2025 INSC 75

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 538 OF 2023

RAJEEB KALITA ... PETITIONER

VERSUS

UNION OF INDIA & ORS. ... RESPONDENTS

J U D G M E N T

R. MAHADEVAN, J.

Heard the learned counsel appearing for the parties and perused the materials placed before us.

2. This writ petition styled as "Public Interest Litigation" has been filed under Article 32 of the Constitution of India for the following reliefs:

(i) To issue a Writ of Mandamus directing all the States and Union Territories to ensure that basic toilet facilities are made available in all Courts/ Tribunals in the Country for men, women and handicapped persons including transgenders, and to provide and maintain urinals and similar conveniences at appropriate locations in every Court premises as envisaged under Article 21 of the Constitution of India; and

(ii) To issue a Writ of Mandamus directing all the States and Union Territories to construct public toilets and public conveniences in all the Courts/ Tribunals and the same should be identifiable and accessible by the advocates/ litigants/ court staff etc. for men and women (including transgender persons) and to provide amenities for persons with disabilities and maintain the same.

3. The Petitioner is a practicing Advocate enrolled with the Bar Council of Assam and practicing in the Courts in Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim. He has stated that the scope of the fundamental right under Article 21 of the Constitution of India includes the right to live with dignity and all the necessities of life, such as, adequate nutrition, clothing, health, *etc*., and no human being can live with dignity unless there are facilities to maintain basic hygiene.

4. It is also averred in the writ petition that the Constitution of India imposes a duty on the State to improve public health, raise the standard of living, and increase the level of nutrition, which is outlined in Article 47 under the Directive Principles of State Policy. Sanitation is also a part of Article 48A of the Constitution that mandates the State to protect and improve the environment.

5. Adding further, the petitioner stated that the Government of India, Ministry of Urban Development has initiated the 'Swachh Bharat Mission (SBM)', which has set out certain guidelines, amongst others, for the purpose of construction of public toilets in general. That apart, the World Health Organization (WHO) of

which, India is a member, considers the health of human beings as the most basic and essential asset, regardless of age, gender, socio-economic/ethnic background.

6. That apart, the petitioner also pointed out the international policies framed with respect to construction of public toilets for men, women and handicapped persons including transgenders, and maintenance of hygienic condition. To substantiate the averments made in the writ petition, the petitioner placed reliance on a catena of decisions rendered by this Court as well as by other High Courts.

6.1. Ultimately, the petitioner submitted that it is just and necessary that clean and hygienic toilets are to be provided not only in the places, such as, markets, train stations, tourist places, near office complexes, or other public areas where there are considerable number of people passing by, but also in the Court complex/ premises, where advocates / litigants/ staff members are working in a large number, otherwise, the right conferred by Article 21 cannot be meaningful. Thus, this writ petition by the petitioner is before us.

7. This Court by order dated 08.05.2023[1], directed all the High Courts to file

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[1] 1.On the request of the counsel appearing on behalf of the petitioner, we grant permission to implead the High Courts as party respondents to these proceedings.
2. Notice shall issue to all the High Courts through their Registrars General.
3. The High Courts shall file tabular statements on affidavit before the next date of listing indicating all relevant details pertaining to:
(a) Availability of toilets for men, women and transgenders;
(b) Steps taken for maintenance of toilets;
(c) Whether separate toilet facilities are made available to litigants, lawyers and judicial officers; and
(d) Whether adequate facilities for sanitary napkins dispensers are made available in women's toilets.
The affidavits shall cover the establishments of the High Court and the entire district judiciary in the respective States/UTs.
4 In addition, since the Supreme Court has recently operationalized the iJuris portal, all the High Courts were directed, within a period of two weeks, to ensure that all relevant data is uploaded on the app.
5 List the Petition on 17 July 2023.

tabular statements on affidavit indicating the relevant details pertaining to:

(a) Availability of toilets for men, women and transgenders;

(b) Steps taken for maintenance of toilets;

(c) Whether separate toilet facilities are made available to litigants, lawyers and judicial officers; and

(d) Whether adequate facilities for sanitary napkin dispensers are made available in women's toilets.

7.1. In pursuance of the above directions issued by this Court, all the High Courts across the country have filed their respective affidavits furnishing information regarding (a), (b), (c) and (d) respectively in our order referred to above.

8. Before proceeding further, it is necessary to examine the relevant provisions of law including international laws, reports/guidelines and the case laws on the issue involved herein.

(A) LEGAL PROVISIONS & REPORTS/GUIDELINES

8.1. Constitution of India

> ***Article 21.*** *Protection of life and personal liberty*
> *No person shall be deprived of his life or personal liberty except according to procedure established by law.*
>
> ***Article 47.*** *Duty of the State to raise the level of nutrition and the standard of living and to improve public health.*
> *The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs*

which are injurious to health.

Article 48A*[2]*. *Protection and improvement of environment and safeguarding of forests and wild life.*

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

8.2. Transgender Persons (Protection of Rights) Act, 2019

Section 3. *Prohibition against discrimination.—No person or establishment shall discriminate against a transgender person on any of the following grounds, namely:—*
(a) the denial, or discontinuation of, or unfair treatment in, educational establishments and services thereof;
(b) the unfair treatment in, or in relation to, employment or occupation;
(c) the denial of, or termination from, employment or occupation;
(d) the denial or discontinuation of, or unfair treatment in, healthcare services;
(e) the denial or discontinuation of, or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public or customarily available to the public.
.....

