

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4137 of 2024**

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PEOPLES TRAINING AND RESEARCH CENTRE & ORS.

Versus

THE STATE OF GUJARAT & ORS.

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Appearance:

MR.VEDANT RAJGURU FOR MR AJ YAGNIK(1372) for the
Petitioner(s) No. 1,10,11,12,13,14,15,16,17,18,19,2,20,3,4,5,6,7,8,9
MS.HETAL PATEL ASST. GOVERNMENT PLEADER for the
Respondent(s) No. 1

NOTICE SERVED for the Respondent(s) No.
10,11,12,13,14,15,16,17,18,19,20

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CORAM:**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL**
and
HONOURABLE MR.JUSTICE D.N.RAY

Date : 01/08/2025

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)

1. Pursuant to the order dated 05.05.2025 passed in the present petition, an affidavit dated 02.07.2025 filed on behalf of the respondent No.4 namely the Chief Labour Commissioner, State of Gujarat, has been placed before us to bring on record the Government resolutions issued by the Labour and Employment Department, Government of Gujarat, from time to time, in the matter of providing financial assistance to self-employed unorganized workers, who have died due to 'Silicosis'.

2. The first four Government resolutions are dated 04.01.2014, 05.09.2014, 09.03.2015 and 29.05.2015, which have been substituted vide Government resolution dated 13.08.2015, wherein benefits of the scheme of financial assistance were made effective from 01.01.2006.

3. It is stated in the aforesaid affidavit that pursuant to the decision of the Apex Court in the judgment and order dated 11.04.2017 in Writ Petition (Civil) No.110 of 2006 [**People's Right and Social Research Center and Ors. Vs. Union of India**], the Principal Secretary, Gujarat Rural Workers Welfare Board, Gandhinagar sent a proposal dated 30.06.2022 to the Principal Secretary, Labour and Employment Department, Gandhinagar to frame a policy to provide financial assistance of Rs.4 Lacs to the next of kin of the deceased. The copy of the said proposal is brought on record as Annexure '5'. However, the Government resolution to enhance the financial assistance in compliance of the decision of the Apex Court dated 11.04.2017, noted hereinabove, has been issued only on 11.03.2024.

4. From the description of the financial assistance provided to the petitioner Nos.2 to 20, who are represented in the representative capacity by petitioner No.1, in a table given in paragraph No. '3' of the said affidavit, it can be seen that:-

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Sr.No.	Petitioner No.	Applicant name and application date	Application approved / rejected / Returned date	Remarks

1.	2.	Champaben Srimali (Wife) 31.07.2023 04.07.2024	Rejected 30.09.2023 13.08.2024	Had applied beyond the limitation period.
2.	3.	Hansaben Parmar (Wife) 06.02.2023	Approved 15.09.2023	Rs.1,00,000 credited to next of kin bank account.
3.	4.	Vimalaben Chavda (Wife) 13.12.2022	Approved 05.07.2023.	Rs.1,00,000 credited to next of kin bank account.
4.	5.	Hansaben Chikhaliya (Wife) 31.08.2020	Approved 30.03.2021.	Rs.1,00,000 credited to next of kin bank account.
5.	6.	Somiben Solanki	Approved 25.09.2024	Rs.1,00,000 credited to next of kin bank account.
6.	7.	Vahidunisha Saiyed (Mother) 21.09.22	Rejected 10.01.2023	Had applied beyond the limitation period.
7.	8.	Mumtazbibi Diwan (Wife) 26.05.23	Approved 24.11.2023	Rs.1,00,000 credited to next of kin bank account.
8.	9.	Asifbhai Malek (Son) 21.04.15	Approved 05.06.2017	Rs.1,00,000 credited to next of kin bank account.
9.	10.	Tavakkal Hussain Shaikh (Husband) 09.09.16	Approved 05.06.2017	Rs.1,00,000 credited to next of kin bank account.
10.	11.	Puniben Dengda (Wife)	-	Application not received
11.	12.	Prafullaben Beladiya (Wife)	-	Application not received
12.	13.	Laxmiben Dabhi (Wife)	Rejected	Had applied beyond the

		19.03.2024	27.06.2024	limitation period.
13.	14.	Kalpanaben Upadhyay (Wife)	-	Application not received
14.	15.	Parvatiben Solanki (Wife)	-	Application not received
15.	16.	Narayanbhai Dharodiya (Husband)	-	Application not received
16.	17.	Vinaben Gupta (wife) 20.05.2024	-	Vide letter 31.07.2024, it was requested to submit supporting documents.
17.	18.	Pankajkumar Kher	Not Considered	Applicant had claimed that he was affected with silicosis. No provision to provide financial assistance to silicosis affected worker.
18.	19.	Kanjibhai Rathod	Not Considered	Applicant had claimed that he was affected with silicosis. No provision to provide financial assistance to silicosis affected worker.
19.	20	Chatur Parghi	Not Considered	Applicant had claimed that he was affected with silicosis. No provision to provide financial assistance to silicosis affected worker.

