

Wicked Employers Are the Septic Wound for Safai Karamcharis

Parameswar Dash*

Research Scholar, Department of Law, Maharaj Vinayak Global University, Jaipur

Abstract – After a seriatim discussions with the Safai Karamcharis since last 4 years from different corner of Odisha I felt “wicked employers are the septic wound for Safai Karamcharis”. Everyone is taking the plea of ‘untouchability’, ‘social stigma’, ‘demeaning and despicable occupation’, etc. Nobody is taking active part for their development. To the best of their ability State Government as well as Central Government tried for their upliftment. But the employers are never serious about their development. Their activities towards Safai Karamcharis always remain ineffective. They are facing many obstacles. Instead fight for justice they prefer to fight against starvation. Never tried to draw others sympathy. This article will help to identify the frontier white collar criminals, wicked employers, and business labour rackets to stop the shameful act. Also, this article will be helpful for entire society to eradicate social stigma about the Scavengers, Safai Karamcharis and their Dependants as well as to get refund of their self-acquired treasure globally.

Key Words – Safai Karamcharis, Untouchability, Social stigma, Principal Employers, Indian Constitution, Wages, Violation of Human rights, Social Security

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INTRODUCTION

Safai Karamcharis are very kind-hearted and innocent. Their involvement in demeaning or despicable occupation is not perfunctory; rather their involvement is to get salvation from starvation and minimum trial for better living. Their service always dedicated to the society for a noble cause. They respect to their employer like incarnation of God. They never calculate their employer’s merits and demerits or identification as because they know if they will go against the employer definitely their entire family will be remained in starvation and large number of legislations has no meaning to him. He never tries to understand the meaning of FIR, RTI, Social Security and related labour laws as because his situation not given him any scope to understand the value of our constitution. Their empty stomach never allows them to study the shrewdness of their employer. If they ask to Principal employer, the principal employer is replying that he is no more related to them for which reason the entire work privatised and your entire responsible is headed to Contractor/immediate employer. For A to Z he is responsible.

Safai Karamcharis are being exploited by the employer fatally. Principal employers know better that they are the agents of Government. They are empowered by the Government as well as the constitution of India to work and take care of every responsibility assigned to him under the different

schemes which is exclusively meant for the development of general public. They are the authority of grievance Redressal of their office and to scrutiny of truthfulness about assigned work. Government provisioned for rectification of any error or need based compliance of every irregularities or negligence occurred by the Principal employer or immediate employer appointed by him. Also provisions of punishment according to the weight age of every irregularities, negligence and crime. But the pattern of exploitation is as usual even after the Independence of 73 years Safai Karamcharis are victimise. I had got an opportunity to interact with the Safai Karamcharis of Balasore Municipality in the state of Odisha on 1st February 2020, about 247 nos. of Safai Karamcharis (Sanitation workers) gathered at Balasore Municipality Campus to protest against their dismissal without any prior information, non-payment of their wages as well as noncompliance of statutory dues i.e. PF, ESI, Cess, along with Uniform, Protective gear, T & P Materials etc.

While some workers said they were not informed about their termination. When who is coming and going, we don’t know. Even if there is no any agency/contractor, we are being directed by the principal employer to work under the direct control of Sanitary Inspector. Adhering to the verbal order we have been working and getting wages from the Sanitary Inspector accordingly through the nominal

muster roll putting signature on revenue stamp. But at the same time, it is seen that one unknown outsourcing agency is depositing our PF & ESI and that is hardly 50 to 60%. Rest of workers are not getting any PF & ESI benefit. Whereas the total nos. of Labour/Safai Karamchari estimated is 301 and the total requirement of labour is approximately 500 nos. as per as per the order of Govt. of Odisha in Housing & Urban Development Department order No-28708/HUD, dt.17.12.2016 where Govt. have fixed for streamline implementation of Swachh Bharat Mission(SBM) in Column-06 (SBM) column- 6 that the norms for minimum number of sweepers and door to door garbage collectors are 28 per 10,000 (ten thousand) population. Almost all Safai Karamcharis belong to the scheduled caste community. They work in hazardous conditions without protective gear's and are forced to work overtime without compensation even in National Holidays. A 47 year old Ratnakar Behera, who has worked as Safai Karamchari for 20 years, says "We were not given any notice. We arrived this morning to find they have employed other people to work who are from outside the Balasore Municipality. We have an experience of 20 years and work very efficiently. Why they want to remove us?"