8.3. Transgender Persons (Protection of Rights) Rules, 2020

Rule 10 *speaks about welfare measures, education, social security and health of transgender persons by appropriate Government. Clauses (5) and (9) of Rule 10 are relevant and are thus:*
(5) *The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, rehabilitation centre referred to in sub-section (3) of Section 12 of the Act, separate human immunodeficiency virus sero-surveillance centres, separate wards in hospitals and washrooms in the establishment, within two years from the date of coming into force of these rules to protect the rights of transgender persons.*
(9) *The appropriate Government shall create institutional and infrastructure facilities, including but not limited to, temporary shelters, short-stay homes and accommodation, choice of male, female or separate wards in hospitals and washrooms in the establishment within two years from the date of coming into force of these rules to protect the rights of transgender persons.*

[2] It was inserted by Constitution (Forty-Second Amendment) Act, 1976

8.4. The need for separate toilets for men, women and transgender persons has been emphasized in the Harmonised Guidelines & Standards for Universal Accessibility in India, 2021 issued by the Ministry of Housing and Urban Affairs. The relevant clause reads as follows:

> ***"4.9.2.*** *Public Toilets*
> *Wherever there is provision of public washrooms to be used by employees, staff, students, patients, or other intended users, they all should be accessible to be used by users of different ages, gender and persons with disabilities who may be independent, accompanied or assisted. Conventionally, public toilets consist of separate toilet facilities for female and male users. They either come in a cluster layout which has multiple WC cubicles and wash basins provided for larger establishments. Public washroom designs have seen an evolution in their typologies which pays emphasis on diverse human needs such as persons with disabilities, transgenders, elders with caregivers, families with younger children and expectant mothers. In all public toilets, the following shall be provided:*
> *1. Male section shall have atleast one urinal with support grab bars for ambulant disabled and at least one urinal for children at a lower height.*
> *2. Both male and female section shall have one WC for ambulant disabled*
> *3. Depending on footfall, one accessible toilet in both male and female toilet groups or one unisex/gender neutral accessible toilet room with independent entrance shall be provided.*
> *4. It needs to be ensured that accessibility services including emergency services along with sanitation and hygienic services are well integrated & maintained in the public toilet system."*

8.5. The State of the Judiciary: A Report on Infrastructure, Budgeting, Human Resources, and ICT, by the Centre for Research & Planning, Supreme Court of India, after observing that 'hygienic washrooms for all genders is a basic human right', pointed out the following:

- *Andhra Pradesh High Court expressed the need to increase the number of washrooms by 3 times in the High Court premises.*
- *District Court complexes: 12 High Courts have submitted that there a stark*

inadequacy for toilets for judges, staff, lawyers and litigants. The existing few washrooms are also dysfunctional.

- *There is no separation of washrooms for judges/lawyers/litigants or even separate washrooms for all genders.*
- *19.7% District court complexes do not have separate ladies' toilets. Even the available washrooms lack maintenance and often do not have cleaning staff.*
- *73.4% District courts do not have female friendly washrooms with sanitation facilities (pad dispensers).*
- *In recognition of the NALSA judgement, the need for separate washrooms for a third gender is emphasised.*
- *An empirical study indicated no separate washrooms for the third gender. The Kerala High Court allows the sharing of a separate washroom with PwDs. In Uttarakhand, there are only 4 washrooms for the third gender across the District Courts of the State. Tamil Nadu has washrooms for the third gender only in Chennai and Coimbatore.*

8.6. The Supreme Court Accessibility Committee Report, published in October, 2023 specifically addressed the issue of separate toilets for transgender persons and made recommendations to that effect, which are usefully extracted below:

> ***Washrooms:*** *There are some accessible washrooms across the entire Supreme Court premises. However, there needs to be uniformity. There are some discrepancies in the implementation that can be immediately fixed. There needs to be separate toilets allocated for transgender persons. In the interim, till new ones are built - accessible toilets for people with disabilities can be used by transgender persons. An additional "T" should be added to the existing signage for an accessible washroom.*
>
> ***Recommendations***
> *(1) Access to the washroom is the most basic requirement for any person. It is recommended that every building should have a sufficient and easily accessible unisex restroom. Places like washrooms need to have an attendant to assist persons with disabilities, some of whom may be unable to use the facilities due to their wheelchair, or other aid.*
>
> *(2) Make sure reaching the washroom is also not challenging. Signage must be provided along with information in Braille, tactile pathways, and strips to access the toilets.*
>
> *(3) Sanitary pad dispensers, and appropriate bins for diaper disposal and sanitary*

waste need to be installed.

(B) INTERNATIONAL LAWS

8.7. Universal Declaration of Human Rights, 1948

Article 25. *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*

8.8. International Covenant on Economic, Social and Cultural Rights, 1966

Article 12.
1. *The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and Mental health.*
2. *The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:*
(a)*….*
(b)*The improvement of all aspects of environmental and industrial hygiene;*
….

8.9. United Nations General Assembly Resolution No.A/RES/64/292 dated 3rd August, 2010 states that the right to safe and clean drinking water and sanitation is a human right that is essential for the full enjoyment of life and all human rights.

8.10. Further, in its report on the Right to Sanitation, 2010, the United Nations Committee on Economic, Social and Cultural Rights (ESCR) reaffirms that since sanitation is fundamental for human survival and for leading a life with dignity. It further emphasizes that the right to sanitation is an essential component of the right to an adequate standard of living as enshrined in Article 11 of the

International Covenant on Economic, Social and Cultural Rights. The right to sanitation is also integrally related to other Covenant rights including the right to housing and right to water (Article 11) and the right to health (Article 12 paragraphs 1 and 2 (a), (b) and (c)), as recognized in the Committee's General Comment No.15. However, it is significant to note that sanitation has distinct features which warrant its separate treatment from water in some respects. Although much of the world relies on waterborne sanitation, increasingly sanitation solutions which do not use water are being promoted and encouraged.

8.11. Human Rights Council Resolution No.A/HRC/15/L.14 dated 24.09.2010, affirms and reaffirms as under:

- *Affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.*

- *Reaffirms that States have the primary responsibility to ensure the full realization of all human rights, and that the delegation of the delivery of safe drinking water and/or sanitation services to a third party does not exempt the State from its human rights obligations.*

(C) CASE LAWS

8.12. A few decisions of this Court and the observations made therein are reproduced below, for better appreciation of the issue involved herein.

