

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRA ORDINARY CIVIL JURISDICTION

WRIT PETITION (CIVIL) NO. ____ OF 2010

Public Interest Litigation

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

NOTICE OF MOTION

Sir,

The enclosed writ petition in the above mentioned matter is being filed on behalf of the Petitioners and is likely to be listed on _____ or any further date thereafter. Please take notice accordingly.

Sincerely,

Tariq Adeeb & Vipin Benjamin
Advocates for Petitioner
576, Masjid Road
New Delhi 110 014

Tel.: +91 11 24379857

Delhi
_____.01.2010

1. Union of India
Through its Cabinet Secretary,
Rashtrapati Bhawan, N. Delhi

2. Government of NCT of Delhi
Through its Chief Secretary
I.P.Estate, New Delhi,

3. Sports Authority of India

Through its Director General,
Jawaharlal Nehru Stadium Complex,
Lodhi Road, New Delhi -110003

4. The Delhi Development Authority

Through its Vice Chairman.
Vikas Sadan, New Delhi,

5. Director General of Inspection

Through CLC (Central),
Shram Shakti Bhavan, Rafi Marg,
New Delhi-110001

6. Central Public Works Department

12th Floor, MSO Building,
Delhi Police Headquarters,
New Delhi-110002

7. New Delhi Municipal Corporation

Palika Kendra Building
Opposite Jantar Mantar,
Parliament Street,
New Delhi-110001

8. The Municipal Corporation of Delhi

Through Commissioner,
Town Hall, Chandni Chowk,
New Delhi -110006

9. Delhi Building and Other Construction

Workers Welfare Board,
Through its Secretary,
5, Sham Nath Marg,
Delhi-110054

10. Chief Inspector of Inspection of Building
and Construction, Delhi
5, Sham Nath Marg,
Delhi-110054

11. Delhi International Airport Limited
Through its Managing Director,
New Udaan Bhawan,
Terminal 3, opposite ATC Complex,
International Terminal,
Indira Gandhi International Airport,
New Delhi-110037

12. Delhi Metro Rail Corporation Ltd.
Metro Bhawan,
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001

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URGENT APPLICATION

Sir,

Kindly treat the accompanying petition on an urgent basis. The ground of urgency is that labourers at the construction sites for the Commonwealth Games to be held at Delhi in October 2010 work in harsh and unsafe conditions without basic amenities from the employers. A large number of deaths of construction workers (approximately 48 over Jan 2008-Aug 2009, some of them at major CWG related sites) have been reported. Hence the workers need immediate relief.

This petition, hence, requires urgent attention and directions of the Hon'ble Court.

Sincerely,

Tariq Adeeb & Vipin Benjamin
Advocates for Petitioner
576, Masjid Road
New Delhi 110 014

Tel.: +91 11 24379857

Delhi
_____.1.2010

**IN THE HIGH COURT OF DELHI AT NEW DELHI
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WRIT PETITION (CIVIL) NO. ____ OF 2010
Public Interest Litigation**

MEMO OF PARTIES

IN THE MATTER OF:

1. Peoples Union for Democratic Rights
A-6\1 Aditi Apartments,
Pocket D, Janak Puri,
New Delhi 110058 ...Petitioner No.1
2. Nirmaan Mazdoor Panchayat Sangam
B-19, Subhavna Niketan,
Pitampura, Delhi, 110034 ...Petitioner No.2
3. COMMON CAUSE
Common Cause House, 5,
Institutional Area, Nelson Mandela Road,
Vasant Kunj, New Delhi-110070 ...Petitioner No.3

Versus

1. Union of India
Through its Cabinet Secretary,
Rashtrapati Bhawan, N. Delhi ...Respondent No.1
2. Government of NCT of Delhi
Through its Chief Secretary
I.P.Estate, New Delhi,Respondant No.2
3. Sports Authority of India
Through its Director General,
Jawaharlal Nehru Stadium Complex,
Lodhi Road, New Delhi -110003Respondant No.3
4. The Delhi Development Authority
Through its Vice Chairman.
Vikas Sadan, New Delhi, ...Respondant No.4
5. Director General of Inspection
Through CLC (Central),

Shram Shakti Bhavan, Rafi Marg,
New Delhi-110001 ...Respondent No.5

6. Central Public Works Department
Through its Director General (Works)
12th Floor, MSO Building,
Delhi Police Headquarters,
New Delhi ...Respondant No.6

7. The New Delhi Municipal Corporation
Palika Kendra Building
Opposite Jantar Mantar,
Parliament Street,
New Delhi-110001 ...Respondant No.7

8. The Municipal Corporation of Delhi
Through Commissioner,
Town Hall, Chandni Chowk,
New Delhi ...Respondant No.8

9. Delhi Building and Other Construction
Workers Welfare Board,
Through its Secretary,
5, Sham Nath Marg,
Delhi-110054 ..Respondent No.9

10. Chief Inspector of Inspection of Building
and Construction, Delhi
5, Sham Nath Marg,
Delhi-110054 ...Respondent No.12

11. Delhi International Airport Limited
Through its Managing Director,
New Udaan Bhawan,
Terminal 3, opposite ATC Complex,
International Terminal,
Indira Gandhi International Airport,
New Delhi-110037 ...Respondent No.10

12. Delhi Metro Rail Corporation Ltd.
Through its Managing Director
Metro Bhawan,
Fire Brigade Lane,
Barakhamba Road,
New Delhi-110001

... Respondent No.11

Filed By.