Manoj, 32 years, has been working as Safai Karamchari with the Balasore Municipality for over 6 years stated that my father died in the year 2011, was working in this Municipality as Permanent Labour (Cleaning and sanitation work). When I applied job on rehabilitation ground the then Executive Officer assured me to get sanction of the same from government and up to that advised me to work under outsourcing agency and still, I am waiting to engage under rehabilitation scheme. "There is huge workload as one-person has to do the work of four people. If some person takes a leave, we are forced to cover for them. Sometimes people take leave for 10-15 days, but we do not get paid for the extra work. For the specific time the employee withdrawing often sacrifices wages. "Women employees who participated to the demonstration hesitated to comment. One said, "The government doesn't want people who speak. Nor do we subscribe to some union."

Bhagaban Behera, President, Balasore Municipality Safai Karamchari Sangha, added that some workers have not been given PF & ESI facility since they started working. Those getting are not in order. "Workers are over-exploited, especially during the local festivals and VIP visits. They are made to work extra hours without any remuneration,". Nos. of Safai Karamcharis is died due the higher treatment and negligence of wicked employers, he said. The workers alleged that they were denied fair wages, holiday leave and PF & ESI amount for years by employers. A group of workers had filed a labour court case against the employers. "They are being particularly targeted and denied jobs," one of them said. The workers said that there was no prior notice

to them about the cancellation of their contract. "We received this information today early morning when we received at Municipality office for daily attendance.

Safai Karamcharis are in confuse and they are not sure who is their immediate employer/contractor. There is neither any engagement letter nor termination. Very monopoly employers are handling to their Safai Karamcharis. If anybody raised voice them, they are being particularly targeted and denied jobs. They don't even know who they are working for. This is done with the sole intention of camouflaging the employer-employee relationship and curbing labour rights." "The work being performed by the Safai Karamcharis is of permanent nature, and it is the legal duty of the Balasore Municipal Administration that despite the change in tender, not only are all workers taken back but also be provided permanent jobs," said Bhagaban Behera (Gapa), President of Balasore Municipality Safai Karamchari Sangha. Since 2010, the Safai Karamcharis have been contracted by Balasore Municipality through different outsourcing agencies.

The same situation I found when I had visited to Anandapur Municipality for my study. Saraswati Mukhi, 32, says' Budhadev Mukhi, Maguni Mukhi, Prahallad Sahoo, Srimati Mukhi, Nalu Mukhi, Gouttam Mukhi, etc. died due to lack of higher treatment and negligence of Principal Employer. Their families are on the road. Whereas, Executive Officers avoiding to social security schemes which is exclusively meant for the welfare of engaged Safai Karamcharis/labour.

Article 21 of the 1950 India Constitution states that 'no one shall be stripped, except in compliance with the statute, of his life or of personal rights.' 'Life' is not only a physical act of breathing in Article 21 of the Constitution. It should not include the simple presence of livestock or continued drudgery through life. "Right to living" is central to our very being without which we cannot exist like human beings and covers all those facets of our lives that render human life significant, holistic and worthy to live under the umbrella of Article 21 so many of our rights have It has far wider meanings including right to live with human dignity, right to life, right to health, right to pollution free air, etc.

Article 21 ensures the freedom to be free from exploitation and to live with human dignity. The State is obligated to guarantee legally that the fundamental right of every citizen is not abused. Particularly as it belongs to the poorer part of the society and cannot combat a powerful and fully-fledged opponent against him, the central government both of whom abuse him. And Govt. State. And Govt. State. The numerous social security laws and labour regulations passed by the parliament with a view to securing the workmen a life of basic human integrity, in accordance with the

values of the State Policy Directive, are also bound to be respected.

The right to life is the right to existence with purpose, completeness and integrity. It has no minimal importance. It's more than just survival or animal life. Article 21 is primarily directed at the stringent follow-up to the procedures laid down by statute until the applicant is deprived of his/her life on personal rights by the state. Article 21 of the Constitution states that a citizen is barred from interfering with personal freedom or being deprived of life 'Nobody shall be deprived of his/her life or personal freedom except in compliance with laws.'

In Article 21, the right to life with human integrity is focused on the concept of public policy, and especially on the principles of Article 39, Articles 41 and 42, of Article 39, and 42, and thus, at least, the wellbeing and strength of the staff, men and women as well as the tender age of children from child exploitation, opportunities and childcare facilities should be projected. These are the minimum conditions that must be fulfilled to allow a citizen to live with human dignity, and neither the central government nor any State government is entitled to take action that would deprive a person of these basic values.

