

Bill No. 273 of 2022

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR
REHABILITATION (AMENDMENT) BILL, 2022

By

SHRIMATI SUPRIYA SULE, M.P.

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BILL

*further to amend the Prohibition of Employment as Manual Scavengers and their
Rehabilitation Act, 2013.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Act, 2022.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.	2. In section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (hereinafter referred to as the principal Act), in sub-section (1),	25 of 2013.
	(i) for clauses (d) and (e) the following clauses shall be substituted, namely:—	
	‘(d) “hazardous cleaning” by an employee, in relation to sewer or septic tank means entering into a septic tank or sewer to manually clean it;’	5
	(e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either <i>in situ</i> or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes.	
	(ii) in clause (g), in the explanation for clause (a), the following clause shall be substituted, namely—	10
	‘(a) “engaged or employed” means being engaged or employed on a regular, contract, private, casual or daily wage basis or any other forms of employment;’	
Amendment of section 6.	3. In section 6 of the principle Act, after sub-section (2) the following sub-section shall be inserted, namely:—	
	“(3). If any government agency, body or officer engage in a contract with a private entity for sewer or septic tank cleaning and that private entity employ manual scavengers for the purpose, then the government officer concerned shall also be liable under this act and shall be punished herewith under section 8.”.	15
Insertion of new sections 7A, 7B, 7C and 7D.	4. After section 7 of the Principle Act, the following sections shall be inserted namely:—	
Conversion of manhole into machine hole in mission mode.	“7A. The Central Government shall convert every manhole in the country to machine hole by the December 2024 in mission mode.	20
Central to procure sewer and septic tank cleaning machine.	“7B. The Central Government shall procure sewer and septic tank cleaning machines and employ person either on contractual or permanent basis by October 2023: Provided that:—	
	(a) preference in employment shall be given to those who left manual scavenging and are currently unemployed but willing to work with machines.	25
	(b) minimum wage per day of the persons employed shall be not less than one thousand rupees.	
	(c) person so employed shall be given health insurance by Union Ministry of Health and Family Welfare and a register in this behalf shall be maintained by the Ministry of all such employees, whether contractual or permanent.”	30
Licence to Private Entities.	“7C.(1) No private entity shall employ workers for sewer and septic tank cleaning, using machines unless the requisite licence has been issued by the Ministry of Home Affairs.	
	(2) For issuance of licenses, the private entity shall submit details of machines, its memorandum and additional details covered under the Companies Act, 2013 in such manner as may be prescribed.	35
	(3) Every employee employed by the private entity shall be eligible for the benefit available under section 7B.	
	(4) The Ministry of Home Affairs shall have power to conduct enquiry into the working of the Private Entity as and when it deems fit and it may revoke its license if private entity is found guilty of violation of any provision of this Act.	40

	7D. No manual scavenger shall be employed in cleaning of sewer and septic tanks without machines that have been approved solely by the Union Ministry of Home Affairs.”.	Prohibition on cleaning of sewer and septic tanks without machines approved.
	5. For section 8 of the principle Act, following section shall be substituted, namely:–	Substitution of new section for section 8.
5	“8. Whoever contravenes the provisions of section 5 or section 6 or section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to five 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 seven years or with fine which may extend to five lakh rupees, or with both.”.	Penalty for contravention of section 5 or section 6 or section 7.
10	6. For section 9 of the Principle Act, the following sections shall be substituted, namely:–	Substitution of new section for section 9.
15	“9. Whoever found guilty for the death of manual scavenger due to hazardous cleaning of sewer and septic tank shall be punished under section 304 of Indian Penal Code, 1860 and the case shall be tried by a judicial officer with rank of not less than judicial Magistrate first class;	Penalty in case of death of Manual Scavenger due to Hazardous cleaning of sewer and septic tank.
	Provided that the expenditure of the court proceedings on behalf of deceased manual scavenger shall be borne by the concerned State Government in case of State judiciary and in case appeal goes to Supreme Court, the expenditure shall be borne by the Central Government.”	
20	9A. The dependant family members of the deceased manual scavengers who has died due to hazardous cleaning of sewer and septic tanks shall be compensated with an amount not less than twenty lakh, within two months of death by concerned appropriate State Government.”	Compensation to the dependant family members of deceased manual scavenger.
25	7. In section 10 of the principle Act, for the words “except upon a complaint”, the words, “either <i>suo moto</i> or upon a complaint” shall be substituted.	Amendment of section 10.
	8. In section 13 of the principle Act, in sub-section (1) inserted after clause (f), the following clause shall be namely:–	Amendment of section 13.
30	“(fa). He shall be given additional five per cent horizontal reservation apart from the existing Scheduled Casts or the Scheduled Tribes reservation in education and employment opportunities by 31st May, 2023”.	
	9. In section 20 of the principle Act,	Amendment of section 20.
	(a) after sub-section (1), the following proviso shall be inserted, namely:–	
	“Provided that at least six inspectors shall be appointed in each district”	
35	(b) in sub-section (2) after clause (d), the following clause shall be inserted, namely:–	
	“(da) maintaining a register scavengers present in his district and record deaths of manual scavengers happened during hazardous cleaning of sewer and septic tank;”.	
40	10. For section 21 of the principle Act, the following section shall be substituted, namely:–	Amendment of section 21.
	“21. Offences under this Act shall be tried by not less than a first class judicial magistrate.	Offences to be tried by a judicial magistrate court.
	(a) An appeal against the order of judicial Magistrate First Class under	