(i)Vincent Panikurlangara v. Union of India[3]:

[3] (1987) 2 SCC 165

"16. A healthy body is the very foundation for all human activities. That is why the adage "Sariramadyam Khaludharma Sadhanam". In a welfare State, therefore, it is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health. This Court in Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 aptly observed: (SCC p. 183. para 10):
"It is the fundamental right of everyone in this country, assured under the interpretation given to Article 21 by this Court in Francis Mullin case (Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608: 1981 SCC (Cri) 212) to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of the workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State — neither the Central Government nor any State Government — has the right to take any action which will deprive a person of the enjoyment of these basic essentials."
"..... maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depends the building of the society of which the Constitution makers envisaged. Attending to public health in our opinion, therefore, is of high priority-perhaps the one at the top."

(ii) In *Re. Amarnath Shrine v. Union of India*[4]:

"15. Not only this, there is still a greater obligation upon the Centre, State and the Shrine Board in terms of Article 48-A of the Constitution where it is required to protect and improve the environment. Article 25(2) of UDHR ensures right to standard of adequate living for health and well-being of an individual including housing and medical care and the right to security in the event of sickness, disability, etc. The expression "life" enshrined in Article 21 of the Constitution does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in the workplace and leisure. The right to life with human dignity encompasses within its fold, some of the finer facets of human civilization which make life worth living."

[4] (2013) 3 SCC 247

(iii) *Common Cause (A Registered Society) v. Union of India*[5]:

> *"175. "Right to Life" set out in Article 21, means something more than mere survival or animal existence. (See: State of Maharashtra v. Chandrabhan Tale (1983) 3 SCC 387). The right also includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in different forms, freely moving about and mixing and commingling with fellow human beings. [See: Francis Coralie Mullin v. Administrator Union Territory of Delhi: (1981) 1 SCC 608; Olga Tellis v. Bombay Municipal Corporation: (1985) 3 SCC 545 (paras 33 and 34); Delhi Transport Corporation v. D.T.C. Mazdoor Congress: 1991 Supp (1) SCC 600 (paras 223, 234 and 259)]. In Kharak Singh v. State of U.P.: AIR 1963 SC 1295, domiciliary visit by the Police was held to be violative of Article 21."*

(iv) *Consumer Education and Research Centre v. Union of India*[6]:

> *"22. Article 1 of the Universal Declaration of Human Rights asserts human sensitivity and moral responsibility of every State that "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." The Charter of the United Nations thus reinforces the faith in fundamental human rights and in the dignity and worth of the human person envisaged in the directive principles of State policy as part of the Constitution. The jurisprudence of personhood or philosophy of the right to life envisaged under Article 21, enlarges its sweep to encompass human personality in its full blossom with invigorated health which is a wealth to the workman to earn his livelihood to sustain the dignity of person and to live a life with dignity and equality."*

(v) State of M.P. v. Kedia Leather & Liquor Ltd.[7]:

> *"10. The two statutes relate to prevention and control of pollution and also provide for penal consequences in case of breach of statutory provisions. Environmental, ecological air and water pollution amount to violation of the right to life assured by Article 21 of the Constitution of India (in short "Constitution"). Hygienic environment is an integral facet of healthy life. Right to live with human dignity becomes illusory in the absence of humane and healthy environment."*

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[5] (1999) 6 SCC 667
[6] AIR 1995 SC 922
[7] (2003) 7 SCC 389

(vi) This Court in *National Legal Services Authority v. Union of India*[8], while dealing with the issue relating to separate toilets and other facilities for transgenders, held that 'access to public toilets is also a serious problem they face quite often. Since there are no separate toilet facilities for hijras/transgender persons, they have to use male toilets where they are prone to sexual assault and harassment. Discrimination on the ground of sexual orientation or gender identity, therefore, impairs equality before law and equal protection of law and violates Article 14 of the Constitution of India'. Ultimately, it was ordered in paragraph 135.6 that the Centre and State Governments should take proper measures to provide medical care to TGs in the hospitals and also provide them separate public toilets and other facilities.

8.13. The Rajasthan High Court *in Re: Dignity, Respect & Honour of Girls and Women*[9] stated that due to lack of toilet facilities for women or where toilets exist, but they lack in cleanliness, sanitation and hygiene, women tend to 'hold on' and defer urination until they can find a clean public toilet or till they reach home. In fact, at times, women do not drink water, when required to step out, with the fear that she may not have access to a clean and safe toilet. Medical science has shown that urinary tract infections, problems of distended bladders, and a range of other uro-gynocological problems are a consequence of deferring urination'.

[8] (2014) 5 SCC 438
[9] Order dated 03.12.2024 in C.W.No.18518/2024 (*suo motu* writ petition)

Considering the seriousness of the issue, the High Court issued a series of directions to the Government, for security and safety of women.

8.14. The Bombay High Court in *Milun Suryajani v. Pune Municipal Commissioner*[10], *in a* PIL, held that "women have the right to have safe and clean toilets at all convenient places, which in a way impacts their right to live with human dignity. One of the paramount duties of the States / UTs and the Corporations is to improve public health by providing toilets for women at all convenient places".

8.15. Referring to the aforesaid order of the Bombay High Court, the Madras High Court in *P. Saravanan v. Union of India*[11], held that 'a neat and hygienic toilet is a right of the citizen' and ultimately, issued various directions, including that public toilets, in adequate numbers, with all necessary facilities should be provided across the State, free of cost, wherever possible; and the Government shall also consider the directions issued by the Division Bench of the Bombay High Court in *Milun Suryajani* (supra) and assess the feasibility of implementing such directions and implement them accordingly.

