 90 days;

I. That a writ of mandamus be issued to the Respondents directing them to stringently enforce the implementation of the PEMSAR Act, 2013;

J. Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present Petition.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL, AS
IN THE DUTY BOUND EVER PRAY**

PLACE: Mumbai

DATE:

ADVOCATE FOR PETITIONER