Tariq Adeeb & Vipin Benjamin
Advocates for Petitioner
576, Masjid Road
New Delhi 110 014
Tel.: +91 11 24379857
New Delhi
20.01.2010

SYNOPSIS

1. For the 18th Commonwealth Games scheduled to be held in Delhi in October 2010, over Rs. 17,400 crores (Rs 7000 crores for sports facilities and related infrastructure like roads, flyovers and parking lots; Rs 5,400 for the renovated international airport in Delhi, Rs 5000 crores for phase II of the metro expansion by 2010) has been provided by the Union of India and the Delhi Government for improving city infrastructure and sports facilities. Construction projects have been assigned to respondents, no. 2, 3, 4, 11 and 12, given to agencies such as respondents no. 6 and 7, who, in turn, have contracted work out to real estate developers and construction companies for the execution of the projects. At its peak, over mid-2008 to mid-2009, all projects would have employed a total of over 1 lakh workers. Today, at least 15,000 contract/daily wage workers are working on these projects. This petition relates to the manner in which these workers are treated in contravention of law.
2. It is stated at the outset that the petitioners do not wish to hamper or adversely affect the progress of the projects in any way. At the same time the petitioners believe that the non implementation of labour laws is unacceptable even in the context of a time bound programme. The Petitioners believe that it is possible for the projects to be completed on time while ensuring that labour rights are not violated. Unfortunately, the respondents aforementioned as well as their numerous contractors and executing agencies have got used to the idea that they are not accountable for the working and living conditions of workers employed in their projects and can pass up their responsibility, ignoring the legal requirements. This has resulted in inhuman conditions for construction workers in Delhi. This petition has been filed to correct that impression and to bring much needed relief to the poor and vulnerable construction workers.
3. The petitioners wish to focus on the Commonwealth Games related projects and their workers for two reasons – first, because of the time bound nature of these projects and the urgency to reach the workers; second because of the implications this will have for the entire lot of construction workers in Delhi and the rest of the country.

4. In 1982, in the case of Peoples Union for Democratic Rights Vs. Union of India (1982 3 SCC 235), the Supreme Court intervened to provide relief to the workmen in the various projects connected with the Asiad Games. It was alleged that workers were not paid the minimum wage. By order dated 11.5.82, the Supreme Court directed that at least the minimum wages be paid. Since there were disputes over facts, the Court:

“appointed 3 ombudsmen and requested them to make periodical inspections of the sites of the construction work for the purpose of ascertaining whether the provisions of these labour laws were being carried out and the workers were receiving the benefits and amenities provided for them under these beneficent statutes or whether there were any violations of these provisions being committed by the contractor so that on the basis of the reports of the 3 ombudsmen this Court could give further directions in the matter if found necessary.”

5. From the Asian Games of 1982 to the Commonwealth Games of 2010, India has indeed progressed manifold, but the condition of construction workers, particularly the contract/daily wage workers, seems to have been totally neglected. They have not benefited from this progress and the existence of labour laws has not made any difference to their situation.
6. Several groups of concerned citizens have, over the last two years, persistently brought the above issues to the notice of state/central governments, e.g. Lt. Governor, Chief Minister, Ministry of Labour (GOI). Department of Labour (GNCT) Construction Workers Welfare Board in Delhi, Ministry of Sports (GoI), etc. - and all key agencies involved in the construction of projects (DDA, SAI, CPWD, DMRC, DIAL) and urged them to use the Commonwealth Games 2010 as an opportunity to undo the wrongs of Asiad 82.
7. The Peoples Union for Democratic Rights, petitioners in the Asian Games case above quoted, on receiving reports of violation of workers rights at the Commonwealth Games construction sites, investigated the work conditions at one of the construction sites, the Commonwealth

Games village near Akshardham temple, and published a report in April 2009. It was found that the provisions of The Building and other Construction Workers (Regulation of Employment and Condition of Services) Act, 1996, Minimum Wages Act, 1948, Interstate Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979, Contract Workers (Prohibition and Regulation) Act, 1970 are widely violated. The specific findings of the investigation are as follows:

- i) That one worker died in an accident in December 2008 and the workers claim that there had been several deaths which are not recorded.
- ii) That minimum wages were not paid to most of the workers.
- iii) That double wages for overtime were not paid.
- iv) That the wages were irregularly paid with considerable delays and the contractors often withheld a part of the wages.
- v) That safety equipments were often not made available to workers.
- vi) That identity cards were not given to the workers as required under law.
- vii) That wage slips were not given to the workers in accordance with law. As a result the workers had no proof whatsoever that they were employed.
- viii) That the provisions of the Building and Other Construction Workers Welfare Cess Act, 1996 were not being implemented in that the workers were not being registered with the Welfare Board.
- ix) That many of the workers were living in over- crowded hovels, often without doors, without protection during winter, without electricity and without toilets.

