



International Environmental
Law Research Centre

Supreme Court Orders of 26 October 2004,
17 September 2004 and 17 August 2004

IN THE SUPREME COURT OF INDIA RECORD OF PROCEEDINGS

I.A.Nos.46-51 in Civil Appeal Nos.3187-3188 of 1988

And

I.A.Nos.5-6 in I.A.Nos.46-47 in Civil Appeal Nos.3187-3188 of 1988

And

I.A.Nos.1-2 in I.A.Nos.46-47 in Civil Appeal Nos.3187-3188 of 1988

UNION CARBIDE CORPN. LTD. Appellant

Versus

Union of India Respondent

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<http://www.ielrc.org/content/c0501.pdf>*

(For directions and office report)

Writ Petition (C) No.547 of 2004

(with appln. (s) for directions and office report)

Date: 26.10.2004 These matters were called on for hearing today.

CORAM: HON'BLE MR. JSUTICE SHIVARAJ V. PATIL

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For appellant (s): M/s J.B. Dadachanji & Co. Advs. (N/P)

In W.P. 547/2004: Mr. M.N. Krishnamani, Sr. Adv.

Mr. Rameshwar Prasad Goyal, Adv.

For respondent (s): Mr. Arun K. Sinha, Adv.

Mr. P.P. Malhotra, ASG

Mr. T.S. Dobia, Sr. Adv

Mr. S.W.A. Quadri, Adv.

Ms. Rekha Pandey, Adv.

Mr. P. Parmeswaran, Adv.

Mr. B.K. Prasad, Adv

Ms. Sushma Suri, Adv.

Mr. V.R. Reddy, Sr. Adv.

Mr. Sakesh Kumar, Adv.

For Mr. S.K. Agnihotri, Adv.

Mr. Prashant Bhushan, Adv

Mr. A. Mariarputham, Adv

Mr. K.J. John, Adv

Ms. Indu Goswamy, Adv.

Mr. S. Muralidhar, Adv.

Mr. Somiran Sharma, Adv

Mr. Amit Sharma, Adv.

Ms. