



2026:DHC:1841



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 14517/2024**

Date of Decision: **25.02.2026**

IN THE MATTER OF:

SMITA KUMARI RAJGARHIA

.....Petitioner

Through: Mr. Vakul Sharad Sharma, Advocate.

versus

GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr Sameer Vashisht, Standing
Counsel (Civil) GNCTD
Ms. Harshita Nathrani, Advocate
(Court Commissioner).

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G E M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. The matter relates to the grievance of the petitioner for maintenance and upkeep of female washrooms/ toilets of Saket District Court Complex.



However, the scope of the petition was expanded by the Court *vide* its order dated 16.10.2024. The Court has also appointed Ms. Harshita Nathrani, Advocate as a Court Commissioner for carrying out the inspection and submission of a report.

2. Ms. Nathrani has submitted the report with respect to all female washrooms of all Court Complexes. The said report was considered and, accordingly, certain directions were issued to Public Works Department (PWD) from time to time. *Vide* order dated 01.09.2025, the report submitted by the PWD has also been taken note of. In paragraph nos. 2 to 5, the following observations have been made.

“2. It is assured by the concerned Executive Engineer (PWD), Mr. V.K. Singh, who has joined the proceedings virtually that the aforesaid work for renovation/ construction of toilet blocks is being expedited, and all attempts are being made to complete the work as early as possible. He submits that the work in respect of toilet blocks in Court Building (A and B wings) at the District Court, Dwarka shall be completed by 30.09.2025.

3. He further submits that the work of toilet in the District Court Complex, Saket is also being expedited and is expected to be completed by 31.03.2026.

4. The PWD is also directed to ensure upkeep and maintenance of the existing toilets in the aforesaid court complexes.

5. Let an updated status report be filed within a period of eight weeks from today. Let a status report be also filed as regards the work relating to renovation/ construction of toilets in the other court complexes as well. Let the same also be filed within a period of eight weeks from today. The concerned Bar Association is also directed to file a status report in terms of paragraph no. 5 of the order dated 10.02.2025, within a period of eight weeks from today.”

3. It must be emphasised that the issue before this Court cannot be viewed as being one of routine maintenance alone. The state of washrooms in court Complexes bears directly upon the dignity, health and equality of



the citizens of this Country. Article 21 of the Constitution guarantees not merely an animal like existence but a life of dignity.

4. In *Municipal Council, Ratlam v. Vardichan*,¹ the Supreme Court was called upon to decide whether by affirmative action a Court can compel a statutory body to carry out its duty to the community by constructing sanitation facilities at great cost and on a time-bound basis. In the facts of the said case the Sub-Divisional Magistrate, had issued directions to the Municipality to construct drain pipes with flow of water to wash filth and stop the stench caused in the locality. The Supreme Court, speaking through V.R. Krishna Iyer J., held that statutory authorities are under a binding obligation to abate insanitary conditions and cannot avoid that duty on grounds of financial or administrative limitation. Basic sanitation was treated not as charity but as a responsibility under the Constitution. Upholding the order of the Sub-Divisional Magistrate, the following pertinent observations were made:

“2. The circumstances of the case are typical and overflow the particular municipality and the solutions to the key questions emerging from the matrix of facts are capable of universal application, especially in the Third World humanscape of silent subjection of groups of people to squalor and of callous public bodies habituated to deleterious inaction. The Ratlam municipal town, like many Indian urban centres, is populous with human and subhuman species, is punctuated with affluence and indigence in contrasting coexistence, and keeps public sanitation a low priority item, what with cesspools and filth menacing public health. Ward No. 12, New Road, Ratlam town is an area where prosperity and poverty live as strange bedfellows. The rich have bungalows and toilets, the poor live on pavements and litter the streets with human excreta because they use roadsides as latrines in the absence of public facilities. And the city fathers being too busy with other issues to bother about the human condition, cesspools and stinks, dirtied the place beyond endurance which made the well-to-do citizens protest, but the crying demand for basic sanitation and public drains fell on deaf ears. Another contributory cause

¹ (1980) 4 SCC 162.



to the insufferable situation was the discharge from the Alcohol Plant of malodorous fluids into the public street. In this lawless locale, mosquitoes found a stagnant stream of stench so hospitable to breeding and flourishing, with no municipal agent disturbing their stinging music at human expense. The local denizens, driven by desperation, at long last, decided to use the law and call the bluff of the municipal body's bovine indifference to its basic obligations under Section 123 of the M.P. Municipalities Act, 1961 (the Act, for short).