The freedom to live together, to sleep in comfort and to rest and to wellbeing is included. "Everyone in this world has a basic right to live free from exploitation and human dignity.

Some of Safai Karmacharies are not getting wages at scheduled rate prescribed by the Govt. and due to non-payment of minimum wages to the scavengers i.e. sweepers, sewerage workers, SWM workers, employed in different projects is a denial to them of their right to live with basis human dignity and violate of **Article 21** of the constitution.

The staff hiring a contractor in compliance with the different labour legislation specifically seek to guarantee that employees' personal integrity is focused on these privileges and benefits. Infringements of fundamental rights of employees of human dignity, found in **Article 21(vii)**, is kept by the state authority not to comply with certain laws by the government. **Article 46** of the Indian constitution provides specifically for the state to facilitate educational and economic upliftment of the weaker segments of the society, particularly SCs and STs with sp.

Both human behaviours are focused on a balanced body. The most virulent type of viral and bacterial infection involving the face, eyes and arms, respiratory and gastric bowels are revealed to karmacharies and rag pickers, where no suitable equipment is required for the care of scavengers/Safai Karmacharies. The "circle of poverty" is rooted in it. It has less capacity and thus

functions less. In exchange, they may generate less foods or receive less revenue for food transactions. They would be more likely to be sick if the family may not have plenty to feed. If the disease transmission is tested, this loop may be broken.

It is also economically impacted by water and sanitation-related diseases. It was estimated that India losses every year 180ccc hours owing to these diseases. Living rights are a constitutional right according to Article 21 of the Constitution and provide the right to the complete enjoyment of pollution-free water and air. The 'Freedom to live' in the sense of Article 21 implies that life with integrity has been considered to be subject to the remit of Article 21, as it is adjusted to the lives of people and as it is equal to sluggish toxication and diminished lives for the citizens owing to dangers, free from harmful diseases and illnesses.

Safai Karmacharis maximum does not have any own land and a regular house minimum. You live in Govt. Land, municipal colony, river banks, canal beaches, cremation/burial grounds or by-passes, where there is no survival assurance. Obviously, in October, the Odisha government promulgated the "The Odisha Land Rights to the Small Dwellers Act" to award in situ heritage and non-transferable land rights to up to 200,000 houses in villages in 2 000 slums in all 109 small and medium-sized towns in the state.

Initial expenditure is another challenge. Safai Karmacharis take loans with higher interest rates from outside parties or private money creditors/bankers/microfinance companies. The salaries they receive to run their family hood are inadequate. The citizens in this fragile community must also be emphasised.

Responsibility of payment of wages

In compliance with Article 21 of the Contract Labour Act of 1970 on salary payments,

- (1) The contractor is liable for the payment of the salary, until expiry of the time limit, of each person hired by him as contract labour.
- (2) Each principal employer shall designate a delegate who is properly approved by him to attend the moment the contractor is paying for the wages and it is the responsibility of the main contractor to certify, in compliance with the prescriptions, the sums paid as wages.
- (3) In the presence of the principal employer's approved delegate, the contractor has an obligation to guarantee salary disbursement.

- (4) If, during the defined time, the contractor fails to pay wages or makes short payments, he shall be liable to pay maximum wages or the unpaid sum owed, as the case may be, to the contracted labour of the contractor and to recover from him, whether or not, any money payable by the provider.

Liability of principal employer in certain cases

- (1) Karmacharie Safai operates, which is challenging to fly in early hours, in faraway areas from the zones where they reside. Toilets and toilets to alter their clothes were not provided for them. The Safai Karmacharies women in particular experience huge challenge and uncomfortable challenges. They serve their heads under strain and tension. They are discriminated against when nobody wants to seat next to them when riding in buses. To solve this issue, certain mechanisms should be created.
- (2) If a contractor does not render available, within the time prescribed therefor, any amenity needed for the contract function working in an institution under section16(Canteens), section17(Restrooms), sections18(Other Facilities) or 19(First-Aid Facilities), within the time prescribed therefor, the provision shall be rendered available, within the time prescribed by the principal employer.
- (3) The employer must, by exclusion from any sum owed to the contractor in compliance with the arrangement, and the contractor shall be entitled to obtain the principal cost of the principal employer in the procurement of this amenity.

Registers and other records are not maintained properly

Large employers and contractors are quite haphazardly planning trends. The key employer and contractor extract the job in several respects, which would not be paid in the future, by planning fake and imported model rolls. It is evident that there is a departure from labour law. Section 29 – Registers and other documents to be kept, as given in Contract Labor (Regulation and abolition) 1970 Legislation.