[10] 2015 SCC OnLine Bom 6256
[11] Order dated 17.08.2021 made in W.P(MD)No.4959 of 2019

8.16. In *New Bombay Advocates Welfare Association v. State of Maharashtra*[12] the Bombay High Court while considering the issue relating to construction of court complex, has categorically observed as follows:

> *"7. The Apex Court has reiterated that it is the constitutional duty of the Government to provide to the citizens of the country with such judicial infrastructure and means of access to justice so that every citizen is able to receive an expeditious, inexpensive and fair trial. What is more important is the categorical declaration made by the Apex Court that the plea of financial limitations or constraints cannot be a valid excuse to avoid the performance of the constitutional duty of the Government to provide a proper judicial infrastructure. The fundamental right to access to justice and right to speedy justice available to the citizens can be effectively exercised by them provided adequate judicial infrastructure is available. The said right can be effectively exercised provided adequate number of courts are established and a proper infrastructure is provided therein for the litigants, Judges, the members of the Bar and the Court staff. The existence of aforesaid fundamental right creates a corresponding obligation in the State Government to ensure, that adequate number of courts are established as may be decided by the High Court and a proper infrastructure is provided therein for the litigants, Judges, the members of the Bar and the Court staff. The litigants are entitled to have basic facilities such as clean drinking water, clean toilets and proper sitting arrangement in every Court. While performing the constitutional duty of ensuring that the citizens are able to exercise the said right, the State Government cannot come out with an excuse of financial limitations or constraints."*

8.17. The Delhi High Court in *Smita Kumari Rajgarhia v. Govt. of NCT of Delhi*[13] has mandated an inspection of washroom facilities across all District Courts in the City to access hygiene, functionality and safety. It emphasized the importance of these facilities, stating that access to clean, functional and secure washroom facilities is a basic necessity, especially for women members of the Bar. It highlighted the need to protect the safety, privacy and health of female

[12] 2015 SCC OnLine Bom 8558
[13] Order dt. 16.10.2024 in W.P.(C) No.14517 of 2024.

lawyers and urged all parties involved to treat this issue with the seriousness it deserves. After receipt of the inspection report, the Delhi High Court, *vide* order dated 05.12.2024, issued various directions to the PWD Department, PDJs and Bar Associations of all District Courts.

(D) GLOBAL OVERVIEW

8.18. The National Environment Agency (NEA) is **Singapore**'s[14] primary authority responsible for maintaining a clean environment. A key focus of its public health initiatives is the promotion of clean and well-maintained public restrooms. NEA offers public toilet owners' clear guidelines and regulations to ensure proper upkeep. Singapore also has the Restroom Association of Singapore (RAS), which released a guidebook titled *A Guide to Better Public Toilet Design and Maintenance*. This guide provides comprehensive instructions on designing and maintaining public restrooms to meet community standards. With NEA's support, RAS introduced the *Happy Toilet Programme* on July 1, 2003, encouraging restroom owners and operators to uphold cleanliness, safety, and accessibility. The guidebook emphasizes thoughtful design considerations, addressing aspects like safety, vandalism prevention, accessibility for individuals with disabilities, and overall hygiene. It includes detailed visual graphics specifying design standards.

[14] https://www.nea.gov.sg/our-services/public-cleanliness/toilets-management/overview

8.19. The **United Kingdom**[15] emphasizes accessible and well-maintained public toilets as a key aspect of public service. Cities like London provide detailed information on public restroom facilities, including types, locations, charges, and amenities like baby care facilities, through their official websites. Feedback channels, such as phone numbers and email addresses, are also available for public input. The British Toilet Association (BTA) established in 1999, campaigns for better restroom standards and promotes public toilets as part of the UK's tourism appeal, with facilities highlighted on VisitBritain's website. Additionally, the *House of Commons* addressed restroom provisions in a 2007–2008 report, and the Communities and Local Government department published a guide titled *Improving Public Access to Better Quality Toilets*.

8.20. Australia[16] prioritizes accessibility and convenience in its public restroom infrastructure. The government launched the *National Toilet Map*, which provides details on over 16,000 publicly accessible toilets across the country. Initially designed to assist individuals with incontinence, the map also benefits tourists and other groups. It includes key information such as disability access and operating hours.

[15] https://www.toiletmap.org.uk/about , https://publications.parliament.uk/pa/cm200708/cmselect/cmcomloc/636/636.pdf?utm_source=chatgpt.com , https://assets.publishing.service.gov.uk/media/5a7c5f0aed915d696ccfc52e/7530.pdf

[16] https://www.continence.org.au/national-public-toilet-map

8.21. Germany's[17] *"Toilet for All"* initiative, also known as the *"Changing Places"* program, aims to ensure accessibility and dignity for people with severe disabilities. These facilities go beyond standard wheel chair-accessible restrooms by incorporating features like height-adjustable changing benches, ceiling hoists, and extra space for caregivers. The initiative supported by organizations like the German Toilet Organization and local governments, strives to increase the availability of these specialized restrooms in public spaces. It aligns with efforts to create a more inclusive society where everyone, regardless of ability, can navigate public environments comfortably.

8.22. Canada's[18] "Pop-Up Winnipeg Public Toilet" initiative is a benchmark in creating inclusive and accessible public restroom facilities. This pilot project combined community service, innovative design, and social equity. The initiative featured portable restrooms placed strategically in high-need downtown areas, requiring minimal connection to city infrastructure. It focuses on human-centered service and youth from marginalized backgrounds were employed as "Watch Ambassadors," offering maintenance and oversight while gaining employment experience and dignity.

[17] https://www.toiletten-fuer-alle.de/das-projekt.html
[18] https://downtown.org/wp-content/uploads/2019/08/IDADAA19_WinnipegBIZ_PublicToilet_Summary.pdf

8.23. In **Japan**,[19] through initiatives by companies like LIXIL, developed all-gender universal toilets that accommodate diverse needs, including those of people with disabilities, the elderly, and individuals with dementia. LIXIL's approach emphasizes *"choosing the cubicle that best suits you"* while integrating features such as accessible design, caregiver accommodations, and innovative technologies. It is also pertinent to mention here that the Japan is the country with most active elderly works in the world and yet, it is one of the cleanest countries in the world.

