



---

**DR. BALRAM SINGH V. UNION OF INDIA AND OTHERS (2023)**

---

**Vaidehi Kulgude\***

## **INTRODUCTION**

The Indian Constitution envisages a dignified existence for every individual and recognizes the inherent value of human rights, particularly those associated with labour and dignity. Yet, manual scavenging hampers these constitutional ideas. Despite legislative efforts such as “The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act <sup>1</sup>1993” and “The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act <sup>2</sup>2013”, this practice continues, raising legal and constitutional questions. The judiciary, as the guardian of fundamental rights, is often entrusted with navigating the tensions between constitutional principles and legislative gaps. Manual scavenging is practised by people belonging to lower castes due to their social status and position in society and the lack of job opportunities. The issue of manual scavenging invites inquiry into whether the existing statutory framework adequately addresses the systemic socio-economic barriers that harbour these practices. Can the judiciary, through its powers, bridge the legislative and administrative shortcomings to ensure complete justice for those engaged in this degrading work? As Justice Bhagwati once said “infuse life and blood into the skeleton of legislative provisions” to uphold the humane and compassionate character of the Constitution. This paper will analyse the case “Dr Balram Singh v. Union of India”<sup>3</sup>, wherein the court addressed the persistent and humiliating exercise of this practice in India and examined the failure of the government to implement the “The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013”<sup>4</sup>, and other related laws, highlighting the systemic issues that continue to enable this human rights violation.

---

\*BBA LLB, SECOND YEAR, NMIMS, MUMBAI.

<sup>1</sup> The Employment of Manual Scavengers and Construction of Dry Latrines(prohibition) Act 1993

<sup>2</sup> The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013

<sup>3</sup> Balram Singh vs Union of India and Ors (2023) SC 324

<sup>4</sup> The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013

## FACTS

Dr Balram filed a petition, as a Public Interest Litigation(PIL) under Article 32, seeking immediate intervention due to the failure of the state to implement major provisions, as outlined in the “The Employment of Manual Scavengers and Construction of Dry Latrines(Prohibition) Act 1993”<sup>5</sup> and “The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013”<sup>6</sup>. Both the acts contain provisions aimed at prohibiting the practice, the utilization of unhygienic latrines, and the hiring of manual scavengers continued unabated in multiple parts of the country, and workers remained employed in unsafe and degrading conditions. Furthermore, the formation of the committees mandated by both acts, which were supposed to oversee the implementation and rehabilitation processes, had not been established. The petitioner solicited a “blanket ban” on the practice, attesting that the practice was still in continuation, highlighting a “legislative vacuum” concerned with the worker's condition, who were involved in this practice.

## ISSUES

- 1) Whether the respondents failed to take the necessary measures for the effectual implementation of the “The Employment of Manual Scavengers and Construction of Dry Latrines(Prohibition) Act 1993”<sup>7</sup> and “The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013”<sup>8</sup>.
- 2) Whether the actions of the respondents violate the objectives of Articles 17,23 and 21.

## ARGUMENTS FROM BOTH SIDES

### PETITIONER

- 1) The petitioner contended that “The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013”<sup>9</sup> is in furtherance of Article 15, Article 17, Article 23 and Article 24 of the Indian Constitution, thereby granting it constitutional status.

---

<sup>5</sup> The Employment of Manual Scavengers and Construction of Dry Latrines(prohibition) Act 1993

<sup>6</sup> The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013

<sup>7</sup> The Employment of Manual Scavengers and Construction of Dry Latrines(Prohibition) Act 1993

<sup>8</sup> The Prohibition of Employment of Manual Scavengers and their Rehabilitation Act 2013

<sup>9</sup> *ibid*

- 2) The petitioner argued that the relief/compensation offered to the dependents of sewage workers who die in the course of their work should be increased to ensure better financial support for their families.
- 3) The petitioner pointed out that the Central Monitoring Committee(CMC), which is mandated to meet every six months, had only met seven times between 2013 and 2022.
- 4) The petitioner argued that the lack of formation of the State Level Survey Committee (SLSC) and the District Level Committee(DLC) in several states, which are responsible for overseeing the surveys, was another issue.
- 5) The petitioner proposed that the court establish a task force to carry out a new, comprehensive survey to accurately evaluate the extent of manual scavenging and the conditions of such workers.
- 6) The Petitioner pointed out inconsistencies in the surveys conducted in 2013 and 2018, calling for a more accurate and transparent assessment process.
- 7) The Petitioner recommended that Sections 2(e) and 2(1)(g) of the 2013 Act, which excludes workers from the definition of manual scavengers if they are provided with protective gear, should be interpreted narrowly to eradicate the perpetuation of untouchability and protect the human dignity of workers.