- x) That many of the camps where the workers were staying were not hygienically maintained and were full of mosquitoes.
 - xi) That in the camps water was stored in pvc tanks which were not cleaned.
 - xii) That the workers who came from Bihar, Jharkhand, Orissa, Madhya Pradesh, Uttar Pradesh, West Bengal and Punjab were not given the benefits of the Interstate Migrant Workers Act and were totally at the mercy of the contractors.
 - xiii) That workers were never given a weekly off with wages as required by the Minimum Wages Act and are required to work on all 7 days of the week.
 - xiv) That women workers were paid less than their male counterparts.
 - xv) That only very primitive medical facilities were available to the workers.
 - xvi) That no representative of the Principal employers were present at the time of disbursement of wages as is required under the law.
8. The report also indicates that the officials of the respondents who were responsible for the implementation of the labour laws were not doing their duty at all and when attempts were made to contact them, to seek permission to visit the construction sites, they were evasive.
9. A similar study, covering 702 workers at 15 key project sites in Delhi (all high capacity sports facilities, the CW Games Village, a few metro sites and the international airport, among others), was initiated by the civil society coalition “Commonwealth Games – Citizens for Workers, Women & Children (CWG – CWC)”. The study which was published in October 2009 concluded:

“The violation of workers’ rights to minimum wage is widespread despite the ‘showcase’ nature of the CWG projects and despite the government being well aware of these violations. In majority of the sites workers are not paid even

minimum wages let alone fair wages. The minimum wage for unskilled workers in Delhi is Rs 151 but the average wage earned by an unskilled worker in this sample is Rs 114...More than a third of the workers are not paid their wages on time...429 respondents reported that they are paid overtime at the normal hourly rate, while only 9 workers reported payment of overtime at the legally required higher rate... Only 74 respondents from the total sample mentioned that attendance register is maintained. Only 168 respondents mentioned that they sign the wage register... The availability of amenities at the worksites is poor. Across sites on an average one toilet is available for 114 workers... At many locations, toilets are cleaned only on a weekly or monthly basis and not every day... Regarding compensation paid to the victim or victim's kin after the accident, it appears that compensation as required by law is paid only in a few cases... This study reveals a significant gap between the safety 'hardware' and 'software' – that is, between the formal requirements and safety devices available at most (but not all) sites and the actual practices of following the safety requirements and using the safety tools and gadgets properly... This study reveals a significant gap between the safety 'hardware' and 'software' – that is, between the formal requirements and safety devices available at most (but not all) sites and the actual practices of following the safety requirements and using the safety tools and gadgets properly... ...although safety boots are usually provided, the quality of the boots is often very poor... Most employers do not conduct health check-ups of the workers. Some of the workers complained they do not have any medical facility or proper response even in case of injury, let alone ailment. No workers are given holiday if they fall sick. Only 30 respondents stated that medical leave was granted... Most, nearly all, sites do not have any qualified doctor for treatment of the injured workers... Lack of water was one of the commonest complaints made by workers in this study. There is no bathroom facility for bathing in most of the sites... Considering the average for the labour camps / bastis

associated with all sites, 69 individuals use one toilet. At some of the sites toilets are not available or not sufficient, thereby forcing workers to defecate in the open... Hardly any of the workers have heard of the Building and Other Construction Workers' Act, 1996 or The Delhi Construction Workers' Welfare Board (DCWWB) and the benefits that they are supposed to get from the Board under the Act... Only 3 workers in the sample had heard of the Welfare Board. Nine had been registered under the Board but no worker had been renewing the registration regularly as required... The biggest concern of the workers, noted by 45 per cent workers, is about low wages and late payment of wages along with long hours of work... The next big problem, mentioned by 23 per cent respondents, is inadequate number of toilets or dirty toilets and lack of other facilities at the labour camps.”

10. A Public Hearing on construction workers' issues was organized by CWG-CWC in Delhi on October 13, 2009, attended by 130 people. A total of 22 workers gave their testimony at this Hearing. The Public Hearing was conducted a Jury comprising:

- i) Dr. Lakshmidhar Mishra, Special Rapporteur, National Human Rights Commission
- ii) Ms. Arundhati Ghose, Former Indian Ambassador to the United Nations
- iii) Mr. Vinod Sharma, Chief of Political Bureau, Hindustan Times
- iv) Ms. Syeda Hameed, Member, Planning Commission, Government of India
- v) Mr. Vipin Benjamin, Advocate, Supreme Court
- vi) Ms. Mohuya Choudhury, Senior Editor, NDTV”

11. Those representing the Administration at the Public Hearing included:

- (i) Mr. Rakesh Mehta, Chief Secretary, GNCT Delhi
- ii) Mr. Piyush Sharma, Joint Labour Commissioner, GNCT Delhi; Member Secretary Delhi

- iii) Building and Other Construction Workers Welfare Board
(DBOCWWB)
- iv) Mr. Rajender Dhar, Deputy Labour Commissioner,
Central, GNCT Delhi
- v) Ms. Rashmi Singh, Director, Mission Convergence,
GNCT Delhi
- vi) Ms. Debashree Mukherjee, Secretary, Department of
Women and Child Development, GNCT, Delhi.
- vii) Mr. B.S.Thakur, Deputy Director, Mission Convergence,
GNCT Delhi”

12. The conclusions of the Public Hearing, as per its Report, were as follows:

“The Public Hearing has shown, once again, that there are gross violations of labour laws on many counts. With respect to the implementation of the 1996 Act, in particular, the proceedings have also identified the non-functioning of the Welfare Board, charged with that responsibility, as a major stumbling block.