...

And yet the municipality was oblivious to this obligation towards human well-being and was directly guilty of breach of duty and public nuisance and active neglect. The Sub-Divisional Magistrate, Ratlam, was moved to take action under Section 133 CrPC to abate the nuisance by ordering the municipality to construct drain pipes with flow of water to wash the filth and stop the stench. The Magistrate found the facts proved, made the direction sought and scared by the prospect of prosecution under Section 188 IPC, for violation of the order under Section 133 CrPC, the municipality rushed from court to court till, at last, years after, it reached this Court as the last refuge of lost causes. Had the municipal council and its executive officers spent half of this litigative zeal on cleaning up the street and constructing the drains by rousing the people's sramdan resources and laying out the city's limited financial resources, the people's needs might have been largely met long ago. But litigation with other's funds is an intoxicant, while public service for common benefit is an inspiration; and, in a competition between the two, the former overpowers the latter. Not where a militant people's will takes over people's welfare institutions, energises the common human numbers, canalises their community consciousness, forbids the offending factories from polluting the environment, forces the affluent to contribute wealth and the indigent their work and thus transforms the area into a healthy locality vibrant with popular participation and vigilance, not neglected ghettos noisy with squabbles among the slimy slum-dwellers nor with electoral "sound and fury signifying nothing."

...

19. A strange plea was put forward by the Municipal Council before the High Court which was justly repelled viz. that the owners of houses had gone to that locality on their own choice with eyes open and, therefore, could not complain if human excreta was flowing, dirt was stinking, mosquitoes were multiplying and health was held hostage. A public body constituted for the principal statutory duty of ensuring sanitation and health cannot outrage the Court by such an ugly plea. Luckily, no such contention was advanced before us. The request for further time for implementation of the Magistrate's order was turned down by the High Court since no specific time-limit was accepted by the Municipality for fulfilment of the directions. A doleful statement about the financial



difficulties of the Municipality and the assurance that construction of drains would be taken up as soon as possible had no meaning. The High Court observed:

“Such assurances, it appears, are of no avail as unfortunately these proceedings for petty little things like clearing of dirty water, closing the pits and repairing of drains have taken more than seven years and if these seven years are not sufficient to do the needful, one could understand that by granting some more time it could not be done.”

The High Court was also right in rejecting the Additional Sessions Judge's recommendation to quash the Magistrate's order on the impression that Section 133 CrPC did not provide for enforcement of civic rights. Wherever there is a public nuisance, the presence of Section 133 CrPC must be felt and any contrary opinion is contrary to the law. In short, we have no hesitation in upholding the High Court's view of the law and affirmation of the Magistrate's order.

20. Before us the major endeavour of the Municipal Council was to persuade us to be pragmatic and not to force impracticable orders on it since it had no wherewithal to execute the order. Of course, we agree that law is realistic and not idealistic and what cannot be performed under given circumstances cannot be prescribed as a norm to be carried out. From that angle it may well be that while upholding the order of the Magistrate, we may be inclined to tailor the direction to make it workable. But first things first and we cannot consent to a value judgment where people's health is a low priority. Nevertheless, we are willing to revise the order into a workable formula the implementation of which would be watch-dogged by the court.

...