- (1) The lists and documents showing, as the case may be, the existence of contract labour, the rates of pay to contract employees and other relevant information in such manner, shall be kept by each major employer and every contractor.
- (2) Every Prime Employer and every Contractor is expected to show notes of hours of

service, nature of duties and any other specific details which may be required, as may be prescribed in the premises of the institution where the contract is hired, in a prescribed manner.

Exploitation of Workers

No doubt, some employers or organisations are working for a noble cause on the other hand, by way of giving the colour of voluntary services; they are exploiting the poor people. To do this contemptible work; so motto they are changing the designation as well as the category of contract labour who are outsourced for the purpose originally for their own benefit. This is the misfortune of said labour those are suffering and moving from bottom to top with a hope to get the justice and others are tolerating virulently those have no alternative to arrange feeding for their family members. Though mendacious Principal employers are behind this in fruituous and fraudulent work they have no alternative except to tolerate falsehood.

There are number of instances where employers are demanding to their labours as Voluntary Social Worker and they are exempted from labour laws whereas concerned labours are not ready to accept this concept as they are not Voluntary Social Worker through, they are Labour. They are working for wages not for honorarium. They need their own social security as well as for their family. Some organisations demanding themselves that, the object of their establishment is to liberate the scavengers from the sub human occupation; and is a voluntary philanthropic organisation carrying out its activities on "no profit and no loss basis". The Minimum Wages Act., 1948 or Industrial Dispute Act, 1947 is not applicable to them as because there is no relationship of employer and employee which is a prerequisite for the application of the Minimum Wages Act.

Other associations requested that "their facilities create washrooms and toilets, which were of rather basic nature to be built for the usage of the public and did not need to be washed by clothes men or that any night-time dirt must be transported to everyone. In addition, jobless scavengers or other displaced citizens are now being educated in centres that will help them find a work. To achieve this, a vast number of volunteers are compensated for their wallet investing tiny amounts of money. It is clear that the factor of benefit and loss does not still occur in any case of business.

Amount of high tribunal except where the Supreme Court has determined that, in the interests of the poorer segment of the population, the term cannot be applied to the strictly charitable organisation. Even if educated senior advocates claim that the Labour Commissioner's contested order is unconstitutional because no employer/employee

arrangement occurs and is required for the enforcement of the Minimum Wages Act.

A Safai Karamchari or a labour who is engaged for cleaning and sweeping services cannot be treated as Voluntary Social Worker

Some employers are declaring their labour/Safai Karamcharis/Sweepers as voluntary social worker of their organization and not providing minimum wages, PF, ESI and adequate protective gears as prescribed for the purpose. But, by preparing fabricated records and documents collecting entire agreed/quoted tender price very cleverly and tactfully declaring them as volunteer to get exemption from labour law and gobbling the entire benefit.

- (a) In every contract work there is a Memorandum of Understanding between Principal Employer (Tender calling authority) and Immediate Employer/Contractor based on the conditions declared earlier which floated on the tender call notice and bid document.
- (b) Basically, tenders are called for cleaning and sanitation work for a particular period uninterruptedly to by deploying Labour/ Safai Karamchari/Sweeper/Cleaner not voluntary social worker. It is clearly mentioned in the tender call notice and bid document.
- (c) But after that keeping mala fide intention the Principal Employers and Contractors changed the word of "Voluntary social Worker" instead of "Labour" deviating to the conditions of the tender call notice and bid documents.
- (d) Principal employers are not issuing the contractors engagement order i.e. 'Form-V' to obtained the labour license from the concerned authority.
- (e) There is some specific rule to obtain license neither from the district authority nor from the state authority as the state authority is not empowered to issue the Labour License or any exemption certificate. State head is empowered to monitor the district authority.
- (f) No legislation or rules empowered to state head authority to issue labour license or issue any exemption certificate.

Exploitation of duty hour/period

Safai Karmacharies those are working in different hospitals are working 4 hours in morning shift i.e. 6.00 a.m. to 10 a.m. and again 4 hours in afternoon i.e. 3.00 p.m. to 7 p.m. As a result of which everybody should have to detain for more than 12 hours, but the wages is for 8 hours. No holiday for

them, round the year they are working. Even, if they are not allowing National Holidays to them. If anybody will remain on leave that day it will be counted as off day without wages.

When a Safai Karmachari attaining his duty in morning shift working for 4 hours and that is counting by employer is ½ day i.e. 50% wages and to earn 100% wages in that particular day again he/she has to wait and detain for 5 hours unnecessary i.e. 10 a.m. to 3 p.m. and then he/she has to work up to 6/7 p.m.