## **RESPONDENT**

- 1) The respondent argued that section 11 of the 2013 act requires localized surveys to be conducted by local bodies instead of national surveys.
- 2) The respondent contended that two national surveys were administered in 2013 and 2018, and a self-declaration survey was also carried out through the initiative of “Swachhata Abhiyaam” phone app.
- 3) The respondent stated that the data is substantiated by the National Safai Karamchari Finance and Development Corporation (NSKFDC).
- 4) The respondent opposed the establishment of a task force under CMC, arguing that the state’s NAMASTE initiative already included three-tier committees, which makes a separate task force redundant.
- 5) The role of the National Commission for Safai Karamchari(NCSK) is restricted to equipping the state governments and local bodies with recommendations for the

efficacious execution of the 2013 act, as it is neither a statutory body nor constitutional and also experiences a lack of manpower.

## JUDGEMENT

The court recognized the historical context of social stigmatization and systemic discrimination faced by marginalized communities. The judgement highlighted that while India's struggle for independence addressed political and economic exploitation, another significant battle for emancipation has remained unresolved: the fight against discrimination on the basis of caste and inhuman practices like manual scavenging. Justice Bhatt referred to the Constitutional provisions prohibiting untouchability (Article 17), forced labour (article 23), and exploitation (Article 24), emphasizing that they serve as guiding principles for achieving equality and fraternity among all citizens

The Court noted that various legislative measures have been implemented to address this issue, starting with the "Protection of Civil Rights Act, 1955"<sup>10</sup> and later strengthened by the "Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989"<sup>11</sup>. Specific enactments for ex, "The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993"<sup>12</sup>, following its successor "The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013"<sup>13</sup>, were designed to eradicate manual scavenging and offer rehabilitation to those affected. However, despite such provisions, it continues to exist because of inadequate implementation measures.

In response to the petition, the court referred to its earlier decision in "Safai Karamchari Andolan and Ors. Vs Union of India, 2014"<sup>14</sup>, which laid down specific directions for rehabilitation, compensation and systemic reforms. The 2014 judgment emphasized that sewer deaths must be criminalized, families of the victims must be compensated, and rehabilitation measure measures must address both immediate and long-term socio-economic concerns.

The Supreme Court issued 14 directives to exterminate manual scavenging and ensure the rehabilitation of affected individuals, briefly :

---

<sup>10</sup> Protection of Civil Rights Act, 1955

<sup>11</sup> Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

<sup>12</sup> The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993

<sup>13</sup> The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013

<sup>14</sup> Safai Karamchari Andolan and Ors. Vs Union of India (2014) 11 SCC 224

- 1) Eradicating manual sewer cleaning, through formulating policies, across all agencies and statutory bodies
- 2) Ensure States/UTs implement and enforce Union guidelines in local bodies and municipalities.
- 3) Provide employment, education, and skill training for sewer workers and their dependents.
- 4) Raise compensation for fatalities to ₹30 lakhs and ensure its payment to dependents.
- 5) Minimum ₹10 lakhs for disabilities and ₹20 lakhs for permanent, severe disabilities.
- 6) Impose penalties and cancel contracts for sewer deaths in outsourced work.
- 7) Develop model contracts ensuring adherence to safety standards and deterrence of violations.
- 8) Conduct a nationwide survey within one year to assess sewer worker conditions.
- 9) Create education and training models for those conducting the national survey.
- 10) Provide scholarships for meaningful education to children of sewer workers.
- 11) NALSA to assist in framing policies and models for compensation disbursement.
- 12) Establish state and district-level committees and monitor vacancies.
- 13) Develop modules for state and district agencies under the 2013 Act.
- 14) Create an online platform to track sewer deaths, compensation, and rehabilitation policies.