24. We are sure that the State Government will make available by way of loans or grants sufficient financial aid to the Ratlam Municipality to enable it to fulfil its obligations under this Order. The State will realise that Article 47 makes it a paramount principle of governance that steps are taken for the improvement of public health as amongst its primary duties”. The Municipality also will slim its budget on low priority items and elitist projects to use the savings on sanitation and public health. It is not our intention that the ward which has woken up to its rights alone need be afforded these elementary facilities. We expect all the wards to be benefited without litigation. The pressure of the judicial process, expensive and dilatory, is neither necessary nor desirable if responsible bodies are responsive to duties. Cappilietti holds good for India when he observes: [Access to Justice—A World Survey, Vol. 1, ed. by M. Cappilietti and B. Garth, pp. 123-24]

*“Our judicial system has been aptly described as follows:
Admirable though it may be, (it) is at once slow and costly. It is a*



finished product of great beauty, but entails an immense sacrifice of time, money and talent.

This 'beautiful' system is frequently a luxury, it tends to give a high quality of justice only when, for one reason or another, parties can surmount the substantial barriers which it erects to most people and to many types of claims."

Why drive common people to public interest action? Where directive principles have found statutory expression in Do's and Dont's the court will not sit idly by and allow municipal government to become a statutory mockery. The law will relentlessly be enforced and the plea of poor finance will be poor alibi when people in misery cry for justice. The dynamics of the judicial process has a new "enforcement" dimension not merely through some of the provisions of the criminal procedure code (as here), but also through activated tort consciousness. The officers-in-charge and even the elected representatives will have to face the penalty of the law if what the Constitution and follow up legislation direct them to do are defied or denied wrongfully. The wages of violation is punishment, corporate and personal."

5. The presence of clean and functional toilet facilities, particularly for women, is inseparable from dignity and privacy. In ***Suchita Srivastava v. Chandigarh Administration***,² the Supreme Court reiterated that personal dignity and bodily integrity lie at the core of Article 21 of the Constitution. Further, in ***Justice K.S. Puttaswamy (Retd.) v. Union of India***,³ privacy was recognised as an intrinsic part of life and liberty. Access to safe and hygienic washrooms in public institutions, including Court complexes, directly implicates these guarantees.

6. The right to health, recognised as a facet of Article 21 of the Constitution in ***Consumer Education and Research Centre v. Union of India***,⁴ necessarily includes conditions that prevent avoidable disease and indignity. Sanitation is the threshold of public health. Court complexes are not merely buildings; rather, they are Constitutional spaces where citizens

² (2009) 9 SCC 1.

³ (2017) 10 SCC 1.



seek justice and where judicial officers, advocates and staff discharge public functions. The infrastructure of such spaces must reflect the minimum standards consistent with Constitutional values. The Court is also not unmindful that inadequate or unhygienic facilities disproportionately affect women and may operate as a subtle but real barrier to equal participation in the administration of justice. Equality under Articles 14 and 15 of the Constitution is not secured by formal declarations alone; it requires institutional arrangements that accommodate basic biological realities. Clean and accessible washrooms are, therefore, to be considered not as peripheral amenities but foundational requirements of a functional justice system.

7. The Court has been assured by the PWD that all necessary steps have been taken in furtherance of the order dated 01.09.2025; and further that the PWD will ensure that the female washrooms of all Court Complex remain clean and hygienic.

8. Recording the aforesaid assurance on behalf of the PWD, at this stage, the writ petition stands disposed of. Liberty is granted to the petitioner to file a fresh writ petition, if so warranted by subsequent circumstances.

9. However, before approaching this Court, the petitioner shall at first instance approach the concerned Principal District Judge of respective Court Complex. Upon such representation being made, the concerned Principal District Judge shall look into the grievance and pass appropriate administrative directions to the PWD and Bar Associations in accordance with law.

10. The Court also appreciates the conscientious and diligent work of Ms. Harshita Nathrani, who undertook a comprehensive analysis, and submitted

⁴ (1995) 3 SCC 42.



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her report, which in turn has assisted the Court to resolve the present issue.

PURUSHAINDRA KUMAR KAURAV, J

FEBRUARY 25, 2026

aks/ss.