The proceedings ended on a note of urgency sounded by the Jury, demanding that the issue of denial of basic entitlements to construction workers in Delhi be addressed immediately by various agencies and the report of the Hearing widely disseminated to ensure the same. The CWG-CWC Campaign expressed deep appreciation of workers, who had come from far and wide to share their experiences, in the hope that they will be heard, and their concerns addressed.

The Campaign members strongly recommend the following:

1. Re-visit the lack of autonomy of the Board and demand, through the structures in place, that a political decision at the highest level is taken to make the Board a fully functional, autonomous body as required by law to act as guardians of the welfare of the construction workers and of the Cess funds collected in their name.
2. Take cognizance of the violations of laws by all government agencies responsible for construction in the capital.

3. Municipal agencies address the deplorable conditions of water and sanitation in the bastis where construction workers reside.

Unless the above is addressed on an urgent basis, with the full commitment of the central and state governments, we will be violating the very spirit of the Commonwealth Games and threatening their very survival.

13. In accordance with the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Rules were notified in 2002, and the Construction Workers Welfare Board set up in Delhi. In accordance with the Building and the other Construction Workers Welfare Cess Act, 1996, cess collection started in 2005 and picked up pace in 2007. From the cess collections, the Welfare Fund stands at Rs 300 crores today. The Welfare Board in Delhi is, however, dysfunctional – it has met, on an average, twice a year, as opposed to the requirement of meeting once in two months; it has no full time secretary to ensure functioning of any kind; most of the workers' representatives on the Welfare Board have no track record of commitment to labour issues; it has no staff to scale up new registrations and renew old ones. The worker registration process launched in late 2005 has covered over 20,000 workers from among the estimated 6-8 lakh workers in the city (according to construction workers' trade unions, NMPS and SEWA Delhi). Live registrations amount to approximately 10% of registered workers so far because of cumbersome procedures and the absence of publicity about benefits. To date, only Rs 15 lakh, or thereabouts, have been spent on providing concrete benefits to the workers.

IN THE HIGH COURT OF DELHI AT NEW DELHI

EXTRA ORDINARY CIVIL JURISDICTION

WRIT PETITION (CIVIL) NO. ___ OF 2010

Public Interest Litigation

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

CIVIL WRIT PETITION FILED IN PUBLIC INTEREST UNDER
ARTICLE 226 OF THE CONSTITUTION FOR A WRIT OF
MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR
DIRECTION TO THE RESPONDENTS.

To,

The Hon`ble Chief Justice of the High Court
of Delhi & His Lordship`s Companion Judges
of the Hon`ble High Court.

The Humble Petition of the
Petitioner above named,

MOST RESPECTFULLY SHOWETH:

- That the Present Writ Petition (Civil) is filed in Public Interest under Article 226 of the Indian Constitution, relates to the deplorable conditions of the labourers at the many of the Commonwealth Games 2010 construction sites, who live in inhuman, undignified and unsafe conditions, which is a clear violation of fundamental rights to life, dignified life,

livelihood, health and safety, seeking for a Writ of Mandamus or any other writ, order or direction in the nature of mandamus, against the respondents.

2. That the Petitioner No.1, People's Union for Democratic Rights (PUDR), came into existence in 1976-77 as the Delhi unit of a larger national forum PUCL-DR and became PUDR on 1 February, 1981. In the last two and a half decades of its existence, the organization has taken up hundreds of instances of violations of democratic rights, covering most parts of the country and involving the rights of many sections of society. PUDR conducts investigations, bring out reports, issues statements, organizes public meetings, and fights legal cases to highlight the violation of people's rights, and to help towards their redress. PUDR also takes up issues of general importance that affect the rights of people through general campaigns, publications and legal interventions. The Petitioner No 1 is working for the rights of the labour and has conducted a survey of the Commonwealth Games 2010 sites regarding the condition of the labour and after investigating the exact position, prepared a report namely "In the Name of National Pride"
3. That the Petitioner No.2, Nirmaan Mazdoor Panchayat Sangam (NMPS), was constituted in 1989 at Delhi by the core team of the National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) to engage the construction workers of Delhi with the National Campaign of Construction Workers. NMPS has been preparing itself to ensure implementation of the 1996 Acts in their true spirit. NMPS has been organizing construction workers for the last 20 years in Bihar, Delhi, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Puducherry, Rajasthan, Tamil Nadu and Uttar Pradesh. NMPS also supports the campaign to demand amendments in the Unorganized Sector Social

Security Act, 2008 to make it comprehensive, so that similar Tripartite Boards and resources can be developed for the rest of the Unorganized Sector.