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5. A perusal thereof indicates that all applications of the petitioner Nos.2 to 20 herein, were received after 05.06.2017, i.e. after the order dated 11.04.2017 passed by the Apex Court, but only an amount of Rs.1 Lac was credited in the accounts of the next of kin of the deceased towards financial assistance. Some of the applications were, however, rejected being beyond limitation, whereas some have not been processed till date on the premise that the applicants' claim to be suffering from 'Silicosis', but there is no provision to provide financial assistance to the affected workers.

6. It was further stated in the paragraph No. '5' of the said affidavit for the respondent No.4 that after issuance of the Government resolution dated 11.03.2024, financial assistance of Rs.4 lacs had been provided to the next of kin of workmen, who had died due to 'Silicosis'. There is a description of 18 applications approved under the said scheme, in a table given in paragraph No. '5'.

7. Lastly, it is contended that under the scheme, the limitation to submit the application of 90 days is provided, for the reason that the benefits accorded are to such workers, who are self-employed workers of the unorganized sector, which is an informal sector with less job security, lower wages and fewer benefits. The contention of the petitioner for providing more time to move applications based on Section 10 of the Employee's Compensation Act, 1923 and Section 77 of the Employee's State Insurance Act, 1948, is refuted on the premise that both the said Acts apply to organized sectors,

where workers are part of a structured and regulated work environment.

8. Taking note of the above, we may record that in the present petition filed on 21.02.2024, the petitioner No.1 essentially is raising a dispute about non-compliance of the directions contained in the order of the Apex Court dated 11.04.2017 on the issue of providing compensation to the workmen, who are affected by 'Silicosis' of to kin of those who died.

9. We may note that in Writ Petition (Civil) No.110 of 2006, the Apex Court had issued directions to the National Human Rights Commission (NHRC) to conduct a survey regarding the problem of 'Silicosis' affecting people working in stone mines and other silicon dust producing plants. On receipt of the report of NHRC, in its order dated 04.05.2016, while noticing the recommendations of the NHRC, it has directed that:-

"...we are of the view that the State of Gujarat should forthwith comply with the direction of the National Human Rights Commission in its report dated 12.11.2010.

Accordingly, we direct the State of Gujarat to pay an amount of Re.1 Lakh (Rupees One Lakh) each to the kins of the 238 deceased, who have been identified by the NHRC, and also arrange to deposit an amount of Rs.2 Lakhs (Rupees Two Lakhs) each in their names in Fixed Deposits, so that the monthly interest accruing therefrom can be availed by the kins of the deceased.

The payment and deposit shall be made within a period of one month from today."

10. Further in the order dated 23.08.2016, the Chief Secretary of each State were directed to make all arrangements for facilitating the survey and preparation of

reports in the matter of prevalence of Silicosis and occupational disease in various industries across the country. Directions were issued by the Apex Court for detection of such disease amongst the workers of the weaker section and issuance of appropriate guidelines in the matter of prevention and treatment of 'Silicosis' and other occupational disease, including for compensation, medical treatment and other rehabilitation measures. It was noted by the Apex Court in the said order that severity of the problems are mainly in the States of Delhi, Haryana, Rajasthan, Madhya Pradesh, Gujarat, Jharkhand and Puducherry.

11. By a further order dated 11.04.2017, the following directions have been issued:-

"The order dated 23.8.2016 which was already passed by this Court, in respect of giving compensation to the persons who are affected by the silicosis and died, should be given effect to by each and every State in the matter as has been directed by this Court in other cases. Further, the situation of Silicosis in the State of Madhya Pradesh, of which a Report has been filed before us by the Investigation Team appointed by this Court, should be dealt with by the State Government by way of filing an affidavit before us. All the States must have a copy of this Report and they will also come forward by filing an affidavit with regard to their suggestions and steps that they propose to make in the matter in question. We grant two weeks' time to the States to file affidavit in the matter."

12. It is brought on record by the petitioner No.1 that in light of the decision of the Apex Court, different states have framed policy for treatment, compensation, rehabilitation and other welfare measures for the workers affected by the occupational lung disease, 'Silicosis'. The policies framed by the States of Haryana, Madhya Pradesh, Rajasthan, West Bengal, have been placed on record to assert that though the

policy for providing compensation was framed by the State of Gujarat with the Government Resolutions, noted hereinabove, the last being the Government resolution dated 11.03.2024, but the said prevailing policy is not in compliance of the directions contained in the judgment of the Apex Court in Writ Petition (Civil) No.110 of 2006.

