

Death by Suffocation of Yakob Yalakapati in an Underground Drain in the Tolnaka Area of Dharwar: A PUCL Fact-finding Report

On 16.2.2012, Yakob Yalakapati, resident of Jannathanagar, Dharwar, and permanent powrakarmika, died while working in an underground sewage drain. When we received a telephonic communication regarding this matter, PUCL appointed a fact-finding team consisting of TKDayanand, Vijay Guntral, and S. Raghupathi to investigate this case.

On 17.2.2012, the fact-finding team visited Dharwar and in connection with the above-mentioned case, the team met government officials, the police station, and witnesses. Besides, the team collected information from press reports from newspapers such as Vijay Karnataka, Prajavani, and Samyukta Karnataka, This fact-finding report is based on information collected from the above-mentioned sources.

Details of the Family of Yakob Yalakapati (55): The deceased was working as a powrakarmika in Dharwar city municipality. He was originally from Andhra Pradesh, and he leaves behind his wife Isranthavva, 3 daughters (who are married) and one son Manjunath, who is also working as a powrakarmika. The family doesn't own any property or a house. They live in a rented house in Jannathanagar in Dharwar. Since they depended for their livelihood chiefly on the deceased Yakob's income, they are facing hardship in managing their livelihood.

The Facts of the Case: We have gathered the facts of the case from Nallappa Ananthapur who was a witness to the incident:

On 16.02.2012, ML Tadakoda, Health Inspector, and RM Kadam, Health Supervisor, in Dharwar municipal corporation, had assigned Nallappa Ananthapur and Yakob Yalakapti, permanent powrakarmikas of Ward no. 22, Dharwar municipality, with the task

of cleaning the underground sewage drain in Ward no. 16 (given on contract) on the road near Tolnaka. Accordingly, these 2 employees started the work around 9 am on the above-mentioned date. A lot of garbage had accumulated over many days and had blocked the flow of sewage water in the drain. In order to remove this blockage, Yakob had descended into the tunnel under the road and was clearing the garbage when sewage water suddenly rushed into the tunnel and he was unable to extricate himself from the rush of sewage water in the tunnel and died of suffocation. Instead of deploying a JCB machine to clean the sewage water, and being fully aware of the risks of such a hazardous enterprise, the municipality assigned Yakob Yalakapati this job and is hence directly responsible for his death.

Description of the Underground Tunnel:

Near Tolnaka, Dharwar, runs a 100' road connecting Dharwar and Hubli. To the north and south of this road, there are 2 open sewage drains measuring 6' by 6'. Sewage water flowing from the east and the west sides collects in the drain on the south side; this water is allowed to flow through the tunnel into the north side. We have found that the tunnel is about 2.5' wide, 5' long and 6' deep.

Testimony of Nallappa Anathapur, witness and co-worker of the deceased:

'Sewage water flows into the tunnel connecting the drain on the south side to the drain on the north side. Water supply pipes and other pipes pass through the tunnel and block garbage and rubbish and hence about 5' of sewage water had accumulated in the drain on the south side. This drain is in Ward no. 16, and ML Tadakoda, Health Inspector, and RM Kadam, Health Supervisor in Dharwar municipal corporation, had assigned us with the task of clearing this blockage of sewage water. On the morning of

16.02.2012, the deceased had descended from the drain on the north side into the tunnel to remove the accumulated garbage. He had entered about 50' into the tunnel and was removing the garbage when the sewage water which had blocked in the drain on the south side suddenly rushed into the tunnel. He was suffocated by the rush of the sewage water and died. The municipal administration hasn't provided us with any safety equipment to undertake this job.'

Versions of the officials with regard to the incident

District Commissioner Darpan Jain: According to him, he received complete information about the incident during a meeting with the Chairman of the Municipality, the Mayor and the Police Commissioner. According to him, the unnatural death of Yakob Yalakapati was due to an accident when he was removing the garbage from the tunnel. The deceased was a powrakarmika and not a manual scavenger. Yakob was working in a sewage drain, and not a manhole. In our district, there are no manual scavengers working in manholes. He told us that they had carried out our responsibilities fully within the limits of the law, and there is no neglect on the part of the district administration. We pointed out that it was a large tunnel which resembled a manhole, and a number of law courts have determined that the work carried out in such tunnels containing sewage water comes under the Manual Scavenging Act. The district commissioner's response was merely that he had no information about this matter. 'We cannot identify the deceased as a manual scavenger, and hence we are not at all responsible for this incident.' Since the deceased was a permanent employee of the municipality, his family has received a

compensation of Rs. 2.5 lakh.