Compassionate appointment

Authorities are also not entertaining the request of Safai Karmacharies for promotion as well as for compassionate appointment on premature death of any employee in service. Since years together claim applications are kept pending with the Principal Employer. Some employers are hiding the claim application to harass.

Protective gears, Uniforms, T & P materials

Uniforms issued to Safai Karmacharies are not of good quality and toiletries such as soap, oil, towels, shoes, rain coats are not provided periodically to them. Employers forcing them to wear a jacket embodied with a logo on its backside and name of ULB/Organisation for easy identification in work site instead of issuing proper identity card as per labour law which becoming the cause of skin disease. Employers are using them for their advertisement which is inhuman. Safai Karmacharies are not appointed as per Norms laid down in the Public Health Manual as a result of which existing Safai Karmacharies are liable for excessive work Program and also there are less numbers employed vis-à-vis the population of the City or Towns. The Safai Karmacharies are overburdened with Safai work as the population has increased many folds and posts are neither increased nor the vacant posts filled by the Government. Due to inadequacy of number of Safai Karmacharies, there is no improvement in the sanitation. The existing Safai Karmacharies are working whole work under mental stress.

There are long lists of such Karmacharies who are working in different Govt. & Private institutions. The wages are not timely paid to the Safai Karmacharies working in ULB's and cases of annual increment/PF Loan / gratuity / pension/Lay-off / retrenchment benefits are lying pending and unsettled. Most of the Safai Karmacharies are not provided with their Pay Slips, PF statements, ESI cards or Cess for which they are not able to get the benefit under PF, ESI & Cess scheme.

In compliance with Article 21 of the Contract Labour Act, 1970 – Pay of salaries –

- (1) The contractor is liable for the payment of the salary, until expiry of the time limit, of each person hired by him as contract labour.
- (2) Each principal employer shall designate a delegate who is properly approved by him to attend the moment the contractor is paying for the wages and it is the responsibility of the principal employer to certify, in compliance with the prescriptions, the sums paid as wages.
- (3) In the presence of the principal employer's approved delegate, the contractor has an obligation to guarantee salary disbursement.
- (4) If the contractor fails to pay the wages or does a short payment within the time period defined, the principal employer shall be liable to pay the wages in full or, if appropriate, to pay the balance owing to the contract job worked by that contractor and to recover from that contractor, by deducting, by the contractor, the money so charged.

The Safai Karmacharies working in Corporations/ Municipalities/ NACs/Census Town, etc. are not provided with housing facilities so that compelling them to stay in Slums/Bastis, endowment land, encroached Govt. and private land, river bank, road side, and crematorium ground and leaves in a ruined condition. Safai Karmacharies those are working in Govt. And private hospitals are not provided 8 hours of work consecutively. They are working in two shifts i.e. 4 hours' in morning and 4 hours' in the evening. Whereas, the gap between two shifts is 5 to 6 hours and in *toto* a Safai Karmacharies is sparing 12-13 hours daily and getting wages for 8 hours, no overtime or detention charges. Those are employed for part time work are forced to work for full day without being given any extra payment or overtime allowance. Many cases of compassionate appointment are lying pending with different Government organisations and Urban Local Bodies. The Safai Karmacharies are not paid their salary in time and even not provided essential safety norms/equipment's regularly. Though there is sufficient land available with the Municipality, still the State Government is not providing residential accommodation to them.

Railways are the biggest platform where Safai Karmacharies & scavengers are mostly neglected. Safai Karmacharies are residing in railway side or house provided by the railway are in such a deteriorating condition that any mis-happening may occur at any time. Besides to this, concerned authority are forcibly demolishing their thatched/hurt very brutally without providing any alternate arrangements and forced them to leave under open sky. In railways, majority of the sanitation work is being done by outsourced Safai Karmacharies through Contractor/NGO or other out sourcing

agencies. Employers forced to Safai Karmacharies to shift human dead body in bare hand without any protective gear and giving instruction to through such dead body in a particular place openly even if one after other which is inhuman. Survey of Manual Scavengers in Statutory Towns are not properly conducted as per guidelines prescribed by the Govt. of India, Ministry of Social Justice and Empowerment as a result of which Scavengers, Safai Karmacharies and their Dependants are facing nos. of problems. It is difficult to proceed with a fabricated survey report.