13. It is further pointed out by the learned Advocate for the petitioners that there is no policy for rehabilitation of persons affected with the disease 'Silicosis' in the State of Gujarat, which is also clear from the admission in the affidavit filed on behalf of respondent No.4 namely the Chief Labour Commissioner, State of Gujarat. Further, though there was a requirement to modify the previous policy framed through the Government resolution dated 13.08.2015, but for about seven years, no steps were taken by the department for framing of an appropriate policy. The Government resolution dated 11.03.2024 is still not in compliance of the order of the Apex Court.

14. Further, till the enforcement of the Government Resolution dated 11.03.2024, lesser benefits were provided to the beneficiaries as against the decision of the Apex Court. The timeline of 90 days for making of the claims by the dependents of the deceased is wholly arbitrary. It was placed that there was a recommendation in the communication dated 30.01.2022 sent by the Member Secretary, Gujarat Rural Workers Welfare Board, Gandhinagar for increasing the timeline of 90 days to 180 days, with the categorical statement therein that normally, the widows of the deceased

workers do not come out of their houses after the death for a long period of time and the delay occurs on account of no support being available to the destitute wife. There has been absolutely no consideration to such social constraints while promulgating the Government resolution dated 11.03.2024. All the petitioners herein namely beneficiaries have been denied due benefits because of the dereliction on the part of the respondents in compliance of the order dated 11.04.2017 of the Apex Court.

15. Moreover, there is no policy for rehabilitation of the affected persons, as per the recommendation of the National Human Rights Commission, which has been affirmed and approved by the Apex Court in Writ Petition (Civil) No.110 of 2006.

16. Taking note of the above, we may record that vide judgment and order dated 06.08.2024, the Writ Petition (Civil) No.110 of 2006 has been disposed of with the following directions:-

“The second aspect concerns ensuring that adequate compensation is received by the affected workers on their next of kins as swiftly as possible. In this regard, we direct the NHRC to oversee the compensation process across the respective states. We also direct the ESIC and the Chief Secretaries of the respective states to adhere to the directions of the NHRC and collaborate with them to ensure that the compensation distribution process is carried out efficiently and without delay.”

17. Considering the above, we find that effective steps have not been taken at the ends of the concerned department of the State. The directions in the order dated 06.08.2024 of

the Apex Court is to the Chief Secretaries of the States (including the State of Gujarat) to adhere to the directions of the National Human Rights Commission in the matter of compensation and to carry out distribution effectively and without delay.

18. It is evident that there is a substantial delay on the part of the officers of the State in effective implementation of the directions of the Apex Court in Writ Petition (Civil) No.110 of 2006, which has resulted in granting lesser benefits to the applicants, who had submitted applications after 11.04.2017. Moreover, the timeline of 90 days for moving such an application is practically not feasible and it seems that there has been no application of mind to the recommendation for increasing the timeline looking to the sensitivity of the matter and the Social fabric of the Society. The Government resolution dated 11.03.2024 does not provide for rehabilitation of the victims, which has resulted in rejection of the applications of some of the beneficiaries petitioners herein.

19. We, therefore, direct the Principal Secretary, Department of Labour and Employment to look into the matter and take effective steps for bringing suitable modifications / amendments / substitution of the Government resolution dated 11.03.2024 so as to set in place the policy for rehabilitation of the affected workers with the disease 'Silicosis' and to provide adequate compensations to the kins of the deceased died due to 'Silicosis', in the true letter and

spirit of the decision of the Apex Court, in light of the observations made hereinabove.

20. The claims of the petitioner Nos.2 to 20 (beneficiaries) herein, whose description has been noted hereinbefore, shall be given fresh consideration in light of the decision of the Apex Court for providing adequate compensation and the claims of those, which have been rejected on the ground of delay, shall be considered afresh on merits. For consideration of the claim of the petitioners (beneficiaries), the Chief Labour Commissioner, State of Gujarat is required to take appropriate steps. In any case, a policy in strict compliance of the orders of the Apex Court accepting the report of the National Human Rights Commission shall be set in place by issuance of a fresh Government resolution, wherein effective date is also to be suitably indicated.

21. Let an affidavit of the Principal Secretary, Department of Labour and Employment shall be filed on the next date fixed i.e. **29.08.2025**, in compliance of the above directions.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SAHIL S. RANGER