Dr. KV Trilokchandra, Chairman of Dhrwar Municipality

'Regarding this incident, we had a meeting of the district commissioner, the mayor, the police commissioner, and dalit leaders. The family of the deceased has been sanctioned a compensation of Rs. 2.5 lakh from the general fund, and his son has been provided employment on compassionate grounds. All facilities permissible under law will be provided to the family. There are no permanent employees in Ward no. 16. The contractor in this ward was guilty of illegal practices and his contract has been cancelled, and hence there is no contractor there now. For this reason, work has piled up and hence permanent employees from other wards have been brought to this ward and assigned work. We don't have any correspondence or documents regarding this matter. In such matters, we have oral consultations with other officials and decide what should be done. We don't assign any powrakarmikas to clean manholes. The incident resulting in the death of Yakob didn't take place in a manhole but in an underground drain where garbage had accumulated and when it was being cleared, water suddenly rushed in and suffocated Yakob to death. We can't say that the incident occurred due to our negligence. Still, we have appointed the Chief Executive Engineer to investigate the case, and will take action under law against any officer found guilty.

When we asked him how a powrakarmika was sent without any safety equipment to clean the sewage drain, which was as dangerous as a manhole, he replied:

Since that is not a manhole, we send powrakarmikas to clean the drain. We haven't received any communication or orders from the state government to the effect that powrakarmikas should'nt be assigned the task of cleaning underground tunnels. If we receive such a communication, we will not assign powrakarmikas to this

job. We have 3 jetting machines in our municipality, and we use only these machines to clean the manholes, and don't assign powrakarmikas to clean manholes. We cannot be held guilty since the sewage drain Yakob was working in was not a manhole.

Statement of Police Inspector Shri Guru, Vidyagiri Police Station, Dharwar

According to Police Inspector Shri Guru, an FIR was filed on 16.02.2012 in this case against the Health Inspector and the Health Supervisor under Section 304 (A) along with 34 of IPC and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Section 3 (1) bearing the Police station stamp dated 24/2002. He stated that no further information is available since the ACP was the investigating officer in this case.

Statement of Poornima Patil, Chairperson, Dharwar Municipal Corporation

'The family of the deceased have already been provided a compensation of Rs. 2.5 lakh and one family member have been provided a permanent job. Further, other facilities permissible under the law will be provided. We have 3 jetting machines in the municipal corporation and we don't assign powrakarmikas with the task of cleaning manholes. We have appointed the Chief Executive Engineer to investigate the matter, and after he submits the investigative report, we will take action under law against guilty officials.'

Our Findings

1. While the authorities have stated that the site of the incident is not a manhole, it is as dangerous as a manhole since it is a tunnel, and receives sewage water mixed with garbage. This is a clear violation of the Manual Scavengers Act which prohibits assigning work which involves handling human excrement.
2. In the absence of JCB equipment, the authorities have assigned to the powrakarmikas work that is hazardous and unsuitable for them to

perform.

3. We find that despite being aware of the hazardous nature of the enterprise, the authorities have assigned this work to the powrakarmikas without providing any safety measures or protective equipment.
4. Despite knowing that it is a criminal offence to make human beings perform such a task, the authorities have committed a grave offence.
5. We find that the authorities have used the pretext of the tunnel not being a manhole in order to escape punishment under the Manual Scavengers Act.
6. It is shameful that the municipal corporation, instead of taking proper action against the officials, has merely appointed a departmental inquiry committee to investigate the matter.
7. The Vidyanagar Police station has filed an FIR, not under the Manual Scavenging Act, but under the Prevention of Atrocities Act and a case of death due to neglect.

Our Demands

1. The family of the deceased must be provided a compensation of Rs. 25 lakh.
2. Underground sewage tunnels should be cleaned not by powrakarmikas but with the help of JCB machines.
3. One member of the family of the deceased should be provided a permanent job.
4. Assigning powrakarmikas hazardous work likely to be life-threatening should be prohibited.
5. Powrakarmikas undertaking such work should be trained to take precautionary measures and provided with protective equipment.
6. When powrakarmikas are assigned hazardous work, concerned officials and medical personnel should be stationed on the site.
7. All manual scavengers should be provided proper rehabilitation.
8. Manual scavenging should be completely prohibited.

9. Equal wage for equal work should be fixed.
10. The government should undertake the responsibility of ensuring that dependents of powrakarmikas don't continue this occupation and are provided proper rehabilitation and proper education.

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