FEMALE SAFAI KARAMCHARIS MUST BE ENCOURAGED

Female Safai Karmacharis are facing severe wage disparities. Treating like step mother in case of social security schemes. Keeping mollified intention cruel employers after sending wages to her bank account again demanding to refund, if failed threatened for immediate disengagement. Her social security funds towards PF & ESI misplaced, extracted and shallowed. Existing female Safai Karmacharis are mostly widow and destitute.

Widows of deceased Safai Karmacharis are not getting their legitimate claims as provisioned. Our constitution unequivocally grants to the women a place in the society equal to treat of men by giving them equal rights of work, wages and vote. But the key factors due to the increasing violence against women are the inability of current and law enforcement authorities, all of which are not successful, to guarantee equity and respect for women. Although women's position has grown in culture, the crime rate has increased and is hybrid. We are most frustrated with the method of the judicial machinery to cope with crime against women, and several factors attributed to the breakdown. In the course of the years, the Indian state and relevant provisions have been implemented to address attacks. Yet their rules are filled with a patriarchal parachute, rendering them disrespectful to women. An optimal legislation must have justice not only in content but also in procedures.

SINFUL BEHAVIOUR BY THE EMPLOYER

Each right has its own obligations. Strike is one of Labour's oldest and most powerful tools in its battle for economic justice with capital. It involves, dropping out of work by any number of workers, employed in a particular industry, with an aim of creating pressure on the employers, to accept their demands relating to minimum wages, salary and incentive issues, increment is not up to the performance, holidays and leaves with pay, bonus, provident fund, ESI and gratuity, retrenchment benefit, withdrawal of any facility or allowance, wrongful dismissal of workmen, etc. The most obvious reason of strike is the non-payment of

wages, PF, ESI, gratuity, retrenchment benefit, protective gears, T & P materials to the workers by the employers.

In maximum of cases, principal employers are reluctant to accept any kind of strike called by Safai Karamcharis and adopting different procedure on an un-amicable way by showing police fear and keeping them in unemployment with starvation. In defence, Safai Karamcharis are showing nos. of argument to get their legitimate claim as well as to achieve success upon their strike in order to feed their starving children/old age parents. But they failed as the police is empowered by the administration and arrests to the victims without any warrant. If any of Safai Karamchari asked any information under RTI Act. to know about the corruption held at employer's end the employers pressurised him to withdraw at any cost. If information supplied is baseless and fabricated. Even if they never step back to retrench from his duty and tortured severely snatching his bread and butter in first instant. Instead of resolve their demand forced to remove strike and finally employers deducting their wages of this strike period unfairly and to remain away from the eyes of public principal employers are doing a drama of withhold or deduction from bill amount of the contractor. Ultimately the benefit goes to the employers and contractors. Govt. public and Safai Karamcharis both suffer to the greater extent.

Provisions for Holiday

It is the fundamental rights of an employee to get holiday as per Odisha Industrial Establishments (National and Festival) Holidays Act, 1969 Act22 of 1969 Section 3. For each calendar year, an individual holiday of one day is approved for each of the festivals, as may be defined by the administrator in conjunction with the employer and the workers in relation to any of the industrial establishments, on 26 January, 15 August and the subsequent 2 October and on the following four days, each of which is one entire day. Except if an employee has been employed on a holiday permitted under section 3, he or she has the opportunity, at his or her discretion, to – (a) double the salary; or (a) the pay for the day and, at every other day within six months of the holiday on which he or she operates, to make use of salaries on a substituted holiday etc.

Social Security

PF &ESI includes too many clauses that are primarily designed to boost Safai Karamcharis. But alas, since they are in a blank stomach, they do not realise where their number has been deducted, how much suffering is left to function, even though they have no more patience to see the tearful face of their kids without safety gear for a smaller pay check. They are all happily waiting for payments from grocery store to pharmacy shop and inform them today – they forget to move tomorrow along short lane, they get

exhausted because the 25th day of a month later is today.

Under the PF Act an employee is identified as the individual operating in or connected to the function of an institution through a contractor. In addition, the principal employer is entitled to reclaim the amount contributed to workers of the contractor by the contractor, under section 8A of the PF Act.

For workers employed by vendors, the primary employer has ultimate liability for maintaining conformity in line with the EPF Act. For workers who operate with the consultants, the Primary Employer is liable for enforcement in conjunction with the EPF and the MP Act of 1952. In its letter dated 2 February 2017, the Workers Provident Fund Association (EPFO) claimed that Principal Employer's responsibilities in relation to employees engaged by or by contractors were to maintain conformity with the 1952 Employee Provident Fund and Miscellaneous Arrangements Act ("EPF Act").