4. That the Petitioner No.3 is Common Cause, a registered Society with membership all over the country and operating on All India basis. It has earned its reputation and credibility as an organization dedicated to governance reform and to securing redress for problems of the people. Its initiatives in public interest litigation, both at the level of the Hon'ble Supreme Court of India, and this Hon'ble Court, for solving the common and collective problems of the people, have greatly contributed to the evolution of this instrument and its adoption by civil society for resolution of public grievances. The Petitioner No.3 is an active member of the civil society coalition "Commonwealth Games- Citizens for Workers, Women and Children".
5. That the Respondent No.1 is Union of India, having overarching responsibility in respect of the conduct of the Commonwealth Games 2010 in Delhi and construction projects relating thereto, as well as overall control in respect of enforcement of labour laws in Union Territories, including NCT of Delhi.
6. That the Respondent No.2 is NCT of Delhi, which controls many of the construction projects relating to Commonwealth Games and is directly responsible for enforcement of labour laws and provision of welfare measures.

7. That the Respondent No.3 is Sports Authority of India which has the role of planning and coordination of the activities relating to the Commonwealth Games.
8. That the Respondent No.4 is Delhi Development Authority is the principal employer at many of the Commonwealth Games 2010 sites in Delhi.
9. That the Respondent No.5 is Director General of Inspection in the Ministry of Labour who is responsible for laying down the standard of inspection of construction workers throughout India and ensuring their compliance.
10. That the Respondent No.6 Central Public Works Department which is the principal construction agency, under GOI, at many of the Commonwealth Games 2010 sites in Delhi.
11. That the Respondent No.7 is New Delhi Municipal Corporation which is the principal employer at many of the Commonwealth Games 2010 sites in Delhi.
13. That the Respondent No.8 is Municipal Corporation of Delhi which is the principal employer at some of the Commonwealth Games 2010 sites in Delhi.
13. That the Respondent No.9 is Delhi Building and Other Construction Workers Welfare Board which is responsible for the welfare of the construction workers and matters relating to the registration of workers and collection of Cess levied for this purpose.

14. That the Respondent No.10 is Delhi International Airport Limited which is executing the work of upgradation of Delhi Airport in preparation for the Commonwealth Games.
15. That the Respondent No.11 is Delhi Metro Rail Corporation Ltd. which is executing the work of expansion of the Metro Network in preparation for the Commonwealth Games.
16. That the Respondent No.12 is Chief Inspector of Inspection of Building and Construction of Delhi is responsible for carrying out the provisions of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 in relation to NCT of Delhi

FACTS

17. For the 18th Commonwealth Games scheduled to be held in Delhi in October 2010, over Rs. 17,400 crores (Rs 7000 crores for sports facilities and related infrastructure like roads, flyovers and parking lots; Rs 5,400 for the renovated international airport in Delhi, Rs 5000 crores for phase II of the metro expansion by 2010) has been provided by the Union of India and the Delhi Government for improving city infrastructure and sports facilities. Construction projects have been assigned to respondents, no. 2, 3, 4, 11 and 12, given to agencies such as respondents no. 6 and 7, who, in turn, have contracted work out to real estate developers and construction companies for the execution of the projects. At its peak, over mid-2008 to mid-2009, all projects would have employed a total of over 1 lakh workers. Today, at least 15,000 contract/daily wage workers are working on these projects. This petition relates to the manner in which these workers are treated in contravention of law.
18. That it is stated at the outset that the petitioners do not wish to slow down or adversely affect in any way the progress of the projects. At the same time the petitioners believe that the non-implementation of the labour laws is

unacceptable even in the context of a time bound programme. Petitioners believe it is very possible for the projects to be completed on time while at the same time ensure that the workers labour rights are not violated. Unfortunately, the respondents aforementioned as well as their numerous contractors and executing agencies have got used of the idea that they can treat the workers sometimes as sub-humans and not be held accountable. This petition has been filed to correct that impression and to bring much needed relief to very poor workers.

19. That in 1982 in the case of Peoples Union for Democratic Rights vs. Union of India (1982 3 SCC 235) the Supreme Court intervened to bring relief to the workmen in the various projects connected with the Asiad Games. It was alleged that workers were not paid the minimum wage. By order dated 11.5.82 the Supreme Court directed that at least the minimum wages be paid. Since there were disputes over facts, the Court:

“appointed 3 ombudsmen and requested them to make periodical inspections of the sites of the construction work for the purpose of ascertaining whether the provisions of these labour laws were being carried out and the workers were receiving the benefits and amenities provided for them under these beneficent statutes or whether there were any violations of these provisions being committed by the contractor so that on the basis of the reports of the 3 ombudsmen this Court could give further directions in the matter if found necessary.”