8.24. Thus, the entire analysis makes it abundantly clear that public health is of paramount importance and clean public toilets contribute to the health and overall well-being of the society. Also, the right to safe and clean drinking water and sanitation is essential for the full enjoyment of life and all human rights. It is settled law that the right to life encompasses within it the right to healthy and hygienic life and the right to live with dignity. Creation of adequate public toilets also protects the privacy and removes the threat to ladies and transgender persons. Availability of access to public toilet is an important duty of the States/UTs under the Directive Principles and it is just not enough if such provisions are made but steps are to be taken to ensure that the toilets are maintained throughout the year. Without such access to the three genders, the States/UTs can no longer claim to be welfare State. We may hasten add here that though public toilets are built near

[19] https://www.lixil.com/en/impact/inclusion/universal_design.html

every toll plaza in the National Highways across the country, we seldom find them to be maintained and accessible. The need for toilets/washrooms/restrooms is even more acute for judges / advocates/ litigants/ staff members working in large number in the Courts and Tribunals as they are mostly struck in one place for longer periods because of the demands of the job and the system in the function of the courts/Tribunals. Therefore, it is the duty of the Government and local authorities to provide basic toilet and sanitation facilities within the Court premises and ensure that they are constructed, maintained and kept in a hygienic condition for men, women, PwD, and transgender persons.

9. We have carefully perused the responses submitted by various High Courts pursuant to the order of this Court dated 08.05.2023, which have been presented before us in the form of additional documents containing 777 pages. We have also considered the written suggestions of the learned counsel for the petitioner and the learned Additional Solicitor General of India appearing for the Respondent No.1, as directed by this Court. The relevant paragraphs of all the stake holders are extracted below for the sake of specificity.

<u>On the side of the Petitioner:</u>

> *3.* ***Highlighting Ground Reality and Additional Suggestions***
>
> *D.* <u>*Affidavits and Gaps*</u>*: While affidavits disclose the number of toilets available, they fail to indicate the availability of funds or the timeline of construction. The lack of transparency in these aspects raises significant concerns about the usability of these facilities.*

E. Condition of Old Toilets: Many old toilet blocks have crumbled and are no longer fit for human use. Several are kept under lock and key, and litigants and lawyers are often denied access, particularly in the State of Assam.

F. Maintenance Issues: There are inadequate funds to maintain the facilities, leading to broken taps, damaged seats, and other non-functional fittings even in new buildings. The lack of regular maintenance further exacerbates the problem.

G. District Court Reality: The District Courts, as observed by the petitioner lawyer, represent some of the worst scenarios, with deplorable conditions that fail to meet basic hygiene standards.

H. Funding Transparency: Indicate the yearly funds allotted for the maintenance of toilets and clarify whether these funds are provided by the State Government, and whether they are sufficient to meet the maintenance needs.
A similar inquiry should be made for the allocation and sufficiency of funds in High Courts and the Supreme Court.

4. ***Further Recommendations***

I. Comprehensive Audit: Conduct a detailed audit of toilet facilities in Courts across the region to determine availability, usability, and accessibility.

J. Adequate Funding: Ensure the availability of sufficient funds for both construction and regular maintenance of toilet facilities.

K. Inclusive Facilities: Provide separate, functional, and accessible toilets for men, women, transgenders, and differently-abled persons in all court buildings, with appropriate signage and privacy measures.

L. Mandatory Separate Toilets: Provide mandatory to allocate and maintain separate toilets for litigants, lawyers, and judicial officers, including lady judicial officers.

M. Grievance Redressal Mechanism: Establish mechanisms for immediate reporting and resolution of issues related to toilet facilities.

N. Periodic Inspections: Formulate guidelines for periodic inspections of toilet facilities to ensure cleanliness, functionality, and accessibility.

O. Provision of Sanitary Facilities in High Courts: Some High Courts, such as the Gauhati High Court, have taken initiatives by issuing tenders for the supply of sanitary napkins and dispensers; however, their installation remains pending.

There is a notable lack of statistical data on similar facilities in other High Courts, particularly regarding the allocation and utilization of funds for such essential amenities.

P. Inadequate Basic Amenities in Courts: Many court premises suffer from a lack of proper water supply for washing in toilets, as well as insufficient drinking water facilities, creating significant inconvenience for users.

Q. Additionally, there is a noticeable absence of creche facilities in several courts, posing challenges for single mother advocates who require such support while attending court proceedings.

R. Modernizing Court Toilet Facilities Through Outsourcing: Unlike airports, which now boast improved toilet facilities following privatization, many High Court toilets remain inadequate, with non-functional hand dryers, and a lack of provisions for hand wash, toilet paper, and napkins. To address these shortcomings, it is imperative to consider outsourcing maintenance and cleaning to professional agencies on a contractual basis, as practiced in the Supreme Court, which employs modern cleaning methods and machinery to ensure better hygiene and usability.

S. Ensuring Functional and Eco-Friendly Toilets in Courts:
To maintain High Court toilets in working condition, it is essential to install proper exhaust fans to eliminate stench and odor. A recurring issue in India is the prevalence of Gutka stains and the construction of some toilet blocks in low-lying landfill areas, which hinders the proper disposal of waste.

T. Improving Accessibility for Differently-Abled Persons in Courts: The toilets and corridors in most courts are not designed to accommodate the needs of differently- abled persons. For instance, there are no tactile pavements in corridors or toilets to assist visually impaired individuals, leaving them without proper guidance. Similarly, facilities are often inadequate or inaccessible for persons using wheelchairs, creating significant challenges in navigation and usage. Ensuring inclusivity requires urgent attention to incorporate accessible infrastructure in all court buildings.

U. Introducing Mother-Friendly Facilities in Courts:

Courts should consider incorporating breastfeeding facilities to support nursing mothers, along with dedicated platforms for changing napkins within toilet areas, similar to the amenities available in airports. These additions would provide essential support for mothers, ensuring comfort and convenience during their time in court premises.