Reiterating the different rules set out in the EPF Act, the EPFO clarifies that it is the principal employer's duty under the provisions of subsection 30(3) of the EPF Scheme to reimburse both the payable contribution through himself in relation to his direct employees and the employees working through and through a contractor. The EPF Law describes an employee (as per section 2(f) of the EPF law) as an individual employed by or via a contractor for the wages of some form of job, manual or otherwise, in connection with the work of a company and who obtains its wages directly or indirectly by the employer. Thus the EPFO makes it plain that the EPF Act does not discriminate between permanent, contracted or daily employees; you are well informed that Safai Karmacharies usually involves people working as 'sweepers' or as 'sanitation/cleaning staff.' This sanitary staff experience several difficulties during success and even ill after results.

1. Lack of proper safety gear and unsafe working practises breaches Article 42 of the Indian Constitution, because of the unusually high death rate.
2. Cardiovascular disorders, asthma and tuberculosis are widespread.
3. Most still perish in action because of traffic collisions
4. They would gather very harmful waste in the slums and settlements, in particular. They need to inhale toxic gases from decaying waste that irritates them and even damages their brains.
5. Social prejudice impacts them.

6. They lack economic security and in case of death at workplace the compensation amount is meager and their dependents do not get jobs on compassionate grounds.

PRINCIPAL EMPLOYERS ARE DOING GROSS MISTAKE

In Odisha all the urban local bodies i.e. Municipalities, Corporations, Notified Area Councils and other govt. organizations are hiring the services of scavengers through tendering process very illegally without adopting certain procedure fixed by the Government. They are procuring very limited scavengers for their unlimited work and exploiting them at large. Ignoring to NERI (National Environmental Research Institute) & CPHEEO (Central Public Health & Environmental Engineering Organization) rule, solid waste management, liquid waste management, plastic management, bio medical waste management they are exploiting very monopoly. Frequently extracting their time & earning. Neither are they getting time to spare for their family nor society. They failed to adhere to their social responsibility. As a result of which most of times their family peace remains in trouble. Yours maximum Safai Karmacharies are surplus from social security schemes. In compliance with the govt. The requirement of insurance shall be rendered for all working scavengers – section 38 specifies that all workers of the institutions covered by this Act are compensated in the manner provided for in this Act, according to the rules of this Statute.

In compliance with Section 40, the primary employer shall pay first-instance expenses to any employee both the employer's contribution and the employee's contribution in respect of the employee, either personally employed by him or by a subsequent employer. In compliance with the Act of the European Socialist Insurance and Social Relations (ESI) of 1948, the worker shall be entitled to receive the share of the employees in the salaries of the workers involved and you know "employee" implies any individual working for wages in or in association with the function of the intended or formed business to which the Act applied; No Safai Karmacharies/workers are getting following benefit especially due to negligence of employer: Sickness benefit, Maternity benefit, Disable benefit, Dependants benefit, Medical benefit and Funeral expenses. Maximum Scavengers/Safai Karmacharies and their dependants are not getting benefit under death benefit scheme even if funeral expenses. Some of them are paying their contribution towards Employees state Insurance but not getting medical benefit from ESI and its authorized hospitals.

Similarly, prior to allotment of Universal Account Number a huge amount of Scavengers/Safai Karmacharies are still lying with EPFO need to be

refund with due interest. Before to start sanitation/SWM program there is a need of plan and estimate taking into consideration of ULB'S household, population, road length, drain length, its floating population, per capita garbage generation, distance of garbage dumping yard, etc. The Inspector of Local Works is its final authority to approve the estimate.

In many cases it is seen that there is a provision in the estimate to provide benefit of Cess to the Safai Karamcharis, whereas Cess benefit is exclusively meant for Building & Other Construction workers (RE & CS) Act, 1996 but not provided yet the same to Safai Karamcharis.

Another problem is open drains where people defecating openly. People are using drains in many ways. Some people are storing house building material, some are storing fire wood, some have installed cabin and others have constructed permanently. People are throwing their wastage directly to drain. Due to choke the drain cleaners are facing a lot of problem in rainy season. Safai Karmacharies are cleaning drain manually without protective gears and suffering a lot. Some places dead animals are also being thrown to drain to which Safai Karmacharies are lifting the same. Some drains have no drainage facility where ULBs are forcing Safai Karmacharies to clean the drain manually even if winter night. If they fail to do or unable to do said employers are threatening them in many ways even if stopping/deducting their wages.

