

^ÁITEM NO.1

COURT NO.9

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 110/2006

PEOPLE&#39;S RIGHTS & SOCIAL RES.CENTRE &ORS

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln. for directions and exemption from filing O.T. and impleadment and interim directions and permission to file additional affidavit and permission to file additional documents and office report)

(For final disposal)

Date : 23/08/2016 This petition was called on for hearing today.

CORAM :

HON&#39;BLE MR. JUSTICE KURIAN JOSEPH

HON&#39;BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. Colin Gonslaves, Sr. Adv.

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Mr. Prashant Bhushan, Adv.

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Mr. Gopal Prasad, Adv.

Mr. Guntur Prabhakar, Adv.

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Mr. Hitesh Kumar Sharma, Adv.  
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Ms. Anuradha Arputham, Adv.  
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Mr. Tapesh Kumar Singh, Adv.  
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UPON hearing the counsel the Court made the following

O R D E R

Pursuant to this Court's order dated 30.6.2016, the District Collector, Jhabua and District Collector, Alirajpur have filed their affidavits. In the affidavit filed by the District Collector, Jhabua, it is pointed out that, out of 85 victims in their District, compensation has been distributed to 75 victims. Of the remaining 10 victims, one is alive. Therefore, it is a case of 9 more victims. In view of the request made by the District Collector to give some more time to settle the disputes and other codal formalities, two months' time is granted for finalising the distribution. In the affidavit filed by the District Collector, Alirajpur, it is stated that the compensation has been distributed to all the 153 victims. We record our appreciation for the efforts taken by the District Collectors for distributing the compensation to the victims. In the additional affidavit filed on behalf of the Central Pollution Control Board dated 10 th

August, 2016, it is stated that out of 30 quartz grinding units, 16 operational  
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units were not complying with the statutory mandate and rest 14 were found either permanently or temporarily closed. In all the 16 operational units, the Central Pollution Control Board has noted many deficiencies and the Board has also given their recommendations for the follow up action to be taken in respect of those deficiencies by the State Pollution Control Board. The Chairman, State Pollution Control Board, Gujarat is directed to file an affidavit within four weeks from today, as to the action taken on the recommendations made by the Central Pollution Control Board. The Chairman shall also state in the affidavit as to what action has been taken for closing down the 14 non operational units.

However, in case any of such units intend to restart their operation, the Chairman should ensure that such units have complied with all the mandatory requirements, as pointed out by the Central Pollution Control Board in its report. In the Action Taken Report, the Chairman of the State Pollution Control Board will also state as to whether any unit, despite notice, has ignored the direction to comply with the mandate and if so, what action has subsequently been taken for implementation of the directions of the Central Pollution Control Board.

The State Pollution Control Board has to see that such units will function only in case they comply with the mandatory requirements on prevention of pollution and if not, steps should be taken to close down such units.

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In case the affidavit, as above, is not filed within the time granted, the Chairman, State Pollution Control Board, Gujarat will be present personally before this Court on his own expense on the next date of hearing.

The Central Pollution Control Board has conducted inspection of quartz grinding units in the State of Gujarat and has submitted its recommendations to the Gujarat State Pollution Control Board. The following are the recommendations :-

i. Adequate proviso of dust extraction system shall be made at potential sources such as jaw crusher hopper, transfer points of materials from conveyer belt, disintegrator, transfer points of materials from bucket elevators to other plant equipment, rotary screens, magnetic separators, vibratory screens etc. The dust extraction system of such potential sources shall be routed through Air Pollution Control Device (APCD). Stacks attached to APCDs are to be equipped with adequate monitoring facility as per CPCB Emission Regulation, Part-III.

ii. The height of stack shall be maintained minimum 2 meter above the roof level as prescribed by Board.

iii. Sheds provided for plant process machineries shall be closed properly and provision of Closed Circuit Television (CCTV) camera shall be made rather than keeping small openings in shed for frequent observations.

iv. The internal roads shall be made of bitumen/concrete to reduce the fugitive emission by vehicular movement with proper cleaning and wetting mechanism.

v. Provision of green belt shall be made

along the periphery of the individual unit.

vi. Provision shall be made for

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systematic water sprinkling at places of dust generation to reduce the fugitive emission and records of water utilization shall be maintained.

vii. The telescopic chute/any other system shall be adopted to reduce the fugitive emission while loading the products into trucks/fine dust in the bags.

viii. Provision of Personal Protective Equipment (dust mask, helmet, safety shoes, goggles, ear plugs) and utilization by all the workers during operation of the plant shall be ensured.

ix. The units shall ensure environmental monitoring and submission of reports to GPCB at regular intervals.

x. The house keeping shall be improved.

xi. The Units shall submit a time bound action plan to comply with the above measures, within 30 days.

Learned counsel appearing for the Central Pollution Control Board submits that irrespective of the State, this is the same situation in the units which are situated in the States of Haryana, Rajasthan, Madhya Pradesh, Pondicherry, Jharkhand and Delhi.