V. Historic court buildings, such as the Bombay High Court, face significant challenges in expanding toilet facilities due to space constraints. For example, some floors have only one toilet located at the end of a corridor, which is insufficient to accommodate the large number of people using the premises daily. Similarly, older CJM and District Courts experience the same issue.

To tackle this problem:

i. Optimize Existing Spaces: Identify underutilized areas within these buildings to install additional toilets without compromising structural integrity.

ii. Introduce Modular Solutions: Use modern modular toilet units that can be installed with minimal modifications to the existing infrastructure.

iii. Upgrade Plumbing Systems: Retrofit outdated plumbing to support increased capacity and improve the functionality of existing toilets.

iv. Expert Consultation: Engage architectural and engineering experts to create innovative solutions tailored to the constraints of heritage buildings.

W. Addressing Poor Sanitation in Court Complexes:
Instances such as the Saket Courts in Delhi, where the toilets on the fifth floor and near the canteen are in a horrific state with inadequate cleanliness, highlight the pressing need for improved sanitation standards. Similarly, in Kokrajhar, Assam, the District Judge Court had to be shifted due to the stench emanating from the toilets, underscoring the failure of the Public Works Department (PWD) tasked with maintaining these facilities.

To address these issues:
i. Strengthen Accountability: Introduce stringent monitoring of agencies like the PWD responsible for sanitation, with penalties for non-compliance.

ii. Outsource Maintenance: Engage professional cleaning services on a contractual basis for better upkeep, similar to modern facility management practices.

iii. Upgrade Infrastructure: Replace outdated fixtures and plumbing systems with modern, odor-resistant designs.

iv. Regular Audits: Conduct periodic cleanliness audits by third-party evaluators to ensure standards are met.

v. Feedback Mechanism: Set up a user-friendly feedback system for litigants, lawyers, and staff to report maintenance issues promptly.

vi. Dedicated Budget: Allocate specific funds for toilet repairs, cleaning, and modernization in court premises to ensure sustainable improvements.

X. Ensuring Child-Friendly Facilities in Family Courts:
Family courts in India, where children frequently visit, lack adequate child-friendly rooms and toilet facilities designed for their needs. This absence of essential infrastructure raises serious concerns, especially considering the sensitivity required in such environments.

To address this:

i. Designated Child-Friendly Areas: Establish dedicated rooms with safe, engaging spaces for children, equipped with basic amenities and monitored by trained personnel.

ii. Child-Specific Toilets: Construct toilets tailored for children, ensuring safety, accessibility, and proper hygiene standards.

iii. Policy Implementation: Enforce mandatory guidelines for child-friendly infrastructure in all family courts, supported by allocated funding.

iv. Special Training: Equip court staff and personnel with training in handling children, fostering an empathetic and supportive atmosphere.

v. Collaboration with Experts: Engage child welfare organizations to design and implement these facilities effectively.

Y. Toilets in extreme cold places require special infrastructure to ensure usability and comfort. While facilities like warm water and heated seats, as seen in Japan, represent an ideal scenario, implementing such amenities in India, particularly in cold regions, is not entirely out of reach. However, it faces challenges due to logistical, economic, and policy-related constraints.

Z. Current Scenario in Cold Regions of India: Limited Infrastructure: Most public toilets in cold areas like Ladakh, Himachal Pradesh, Kashmir, or the Northeast have basic infrastructure without advanced amenities like heated seats or warm water. Plumbing systems often freeze during winter, making toilets non-functional.

AA. Maintenance Challenges: Cold climates make maintenance difficult,

especially for water supply and waste disposal systems, as they require special insulation or heating mechanisms to prevent freezing.

BB. Resource Constraints: High-altitude areas have limited access to reliable electricity and adequate funding, which hampers the installation of advanced technologies.

CC. In hot regions like Rajasthan, public toilets must prioritize water conservation, cooling technologies, and durability to ensure usability and comfort. By leveraging solar energy, passive cooling designs, and innovative water-saving technologies, toilets in these areas can be transformed to meet the challenges posed by extreme heat conditions. With the right planning and investment, clean, efficient, and sustainable toilets can become a reality, even in the harshest climates.

DD. Toilets in coastal areas like Goa and Chennai, as well as flood-prone regions like Assam, face unique challenges due to high humidity, waterlogging, and extreme weather conditions. Proper design and infrastructure are crucial to ensure functionality, hygiene, and durability in such environments.

EE. To improve court infrastructure, including toilets, a combination of innovative funding mechanisms and increased allocation from central and State Governments is essential."

On the side of the Respondent No.1

"(a)All High Courts may be directed to ensure availability of separate toilets for judges and advocates across all District and magisterial Courts. Further, orders may also be passed to ensure separate toilets for male and female judges.

(b)High Court may be further directed to ensure separate toilets for male, female and differently abled advocates; and similarly have separate toilets for male, female and differently abled litigants.

(c)To identify lacunae in the existing infrastructure of toilets, a comprehensive audit may be conducted of toilet facilities in all Districts and High Courts. To this end, a committee can be constituted in the each of the High Courts which may identify the loopholes in the infrastructure of toilets with special reference to a toilet in each chamber in the subordinate judiciary.

(d)Mechanism must be developed for addressing grievances relating to maintenance and cleanliness of toilets across all courts.

(e) Provisions may be made, incrementally, to provide sanitary napkins free of cost or at a nominal rate across all courts and tribunals. To this end, automated dispensers may be installed across courts along with proper facility for disposal of used sanitary napkins.

(f)Provisions must be made to ensure availability of tap water across all toilets.

(g)Indian Railways has adopted bio-toilets across trains, same or similar technology may be incorporated to install new environment friendly toilets across courts in the country as well to further the goal of sustainable development.

(h)Regular maintenance in the cleaning facilities and upkeep in all courts of the States must be ensured. To ensure regular maintenance of toilets, this service can be outsourced to the Professional Agencies on the same model as the Supreme Court of India.