20. It is pertinent to mention here that from the Asian Games of 1982 to the Commonwealth Games of 2010, India has indeed progressed manifold, but the condition of the workers, particularly the contract workers of India, has

been totally neglected and they have not benefited from this progress and the existence of labour laws at all.

21. Several groups of concerned citizens have, over the last two years, persistently brought the above issues to the notice of state/central governments, e.g., Lt. Governor, Chief Minister, Ministry of Labour (GOI). Department of Labour (GNCT) Construction Workers Welfare Board in Delhi, Ministry of Sports (GoI), etc. - and all key agencies involved in the construction of projects (DDA, SAI, CPWD, DMRC, DIAL) and urged them to use CWG 2010 as an opportunity to undo the wrongs of Asiad 82.
22. That the violation of worker rights to minimum wage is widespread despite the showcase of the CWC projects and despite the government being well aware of these violations but nothing has been done in this regard by the government authorities.
23. In accordance with the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the Rules were notified in 2002, and the Construction Workers Welfare Board set up in Delhi. In accordance with the Building and the other Construction Workers Welfare Cess Act, 1996, cess collection started in 2005 and picked up pace in 2007. From the cess collections, the Welfare Fund stands at Rs 300 crores today. The Welfare Board in Delhi is, however, dysfunctional – it has met, on an average, twice a year, as opposed to the requirement of meeting once in two months; it has no full time secretary to ensure functioning of any kind; most of the workers' representatives on the Welfare Board have no track record of commitment to labour issues; it has no staff to scale up new registrations and renew old ones. The worker registration process launched in late 2005 has covered over 20,000 workers from among the estimated 6-8 lakh workers in the city (according to construction workers' trade unions, NMPS and SEWA Delhi). Live registrations amount to approximately 10% of registered workers so far because of cumbersome procedures and the absence of publicity about

benefits. To date, only Rs 15 lakh, or thereabouts, have been spent on providing concrete benefits to the workers.

- .
24. That the Peoples Union for Democratic Rights, petitioners in the Asian Games case above quoted, on receiving reports of violation of workers' rights at the Commonwealth Games construction sites, investigated the work conditions at one of the construction sites, the Commonwealth Games village, near Akshardham temple and published a report in April 2009. It was found that the provisions of The Building and other Construction Workers (Regulation of Employment and Condition of Services) Act, 1996, Minimum Wages Act, 1948, Interstate Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979, Contract Workers (Prohibition and Regulation) Act, 1970 are widely violated. The specific finding of the investigation
- i) That one worker had died in an accident in December 2008 and the workers claim that there had been several deaths which are not recorded.
 - ii) That minimum wages were not paid to most of the workers.
 - iii) That double wages for overtime were not paid.
 - iv) That the wages were irregularly paid with considerable delays and with contractor's often withholding part of the wages.
 - v) That safety equipment were often not made available to workers.
 - vi) That identity card was not given to the workers as required under law.

- vii) That wage slips were not given to the workers in accordance with law. As a result the workers had no proofs whatsoever that they were employed.
- viii) That many of the workers were living in rooms, often without doors, without protection during winter, without electricity and without toilets.
- ix) That many of the camps where the workers were staying were not hygienically maintained and full of mosquitoes.
- x) That in the camps water was stored in pvc tanks which were not cleaned.
- xi) That the workers who came from Bihar, Jharkhand, Orissa, Madhya Pradesh, Uttar Pradesh, West Bengal and Punjab were not given the benefits of the Interstate Migrant Workers Act and were totally at the mercy of the contractors.
- xii) That workers are never given a weekly off with wages as required by the Minimum Wages Act and are required to work on all 7 days.
- xiii) That the women workers are paid less than their male counterparts.
- xiv) That very primitive medical facility is available for the workers.

- xv) That no representative of the Principal employer is present at the time of disbursement of wages as is required under the law.
- xvi) That no representative of the Principal employer is present at the time of disbursement of wages as is required under the law.
25. The report also indicates that the officials of the respondents who are responsible for the implementation of the labour laws are not doing their duty at all and when attempts were made to contact them, to seek permission to visit the construction site, they were evasive.

The People's Union for Democratic Rights filed the RTI applications which annexed and marked as **Annexure P-1** and the report based on the reply of those RTI applications is annexed and marked as **Annexure P-2**.

26. A similar study , covering 702 workers at 15 key project sites in Delhi (all high capacity sports facilities, the CW Games Village, a few metro sites and the international airport, among others), was initiated by the “Commonwealth Games – Citizens for Workers, Women & Children (CWG – CWC), published in October 2009, which concluded:

“The violation of workers’ rights to minimum wage is widespread despite the ‘showcase’ nature of the CWG projects and despite the government being well aware of these violations. In majority of the sites workers are not paid even minimum wages let alone fair wages. The minimum wage for unskilled workers in Delhi is Rs 151 but the average wage earned by an unskilled worker in this sample is Rs 114...More than a third of the workers are not paid their wages on time...429 respondents reported that they are paid overtime at the normal hourly rate, while only 9 workers

reported payment of overtime at the legally required higher rate... Only 74 respondents from the total sample mentioned that attendance register is maintained. Only 168 respondents mentioned that they sign the wage register... The availability of amenities at the worksites is poor. Across sites on an average one toilet is available for 114 workers... At many locations, toilets are cleaned only on a weekly or monthly basis and not every day... Regarding compensation paid to the victim or victim's kin after the accident, it appears that compensation as required by law is paid only in a few cases... This study reveals a significant gap between the safety 'hardware' and 'software' – that is, between the formal requirements and safety devices available at most (but not all) sites and the actual practices of following the safety requirements and using the safety tools and gadgets properly.....although safety boots are usually provided, the quality of the boots is often very poor... Most employers do not conduct health check-ups of the workers. Some of the workers complained they do not have any medical facility or proper response even in case of injury, let alone ailment. No workers are given holiday if they fall sick. Only 30 respondents stated that medical leave was granted... Most, nearly all, sites do not have any qualified doctor for treatment of the injured workers... Lack of water was one of the commonest complaints made by workers in this study. There is no bathroom facility for bathing in most of the sites... Considering the average for the labour camps / bastis associated with all sites, 69 individuals use one toilet. At some of the sites toilets are not available or not sufficient, thereby forcing workers to defecate in the open... Hardly any of the workers have heard of the Building and Other Construction Workers' Act, 1996 or The Delhi Construction Workers' Welfare Board (DCWWB) and the benefits that they are supposed to get from the Board under the Act... Only 3 workers in the sample had heard of the Welfare Board. Nine had been registered under the Board but no worker

had been renewing the registration regularly as required... The biggest concern of the workers, noted by 45 per cent workers, is about low wages and late payment of wages along with long hours of work... The next big problem, mentioned by 23 per cent respondents, is inadequate number of toilets or dirty toilets and lack of other facilities at the labour camps.”

Hereto annexed and marked as **Annexure P-3** is the copy of the report by CWG – CWC.

27. A Public Hearing on the situation of construction workers was conducted at Delhi in October 2009. The Public Hearing was conducted by the Jury comprising:

- xvii) Dr.Lakshmidhar Mishra, Special Rapporteur, National Human Rights Commission
- xviii) Ms. Arundhati Ghose, Former Indian Ambassador to the United Nations
- xix) Mr. Vinod Sharma, Chief of Political Bureau, Hindustan Times
- xx) Ms. Syeda Hameed, Member, Planning Commission, Government of India
- xxi) Mr. Vipin Benjamin, Advocate, Supreme Court
- xxii) Ms. Mohuya Choudhury, Senior Editor, NDTV”

28. Those representing the Administration included:

- (j) Mr. Rakesh Mehta, Chief Secretary, GNCT Delhi
- ii) Mr. Piyush Sharma, Joint Labour Commissioner, GNCT Delhi; Member Secretary Delhi

- iii) Building and Other Construction Workers Welfare Board (DBOCWWB)
- iv) Mr. Rajender Dhar, Deputy Labour Commissioner, Central, GNCT Delhi
- v) Ms. Rashmi Singh, Director, Mission Convergence, GNCT Delhi
- vi) Ms. Debashree Mukherjee, Secretary, Department of Women and Child Development, GNCT, Delhi.
- vii) Mr. B.S.Thakur, Deputy Director, Mission Convergence, GNCT Delhi”

29. The conclusions of the Public Hearing as per its Report were as follows:

“The Public Hearing has shown, once again, that there are gross violations of labour laws on many counts. With respect to the implementation of the 1996 Act, in particular, the proceedings have also identified the non-functioning of the Welfare Board, charged with that responsibility, as a major stumbling block.

The proceedings ended on a note of urgency sounded by the Jury, demanding that the issue of denial of basic entitlements to construction workers in Delhi be addressed immediately by various agencies and the report of the Hearing widely disseminated to ensure the same. The CWG-CWC Campaign expressed deep appreciation of workers, who had come from far and wide to share their experiences, in the hope that they will be heard, and their concerns addressed.

The Campaign members strongly recommend the following:

1. Re-visit the lack of autonomy of the Board and demand, through the structures in place, that a political decision at the highest level is taken to make the Board a fully functional, autonomous body as required by law to

act as guardians of the welfare of the construction workers and of the Cess funds collected in their name.

2. Take cognizance of the violations of laws by all government agencies responsible for construction in the capital.

3. Municipal agencies address the deplorable conditions of water and sanitation in the bastis where construction workers reside.

Unless the above is addressed on an urgent basis, with the full commitment of the central and state governments, we will be violating the very spirit of the Commonwealth Games and threatening their very survival.

Hereto annexed and marked as **Annexure P-4** is the copy of the said report dated 13.10.09.

The mass of evidence compiled in these documents brings out in sharp relief the plight of the construction workers employed in CWG projects and constitutes sufficient ground for the intervention of this Hon'ble Court.

GROUND:

- A. Because there is a clear violation of Labour laws by the employers at various Commonwealth 2010 sites.

- B. Because many workers have died or been injured in accidents at work sites due to neglect of safety norms and their deaths were not even reported and no compensation was paid as prescribed.