The Chairman of the State Pollution Control Board of all the above States are directed to inspect the quartz-grinding units within a period of three weeks from today and see whether the deficiencies pointed out by the Central Pollution Control Board in respect of such units in the State of Gujarat are there in the units in the respective States.

They may also, in the process of inspection, see whether there is any mandatory requirement to be satisfied in

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the matter of pollution.

Based on the inspection report, directions shall be issued to the units concerned regarding the mandatory compliance of the statutory parameters, giving them a month's time for compliance. After a month of issuance of such direction, the Chairman of the State Pollution Control Board concerned shall personally visit the units to see whether the directions have been complied with or not and if not, steps shall be taken forthwith to close down such units which have not complied with the directions issued by the Board.

Thereafter, the Chairman of the Pollution Control Board concerned of the above six States shall submit a report to this Court with regard to the inspection, the directions issued thereafter and the action taken, in case of non compliance. An affidavit by the Chairman concerned of each State shall be submitted within a period of ten (10) weeks from today. In case the affidavits, as above, are not filed, the respective Chairman shall be personally present before this Court on his own expense on the date of hearing after ten weeks.

Post this matter on 29 th

November, 2016 for the purpose of considering the Action Taken Report of the Chairman of the State Pollution Control Board of those six States. For considering the report of the Chairman of the Gujarat State Pollution Control Board, post this matter on 27 th September, 2016.

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I.A. No.22 of 2016

It is seen from the affidavit filed on behalf of the

State of Madhya Pradesh that in the districts of Jhabua and Alirajpur of Madhya Pradesh, 334 persons have been identified as affected by Silicosis. According to the State Government, appropriate action has been taken in the matter of their rehabilitation.

However, learned counsel appearing for the National Human Rights Commission and the NGOs submit that no meaningful steps have been taken particularly in the matter of medical rehabilitation.

In view of the above, we direct the Secretaries of the District Legal Services Authority of Jhabua, Alirajpur and Dhar to look into the affidavit filed by the State of Madhya Pradesh and the submissions given by way of rejoinder affidavit filed by Khedut Mazdoor Chetna Sangathan and Silicosis Peedit Sangh and recommendations of the National Human Rights Commission, and to conduct appropriate enquiry participating the victims concerned in each Taluk and submit a report to this Court as to whether the rehabilitation benefits actually have reached the victims. In case, it is found in the process that rehabilitation steps are still at the policy level, the District Legal Services Authorities concerned will take proper follow up action in collaboration with the concerned District Collectors of Jhabua, Alirajpur and Dhar, to see that the

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benefits and other eligible and permissible benefits actually are available to the victims concerned.

A report on the above aspects and on any other action which requires to be taken in this regard for the effective rehabilitation of the victims, will be submitted to this Court within eight weeks from today.

The District Legal Services Authority concerned in the process will also see whether any Silicosis affected person is deprived of the benefit of the government policies for rehabilitation and those cases will also be brought to the notice of the concerned District Collector of the aforesaid three Districts of the Madhya Pradesh for the purpose of rehabilitation. In case it is found in the process that any Silicosis affected person has died, steps should be taken through the District Collector concerned for extending benefits of the government policy and the required compensation amount of Rs.3,00,000/- in that regard, will be paid to the victim. The Chief Secretary of the State of Gujarat will make available necessary funds in the light of our order dated 4.5.2016. Put up on 29.11.2016 for further consideration of the matter.

The Registry will communicate the copy of this order, copy of additional affidavit filed by the State and the copy of the submission of N.H.R.C. to the District Legal Services Authority of Jhabua, Alirajpur and Dhar in the State of Madhya Pradesh.

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I.A. No. 10/2010

The Writ Petition has been filed in public interest due to the unprecedented prevalence of silicosis and occupational disease in the various industries across the country.

This Court's attention was drawn for an urgent need for detection of such diseases among the workers of the weaker sections and for appropriate guidelines in the matter of prevention and treatment of Silicosis and other occupational diseases. Appropriate directions were also sought in the matter of compensation, medical treatment and other rehabilitation matters.

It is brought to the notice of this Court that about ten million patients were affected by such diseases, who have been working in mines and quarries, factories, etc.

The severity of the problems are mainly in the States of Delhi, Haryana, Rajasthan, Madhya Pradesh, Gujarat, Jharkhand and Puducherry.

The National Human Rights Commission (for short 'N.H.R.C.')

had conducted a detailed survey on this issue and submitted a report to the duty holders concerned. But it appears no meaningful action has been taken either in any of the prevention and rehabilitation areas. The N.H.R.C. has got impleaded itself in this writ petition. There are some other Non-Government Organizations also.

Vide order dated 30 th

January, 2008 in W.P.(C) No.79 of 2005

titled 'Occupational Health & Safety Association Versus Union of

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India & Ors.' this Court had considered certain aspects on reduction of occupational hazards of the employees of the Thermal Power Stations in the Country and had also issued certain directions:

1. Comprehensive medical check up of all workers in all coal fired thermal power stations by doctors appointed in consultation with the trade unions. First medical checkup to be completed within six months.