(i)Historic Court buildings such as Mumbai, Calcutta, Chennai, Allahabad, etc. must be retrofitted with modern toilet while maintaining their architectural integrity. To this end, separate study may be needed to be carried out to examine how to maintain such architectural integrity.

(j)High Courts and State Governments may consider having separate budget allocated for construction and maintenance of toilets. To ensure transparency of funds, annual audit report may be published on High Court website."

9.1. The Calcutta High Court has also submitted its suggestions in the form of an affidavit, the relevant paragraphs of which are extracted below:

"5.Presently High Court in one of its buildings is having Gender Neutral Toilet which can be extended to different court premises based on need. In fact, old toilets constructed in the buildings are accessible during the working hour for litigants and advocates and in case while using the same they face any problem the same can be complained in office or in the whatsapp group to the concerned officers of the Court Management and promptly (15 to 20 mins) steps are taken by the administration.

7.It is submitted that for better maintenance of the toilets (Litigants, Advocates, Judicial Officers and Hon'ble Judges of High Courts) in High Court buildings (including Circuit Benches) and all District Court and Sub-Divisional Court buildings it is possible to outsource the existing job to private agency in place of present infrastructure or resource of PWD Department, State Government.

8.As the High Court do not have source of Fund for that purpose it is imperative that due budgetary allocation be made by the State Government / Central Government whereby hourly cleaning can be undertaken for the existing infrastructure.

9…… It is submitted that if the job is outsourced the expenses can come down subject to Detailed Project Report.

10.It is submitted that High Court administration plans to undertake Ladies Bar Lounge in its main building and in future can contemplate of having the same in Centenary Building, Sesquicentenary Building, Circuit Bench at Port Blair and Siliguri wherein there can be exclusive room for female members of the Bar which will have inside it toilet facility with additional Sanitary dispenser. In fact, similar project can be undertaken for other Courts and Tribunals within the jurisdiction of High Court.

11.It is submitted that when compliance affidavit was filed Vending machine was installed in female toilets, however, in course of time the administration faced certain issue for maintenance / running of the same. In this regard the administration is presently negotiating with the State Government for providing staffs for running and maintenance of the same with regular funding.

12.In fact, it is suggested that awareness programme be organized in Courts/ Tribunals to increase awareness amongst Advocates/ Litigants / Staff / Clerks and other persons associated with Court infrastructure with regard to use of toilets and infrastructure so that it helps in maintenance aspect.

13.High Court administration can formulate a committee headed by Chief Justices Nominee, Registrar General, one Registrar of High Court, Chief Secretary, Judicial Secretary and Finance Secretary of the State and for the infrastructures in Port Blair Officers from Central Government to annually review the scope of improvement in this regard so that there is no budgetary hurdle.

14.The Committee should be empowered to consider the suggestion in this regard for Courts and Tribunals other than High Court within its jurisdiction and take suitable steps for improvement.

15.It is suggested that every Courts / Tribunals within the jurisdiction of the High Court should inform the committee referred hereinabove for the purpose of creation of new, upkeeping and maintenance of existing infrastructure regarding the requirement of improvement within a period of 3 months from the date of order, thereafter the committee can independently decide on every requisition

within a period of another 3 months after virtually interacting with the Principal Officer of the Court / Tribunal who should satisfy about the need in course of virtual interaction by the Committee or competent officer deputed by committee. In this regard, in case there is urgent requirement of toilet or maintenance the same shall be supported with photographic evidence. One the committee decides on the requisition within the time frame, necessary budgetary allocation be done within 2 months and work order be issued within a month thereafter and every unit undertaken in separate work order to be completed in a timely manner.

16.It is submitted that High Court have plans to have baby feeding rooms and are creating at least one such room in each building…."

9.2. It could be discernible from the responses received that various High Courts have not provided toilets for transgenders with only a few exceptions. There is no concrete statistical data regarding the availability of toilets for differently abled persons and separate toilets for lady judicial officers in their chambers situated within the Court premises. Furthermore, there is a lack of transparency concerning the availability of funds and the timeline for construction of toilet facilities.

9.2.1. The conditions prevailing in many courts are poor with old toilets in unusable conditions, insufficient water supply, unlocked doors, broken taps, *etc*. Due to insufficient funds, toilets are not properly maintained. Even in newly constructed buildings, non-functional fittings hinder the proper use of toilet facilities. District Courts are in the worst and most deplorable conditions and failing to meet even basic hygiene standards. The number of toilets required have to be ascertained taking into account the number of judicial officers, advocates, staff and the litigants approaching the courts. Toilets in several High Courts are

inadequate with non-functional hand dryers, handwash, toilet paper, and napkins, *etc*. Additionally, the toilets and corridors in most courts are not designed to accommodate the needs of PwD. For instance, there are no tactile pavements in corridors or toilets to assist visually impaired individuals, leaving them without proper guidance. Similarly, facilities are inadequate or inaccessible for persons using wheelchairs, creating significant challenges in navigation and usage. Moreover, the absence of creche facilities in several courts poses challenges for single mother advocates who require such support while attending court proceedings. The issue of providing sanitary napkins and dispensers remains unresolved in some High Courts. More importantly, there is no user- friendly system in place to report complaints and maintenance issues. Therefore, the shortcomings and deficiencies pointed out require urgent attention and immediate steps must necessarily be taken to ensure sustainable development.

10. In our opinion, toilets / washrooms / restrooms are not merely a matter of convenience, but a basic necessity which is a facet of human rights. Access to proper sanitation is recognized as a fundamental right under Article 21 of the Constitution, which guarantees the right to life and personal liberty. This right inherently includes ensuring a safe and hygienic environment for all individuals. There is a discernible duty on every State/UT under Part IV of the Constitution to ensure a healthy environment and to continuously strive of improving the public health. Access to justice includes the creation of a pleasant and humanly

atmosphere for all the stake holders in the dispensation of justice. The litigants for fear of sitting in courts for long hours without access to basic amenities should not be forced to refrain from exercising their legal rights. Therefore, High Court premises must be equipped with proper washroom facilities for judges, advocates, litigants and staff members, just as required in other public places. Additionally, it is equally essential to ensure that these facilities are adequately provided, maintained and accessible to everyone, *sans* discomfort or inconvenience.