- C. Because the mandatory requirements of constitution of joint safety committees and formulation of policies in respect of safety and health of building workers are not being complied with.
- D. Because the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, are not being implemented and the benefits envisaged in the said Act are not accruing to the workers.
- E. Because the minimum wages and the double wages for overtime were not paid to most of the workers.
- F. Because the wages are irregularly paid with considerable delays and with contractors often withholding part of the wages.
- G. Because the requisite safety equipments are generally not made available to workers.
- H. Because identity cards are not given to the workers as required under law.
- I. Because the wage slips are not given to the workers in accordance with law. As a result, the workers have no proof whatsoever that they are employed.
- J. Because the workers are not given a weekly off with wages as required by the Minimum Wages Act and are required to work on all 7 days in violation of labour laws.
- K. Because there is discrimination against women workers who are paid less than their male counterparts for the same amount of work.

L. That the Petitioners have not filed any other petition seeking the same reliefs as prayed for herein against the respondents herein before this Hon`ble Court or before any other Court in the country.

PRAYER

- a) Pass a writ of mandamus or any other writ order or direction setting up an Independent Commission of this Court to visit the various sites where construction work is going on in connection with the Commonwealth Games, interview the workers and make a report with respect to the grievances set out in this petition.
- b) Pass an order permitting the above Commission to co-opt such .
. NGOs, experts and others as they deem fit.
- c) Pass an order directing the respondents to ensure compliance of the provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the rules made thereunder relating to health and safety of construction workers are duly complied with.
- d) Pass an order directing the respondents to ensure that all construction workers employed in connection with the Commonwealth Games 2010 are registered with the Welfare Board constituted under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, within two weeks from today, are provided with appropriate documentation as required

under the Act and are given due benefits with retrospective effect from the dates of starting work.

- e) Pass an order directing the respondents to ensure that all the workmen employed in connection with the Commonwealth Games are given identity cards, insurance cover under Jan Shree Bima Yojna,/ Rashtriya Swathya Bima Yojna, Wage slips, at least the minimum wage, double wages for overtime, a paid weekly off, proper medical facilities, workmen's compensation in all cases of accidents, clean drinking water and toilet facilities.
- f) Pass an order directing the respondents to ensure that the quarters where the workers are staying are properly designed and maintained and have secure doors, electricity supply, adequate number of toilets which are cleaned daily, and hygienic surroundings.
- g) Pass such other order or orders as this Hon`ble Court may deem fit in the facts and circumstances of the case.

Filed By.

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20.01.2010

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION
WRIT PETITION (CIVIL) NO. ____ OF 2010
Public Interest Litigation

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

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Public Interest Litigation

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

AFFIDAVIT

I Moushumi Basu D/o C. R. Basu Age 38, member of Peoples Union for Democratic Rights the Petitioner No.1 in the petition do hereby state on oath as under:

1. That I am the Petitioner in the above mentioned matter and therefore well conversant with the facts and circumstances of the case.
2. That I have gone through the facts of the accompanying Petition and state that the same is being filed on my instructions and the contents thereof are true and correct to the best of my belief.
3. That the Annexure are true copies of their respective originals.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 20th day of January, 2010. That the contents of the affidavit are correct, no part of it is false and nothing material has been concealed there from.

DEPONENT

**IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION
WRIT PETITION (CIVIL) NO. ____ OF 2010
Public Interest Litigation**

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

AFFIDAVIT

I Subhash Bhatnagar, S/o V. S. Bhatnagar, Age 62, Secretary of Nirmaan Mazdoor Panchayat Sangam, the Petitioner No. 2 in the petition do hereby state on oath as under:

1. That I am the Petitioner in the above mentioned matter and therefore well conversant with the facts and circumstances of the case.
2. That I have gone through the facts of the accompanying Petition and state that the same is being filed on my instructions and the contents thereof are true and correct to the best of my belief.
3. That the Annexure are true copies of their respective originals.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 20th day of January, 2010. That the contents of the affidavit are correct, no part of it is false and nothing material has been concealed there from.

DEPONENT

**IN THE HIGH COURT OF DELHI AT New Delhi
EXTRA ORDINARY CIVIL JURISDICTION
WRIT PETITION (CIVIL) NO. ____ OF 2010
Public Interest Litigation**

IN THE MATTER OF:

Peoples Union for Democratic Rights & Others ...Petitioners

Versus

Union of India and Others ... Respondents

AFFIDAVIT

I Kamal Kant Jaswal, S/o A. P. Jasvaul, Age 65, Director and the Chief Executive of COMMON CAUSE, the Petitioner No. 3 in the petition do hereby state on oath as under:

1. That I am the Petitioner in the above mentioned matter and therefore well conversant with the facts and circumstances of the case.
2. That I have gone through the facts of the accompanying Petition and state that the same is being filed on my instructions and the contents thereof are true and correct to the best of my belief.
3. That the Annexure are true copies of their respective originals.

DEPONENT

VERIFICATION

Verified at New Delhi on this the 20th day of January, 2010. That the contents of the affidavit are correct, no part of it is false and nothing material has been concealed there from.

DEPONENT