2. Free and comprehensive medical treatment to be provided to all workmen found to be suffering from an occupational disease, ailment or accident until cured or until death.

3. Services of the workmen no to be terminated during illness and to be treated as if on duty.

4. Compensation to be paid to workmen surrendering from any occupational disease, ailment or accident in accordance with the provisions of the Workmen's Compensation Act 1923.

5. Modern protective equipment to be provided to workmen as recommended by an expert body in consultation with the trade unions.

6. Strict control measures to be immediately adopted for the control of dust, heat, noise, vibration and radiation to be recommended by the National Institute of Occupational Health(NIOH) Ahmadabad, Gujarat.

7. All employers to abide by the Code of Practice on Occupational Safety and Health Audit as developed by the

Bureau of Indian Standards.

8. Safe methods be followed for the handling, collection and disposal of hazardous waste to be recommended by NIOH.

9. Appointment of a Committee of experts by NIOH including therein Trade Union representatives and Health and Safety NGO's to look into the issue of Health and Safety of workers and make recommended.

Despite all these, Shri Colin Gonsalves, learned senior counsel appearing for the petitioner submits that no effective action has been taken so far. As directed by this Court, the petitioner has made a comprehensive submission regarding the steps to be taken in each state. It is not in dispute that those directions apply to silica units as well.

There will be a direction to the Chief Secretary of the respective States to file an affidavit, after convening a meeting of the duty holders regarding the implementation of the various reports and to file an affidavit as to the action taken in respective states.

We make it clear that we are not concerned with any policy framework of the State. The report is on the benefits which have actually been made available to the victims.

The Chief Secretary of the States concerned shall submit a detailed report as above within a period of two months from today, failing which they will be present before this Court on their own expenses on the next date of hearing.

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In the State of Haryana, we direct Dr. K.S. Bhagotia,

Special Programme Officer (Silicosis), Directorate of Health Services (in 2011), Govt. of NCT of Delhi to constitute an appropriate team of competent persons and conduct appropriate field enquiry in Delhi and Haryana and submit a report before this Court with regard to the medical facilities available to the patients affected by silicosis and whether any compensation was made available to the them, etc.

Such exercise in the State of Puducherry will be carried out by Dr. Amalopavanathan, Senior Surgeon, Madras Medical College, Chennai and Dr. Rakhal Gaitonde, Community Health Specialist, Community Health Cell, Chennai (in 2011), in the State of Jharkhand by Dr.Subhash Prasad, TB In-charge, Sadar Hospital, Hazaribagh, Jharkhand, in the State of Rajasthan by Dr.T.K.Joshi Centre for Occupational and Environmental Health, Maulana Azad Medical College, New Delhi, in the State of Madhya Pradesh by Dr. H.N. Syed, retired Director, National IOH, Ahmedabad, in the State of Gujarat by Dr.S.S.Waghe, Director (Medical), Cell for Monitoring Silicosis.

Such reports shall be filed within three months so that the required expenditure shall be born by the State concerned where the enquiry is being conducted.

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I.A.No. 11/2010

On the legal framework, the learned senior counsel appearing for the petitioners has brought to our notice that the duty holders are the Director General Mines Safety (DGMS), Ministry of Labour & Employment, Government of India and the Director General, Factory Advice Service and Labour Institutes (DG-FASLI), Government of India.

We direct the above duty holders to submit a report on the following aspects:

i) The geographical location and the industries/mines state-wise where workers at risk of silicosis are to be found and the estimates of the number of workers working at these sites.

ii) The details of the number of workers suffering from silicosis/ pneumoconiosis in the country state-wise and industry/mine-wise.

iii) The details of the workers covered by clause(ii) above regarding medical treatment and compensation paid.

iv.) Details of the number of workers who had died of silicosis during the last 10 years and the details of compensation if any, paid.

There shall also be a direction to the Director General Mines Safety (DGMS) and Director General, Factory Advice Service and Labour Institutes (DG-FASLI) to carry out an occupational

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health and safety survey of silicosis affected workers under section 91A of the Factories Act 9A of the Mines Act, by actively involving, apart from government officials, the non-government organizations working on silicosis affected areas and submit a comprehensive report to this Court within eight weeks from today as to the facilities available in the field of treatment, actual payment of compensation made available to the victims and other rehabilitation steps for the affected workers and their family members. It shall also be made clear in the report as to the preventive measures introduced and implemented in the industries throughout the country.

In the state of Delhi, we also direct the Chief Secretary to look into the report submitted by Dr. T.K.Joshi regarding the problems of Lal Kuan area of silicosis victims and submit a report on the action taken on the recommendations made by Dr. T.K. Joshi.

Post on 29.11.2016 to consider the affidavits and reports filed by the Chief Secretary concerned of the seven states.

We direct the Chief Secretary of each State to make all arrangements for facilitating the survey and preparation of the

reports by the doctors concerned in each State.

(Rajni Mukhi) (Sanjay Kumar-II) (Renu Diwan ) (Sukhbir Paul Kaur)

Sr. P.A. Court Master            A. R.    A.R.-cum-P.S.