sub-section (I) shall be filed either to the High Court or to the Supreme Court within ninety days of the judgement and appeal shall lie with district and session judge.”.

Amendment of section 31.

11. In Section 31 of the Principal Act, in Sub-Section (I) after clause (d) the following clauses shall be inserted, namely:–

“(da) conduct survey and invite application for identification of manual scavengers to be filled by the applicant on its website or directly by requested post or through mail: 5

(db) inquire into the application within fifteen days of receipt of such application and reject or accept it within this time and the intimation of rejection or acceptance shall be sent immediately on the fifteenth day to the applicant;

(dc) identify a person to be a manual scavenger either suo moto or through the help of local authorities or any non-Governmental Organisation. 10

(dd) review application of a migrant manual scavengers for identification and being accepted as manual scavengers he shall be provided all the benefits available under this Act and provide assistance as mentioned in this act:

Provided that the migrant manual scavenger shall be a permanent resident of that place at least for last five years from the date of filling of application for identification.”. 15

Insertions of new section 33A.

12. After Section 33 of the principle Act, the following section shall be inserted, namely:–

Awareness Programs and introducing chapter on Manual Scavenging in India in school curriculum.

“33A. The Central Government shall start awareness programs in general public to attract attention to problems of manual scavenging in India and for this purpose a separate chapter shall be introduced in school curriculum for students above 6th class, to create awareness and address this discriminatory practice.”. 20

Insertions of new section 35A.

13. After Section 35 of the principle Act, the following section shall be inserted, namely:–

A Centralized Web Application where people can upload videos depicting manual scavenging.

“35A. A video application on the internet shall be maintained by the Central Government where any person can upload videos of manual scavengers indulging in hazardous cleaning of sewer and septic tanks with relevant information including place and people involved. 25

Provided that:–

(a) general public shall have access to view every uploaded videos on the application; 30

(b) the identity of the person who had uploaded video shall be kept secret; and

(c) only special inspector shall have a direct access to uploader’s identity and he shall investigate the case within thirty days and upload the summary of the case and the action taken under the video on the application, barring the identity of the parties involved.”. 35

STATEMENT OF OBJECTS AND REASONS

The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 was enacted to completely ban manual scavenging in the country. It contains detailed provisions to eradicate this discriminatory and menacing practice. However, even after a decade of enforcing the bill, Manual Scavenging still persists in the Country. Still, people die cleaning sewers and septic tanks. They are neither provided with any safety gears, nor a decent wage. Till date, a specific caste is made to do this menial job. They are stigmatized as soon as they are born and even in death, they are given no dignity. Throughout their life, they inhale toxic gases, are made to clean man holes with bare body and in case of mishaps, better to be described a murder; they are given no justice. It is very unfortunate that since its inception, hardly any conviction has been recorded in a manual scavengers' death case under this act.

According to the Government's reply this year in the Parliament, 347 people died during sewer and septic tanks cleaning in the last five years (2017-2022). The numbers are so grossly under reported, that it makes it hard to rely on them. As per the National Safai Karamchhari Finance and Development Corporation's 20th Annual Report (2016-17) there were 26 lakh insanitary latrines in the country, of which 13.29 lakh were in urban areas and 12.71 lakh in rural areas. The report states that as of 31st March 2017, 12,742 manual scavengers have been identified in 13 states, which is *prima facie* disproportionate. It is inconceivable that 13,000 manual scavengers can excavate 26 lakh insanitary latrines. Under the Swachh Bharat Mission, sanitary latrines are being built in large numbers displacing insanitary ones but it has aggravated the problem instead of reducing it. These sanitary latrines require major buildup of sewer and septic tanks which in absence of machines and machine holes are to be cleaned by manual scavengers only.