Object of EPF

The aim of the Workers' Provident Funds Act is for all employers involved to have health funds, pension funds and reserves for employees of factories and other establishments. The company is primarily responsible for enforcing the Provident Fund scheme and for paying workers' and contractors' portion of the fund afterwards and to subtract employees' share of their salary. According to Section 1(3)(a), [1] this Act is to refer to any establishment in which twenty or more individuals are working and which is a factory engaged in any industry stated in Schedule 1. You can see why Safai Karamcharis could not be protected by the EPF from the outset.

Safai Karamcharis is not enjoying the PF profit according to PF law even after 68 years of enforcement, while the key employer is subject to the strict guidelines. Only after review of the contractual PF payments to EPFO can be rendered payments payable to the contractor. This can be checked by insisting on a receipt of payment earned by the provider from the EPFO section during the payment process, and from the EPFO portal. If the entrepreneurs have a different PF code number, the ultimate obligation for the

workers employed for the contractor is the Principal Employer to maintain conformity with the EPF Rule. The key employer shall be allowed to subtract EPF duties from the bill of the contractor and to depose them with the code number of the contractor or their own code number. A clause on EPFO's official web site was also introduced to check that contractors routinely deposit Provident Funds Deposits for their workers under the "Establishment Search option."

Further, the combined reading of Para 30, 32, 36 and 36-B of the EPF scheme 1952 makes it the statutory obligation of the principal employer to pay the first instance the worker's share, as well as the employer's share of contributions (including those in respect of the workers engaged through or by a contractor) and the Principal employer, is vested with powers to recover the respective contributions from the money payable to the contractor. This provision of law had been upheld in many judicial pronouncements.

The employer is obliged to pay both contributions, namely, contribution payable by the employer as well as by members even in case of an employee engaged through a contractor. He cannot count that as he is unable to realize from the contractor the amount of contribution payable by employees employed by a contractor, he is not liable to pay such contribution. The provider shall be entitled to recoup from the sum owed by the contractor or as interest payable by the contractor the amount of such a contribution.[2]

Gratuity

Another gross mistake done by employers those are involve in cleaning and sanitation services or deployed Safai Karamcharis as out sourcing agency, neither they are providing any written order of engagement nor retrenchment. Even if without any prior intimation they are terminating their staff without giving retrenchment benefit, gratuity, etc. Sometimes they are not allowing withdrawing their deposited provident funds. Moreover, arbitrarily employers are dealing with this subject. Large numbers of Safai Karmacharies are disengaged who were worked in sanitation sector even working after 5 years and more than 5 years. Some cases it is 20 to 25 years. Work charged employees are suspended from their duty as the said sanitation work privatized under Solid Waste Management Program. Work-charge employees with more than 5 years of continuous service against one post have a right of consideration of their services in permanent (*regular) establishment but not happened in case of Safai Karamcharis.

In compliance with Section 7(3) of the Gratuity Law, 1972 stipulates that an employer must make plans to compensate an employee the gratuitous sum within 30 days of its due date. In the case that the employer does not pay this balance within a 30-day period, the

employer shall compensate, therefore, a simplicity of interest at the rate not above the rate notified by the Government on the date on which the gratuity becomes payable on the date on which it has been charged.

CONCLUSION

The law enforcement agencies specially dealing with the cases of crimes against Scavengers, Safai Karamcharis and their dependants must be thoroughly restructured. The cases relating to crimes against Scavengers, Safai Karamcharis and their Dependants must be investigated honestly and expeditiously. There must be creation of different wings consisting of social workers, Doctors, psychiatrist counsellors, lawyers, etc. who would take suitable actions on behalf of the Scavengers, Safai Karamcharis and their Dependants for their welfare. The need of the hour is the more specific and stringent comprehensive legislations to combat the growing incidences of crime against Scavengers, Safai Karamcharis and their Dependants exclusively. There is also a strong need for creating mass awareness in the society regarding crime against Scavengers, Safai Karamcharis and their Dependants. There must be Special Courts exclusively dealing with the cases of crime against Scavengers, Safai Karamcharis and their dependants in each and every district such creating of the courts would definitely help in the speeding and efficient disposal of the cases. It is the need of the hour for proper involvement, information, and communication as well as education awareness for scavengers of the responsible and honest people. A group of educated people must take charge to represent the problems and sufferings of scavengers/ Safai Karamcharis to resolve the issues and mitigate the violation of their human rights.

REFERENCE

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Corresponding Author

Parameswar Dash*

Research Scholar, Department of Law, Maharaj Vinayak Global University, Jaipur