10.1. As regards the District Courts, we must also point out our deep concerns that there are instances where even judges, particularly, in rural areas, still lack access to proper washroom facilities. This not only violates the rights of those directly affected but also tarnishes the reputation of the judicial system, which should serve as a model of fairness, dignity, and justice. The failure to provide adequate washroom facilities is not just a logistical issue, but it reflects a deeper flaw in the justice system. The sorry state of affairs indicates the harsh reality that the judicial system has not entirely fulfilled its constitutional obligation to provide a safe, dignified, and equal environment for all those seeking justice.

10.2. Courts should not be places, where basic needs, such as sanitation, are overlooked and neglected. The absence of adequate washroom facilities undermines equality and poses a barrier to the fair administration of justice. Therefore, all High Courts must take swift and effective action to address this

issue. Immediate steps are needed to ensure that all judicial premises, especially those lacking proper facilities, are equipped with accessible washroom facilities for the judges, litigants, advocates, and staff. It is re-emphasized that this is not just a matter of convenience, but is about basic rights and human dignity. Failing to act promptly would compromise the very purpose and essence of the judiciary's role in our society.

11. In view of the above, we hold and issue the following directions, in the larger public interest:

(i) The High Courts and the State Governments / UTs shall ensure the construction and availability of separate toilet facilities for males, females, PwD, and transgender persons in all Court premises and Tribunals across the Country.

(ii) The High Courts shall oversee and ensure that these facilities are clearly identifiable and accessible to Judges, advocates, litigants, and court staff.

(iii) For the aforesaid purpose, a committee shall be constituted in each of the High Courts under the chairmanship of a Judge nominated by the Chief Justice and members comprising the Registrar General/Registrar of the High Court, the Chief Secretary, the PWD Secretary and the Finance Secretary of the State, a representative of the Bar Association and any other officers as they deem it fit, within a period of six weeks.

(iv) The committee shall formulate a comprehensive plan, carry out the following tasks, and ensure its implementation.

(a) have a statistic of number of persons visiting the courts every day on an average and ensure that sufficient separate washrooms are built and maintained.

(b) conduct a survey regarding the availability of toilet facilities, lacunae in the infrastructure and maintenance of the same.

demarcate existing washrooms and assess the need to convert existing washrooms to meet the requirement of above categories.

(c) provide alternate facilities like mobile toilets, during construction of new ones, environment friendly toilets (bio-toilets) across the courts as done in Railways.

(d) *Qua* women, transgender persons, PwD, provide clear signage and indications along with functional amenities, such as, water, electricity, operational flushes, provision of hand soap, napkins, toilet paper and up to date plumbing systems. Specifically, for PwD washrooms, ensure the installation of ramps and that washrooms are designed to accommodate them.

(e) conduct a study about maintaining architectural integrity in respect of Heritage Court buildings such as Mumbai, Calcutta, Chennai, *etc*. To work with the existing facilities by using underutilised spaces to build washrooms, modular solutions to work around the old plumbing systems, engaging professionals to assess the solutions to modernise sanitation facilities.

(f) effectuate a mandatory cleaning schedule and ensure staffing for maintenance and upkeeping dry bathroom floors along with sensitising users on clean washroom practices.

(g) ensure regular maintenance of the toilets by outsourcing professional agencies on contract basis, by employing modern cleaning methods and machinery to ensure better hygiene and usability.

(h) put in place a mechanism that mandates the periodic inspection of the functionality of these washrooms and specific compliance reports to be filed to a person in-charge.

(i) frame a complaint / redressal system for speedy reporting of defective washrooms and instant repair of the same.

(j) ensure that there are working and stocked sanitary pad dispensers in women, PwD, and transgender washrooms.

(k) nominate or appoint a person specifically in each premises of the High Court/District Court/ Civil Court/Tribunal as nodal officer to monitor the maintenance, address the complaints and communicate with the presiding officer or the appropriate committee; such authority should address the complaints and give standing instructions in writing regarding maintenance and working of the said toilets; and the responsibilities should be fixed.

(l) have a transparent and separate monetary fund for the construction and maintenance of toilets in court complexes.

(m) have child safe washrooms in Family court complexes with trained staff equipped to provide children with a safe and hygienic space.

(n) Provide separate rooms (interconnected with the women's washroom) to cater to nursing mothers' or mothers with infants with feeding stations and changing napkins available. To consider incorporating breastfeeding facilities to support nursing mothers, along with dedicated platforms for changing napkins within toilet areas, similar to the amenities available in airports.

(o) High Courts to develop and sustain the quality of maintenance can create a grading system for the District Courts and other courts/forums under its supervision, provide certifications and motivate the appropriate officials and staff, which can form part of their service records.

(iv) The State Governments / UTs shall allocate sufficient funds for construction, maintenance and cleanliness of the toilet facilities within the court premises, which shall be periodically reviewed in consultation with the committee constituted by the High Courts.

(v) A status report shall be filed by all the High Courts and the States/UTs within a period of four months.

12. The Registrar (Judicial) of this Court is directed to circulate a copy of this

Judgment to the Registrar General of all the High Courts, and also to the Chief Secretaries of all the States / Union Territories, for strict compliance.

13. With the aforesaid observations and directions, this writ petition stands disposed of. No costs. Connected Miscellaneous Application(s), if any, shall stand disposed of.

14. List the matter after four months "for reporting compliance".

……J.
[J.B. Pardiwala]

……J.
[R. Mahadevan]

NEW DELHI
JANUARY 15, 2025.

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