## **ANALYSIS**

The issue surrounding the eradication of manual scavenging involves multiple legal, societal and constitutional factors, and demands careful consideration of the balance between the law's promise of dignity and equality, and the practical shortcomings in its implementation. The supreme court's judgement is a significant step towards upholding the constitutional right to dignity under Article 21 and addressing systemic caste-based exploitation. While the

judgement is a critical effort, its success heavily depends on the practical applications of the directives. In the landmark case of “Safai Karamchhari Andolan and Ors. Vs Union of India 2014<sup>15</sup>”, the Apex Court had advocated for making unsafe sewage work a criminal offence and issued clear instructions to ensure the welfare of the workers involved, but these directions were either inadequately followed or ignored entirely. In particular, the failure of both the judiciary and executive to enforce such provisions reflects a deeper systemic issue. Moreover, the underreporting of such people and such incidents also reflect the government’s failure to comply with the provisions and guidelines laid down.<sup>16</sup>

Article 15<sup>17</sup> and Article 21<sup>18</sup> of the Constitution serve as fundamental safeguards for the dignity and equality of every citizen, yet these remain violated with the continuation of manual scavenging. The practice also contravenes Article 17, which abolishes untouchability and forbids its enactment in any form, yet manual scavenging remains deeply embedded in caste discrimination. In the State of Karnataka vs. Appa Balu Ingale (1993)<sup>19</sup>, the judgment underscored the constitutional imperatives of social justice, equality, and the abolition of untouchability, highlighting the pivotal role of the judiciary in safeguarding marginalized communities. This case is a landmark for reinforcing anti-discrimination laws and promoting social equitableness for the SCs and STs. Despite various judicial orders, there is a stark disconnect between law on paper and its real-world impact. Moreover, the country is bound to obligate to the international treaties, which include the “Universal Declaration of Human Rights”<sup>20</sup>(Articles 1 and 2,23) and the “International Covenant on Economic, Social and Cultural Rights”<sup>21</sup>(Articles 3,7,10,11,13), which highlight the principles of dignity, equality, social security, decent living standards and maternity relief for women<sup>22</sup>.

Additionally, along with a lack of effective legal enforcement, deep-rooted societal attitudes contribute to the continuation of such inhumane practices. The people belonging to the lower cast are the targets of exploitation due to their social and economic vulnerabilities<sup>23</sup>. Even in

---

<sup>15</sup> ibid

<sup>16</sup> Roxy Gagdekar Chhara, “Manual scavenging: The unending pain of India's sewer workers” (26 October 2023) < <https://www.bbc.com/news/world-asia-india-67191131> > accessed 11 December

<sup>17</sup> Constitution of India 1950, art.15

<sup>18</sup> Constitution of India 1950, art.21

<sup>19</sup> State of Karnataka vs. Appa Balu Ingale (1993) AIR SC 1126

<sup>20</sup> Universal Declaration of Human Rights, (adopted 10 December 1948) 217 A(III) (UNGA)

<sup>21</sup> International Covenant on Economic, Social and Cultural Rights, 1966

<sup>22</sup> Shubham Kumar, Priyanka Preet, “Manual Scavenging: Women Face Double Discrimination as Caste and Gender Inequalities Converge” (2020) EPW <https://www.epw.in/engage/article/manual-scavenging-women-face-double-discrimination-caste-gender> accessed 14 December 2024

<sup>23</sup> Cleaning Human Waste "Manual Scavenging," Caste, and Discrimination in India

the face of such failures, the practice remains relevant, aggravated by the lack of accountability among municipal and state bodies, who are responsible for enforcing the ban. Many of the affected workers are too marginalized to report their exploitation or are too afraid of retaliation, further perpetuating the cycle of invisibility<sup>24</sup>, and unfortunately, such instances continue to occur even to this day.<sup>25</sup>

## CONCLUSION

An analysis of this case has brought forward several key observations. While the judiciary, through various judgements has attempted to address the practice of manual scavenging, the gap between legal provisions and its implementation remains weak. Social biases, coupled with a lack of accountability and other systemic issues further aggravates the persistence of this practice. Despite clear guidelines and provisions, the failure to enforce these, both at the state and municipal levels, reveals the ignorance of the authorities towards this issue.<sup>26</sup> Ultimately, the eradication of manual scavenging demands a multi-pronged approach, involving stronger enforcement, government accountability, and a change in societal attitudes towards caste-based discrimination.

---

<https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> accessed 10 December 2024

<sup>24</sup> *ibid*

<sup>25</sup> PTL, 8 deaths due to manual scavenging in Delhi, UP in 10 days: Activists demand FIR against culprits(16 May 2024)

<sup>26</sup> Cleaning Human Waste "Manual Scavenging," Caste, and Discrimination in India  
<https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india> accessed 10 December 2024