A very large numbers of manual scavengers are contractually employed by private entities. Their minimum pay is not fixed and they are not given any social security or health and financial benefits. Municipalities provide the contract to these private entities and often turn a blind eye when sewers and manholes are cleaned by these manual scavengers in direct contact with human excreta and filth. Several instances have been reported when District Magistrates refuse to acknowledge manual scavengers in order to provide them rehabilitation under this act. In 2018, insanitary latrines were built for a religious festival in Karnataka and Avarnas were brought from Uttar Pradesh to clean these toilets. Permission to do all this was granted by none other than the deputy commissioner, who is supposed to be responsible for the implementation of the 2013 Act. As far as Panchayats are concerned, they are mostly ruled by caste based hierarchies. Manual scavengers even face banishment from the village when they come out as manual scavengers to the concerned authorities of the villages.

Vigilance committee, State and Centre committee meetings hardly take place and there is no accountability as such to keep a check on their working. Lack of efficient implementation of this Act has resulted in hundreds of deaths across the country in sewers and septic tanks. Here, arises a need to make this act more efficient and make concerned authorities accountable.

Hence, this Bill.

NEW DELHI;

SUPRIYA SULE

November 21, 2022

FINANCIAL MEMORANDUM

Clause 4 of Bill *vide* proposed new sections 7A and 7B provides that the Central Government shall procure machines for cleaning sewer and septic tanks and convert every man hole in the country to machine hole. Clause 12 *vide* proposed section 33A provides for the Central Government to start awareness programmes in general public to attract attention to problems of manual scavengers. Clause 13 *vide* proposed section 35A provides that the Central Government shall introduce a web application where people can upload videos if they encounter any scene of manual scavenging. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about ten thousand crore from the Consolidated Fund of India is likely to be involved.

No non-recurring expenditure is likely to be involved.

ANNEXURE

EXTRACT FROM THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION (AMENDMENT) ACT, 2013.

(ACT NO. 25 OF 2013)

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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.

Definition.

(e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either *in situ*, or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes in such manner as may be prescribed.

(g) “manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression “manual scavenging” shall be construed accordingly.

Explanation.—For the purpose of this clause,—

(a) “engaged or employed” means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a “manual scavenger”;

* * * * *

6. (1) Any contract, agreement or other instrument entered into or executed before the date of commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefore.

Contract, agreement, etc., to be void.

(2) Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

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7. 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.

Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.

8. Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both, and for any 7 subsequent contravention with imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both.

Penalty for contravention of section 5 or section 6.

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Penalty for contravention of section 7.

9. 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.

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Limitation of prosecution.

10. 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.

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Rehabilitation of persons identified as manual scavengers by a Municipality.

13. (1) Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be rehabilitated in the following manner, namely:—

(a) he shall be given, within one month,—

(i) a photo identity card, containing, inter alia, details of all members of his family dependent on him, and

(ii) such initial, one time, cash assistance, as may be prescribed;

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

(f) he shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(2) The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.

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Rehabilitation of persons identified as manual scavengers by a Panchayat.

16. Any person included in the final list of manual scavengers, published in pursuance of section 14 or added thereto in pursuance of sub-section (2) of section 15 shall be rehabilitated, *mutatis mutandis*, in the manner laid down for urban manual scavengers in section 13.

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Appointment of inspectors and their powers.

20. (1) The appropriate Government may, by notification, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act (2). Subject to any rules made in this

behalf, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any premises or place for the purpose of,—

(a) examining and testing any latrine, open drain or pit or for conducting an inspection of any premises or place, where he has reason to believe that an offence under this Act has been or is being or is about to be committed, and to prevent employment of any person as manual scavenger;

(b) examine any person whom he finds in such premises or place and who, he has reasonable cause to believe, is employed as a manual scavenger therein, or is otherwise in a position to furnish information about compliance or non-compliance with the provisions of this Act and the rules made thereunder;

(c) require any person whom he finds on such premises, to give information which is in his power to give, with respect to the names and addresses of persons employed on such premises as manual scavenger and of the persons or agency or contractor employing or engaging them;

(d) seize or take copies of such registers, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or agency; and

(e) exercise such other powers as may be prescribed.

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any such search or seizure under sub-section (2) as they apply to such search or seizure made under the authority of a warrant issued under section 94 of the said Code.

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21. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class.

Offences to be tried by Executive Magistrate.

(2) An offence under this Act may be tried summarily.

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32. (1) The State Government may, by notification, designate a State Commission for Safai Karamcharis or a State Commission for the Scheduled Castes or such other statutory or other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-section (1) of section 31.

Power of State Government to designate an appropriate authority to monitor the implementation of this Act.

(2) An authority designated under sub-section (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karamcharis as specified in sub-section (2) of section 31.

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33. (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.

Duty of local authorities and other agencies to use modern technology for cleaning of sewers, etc.

(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 subsection (1).

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Jurisdiction
of civil courts
barred.

35. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done, by or under this Act.

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(Shrimati Supriya Sule, M.P.)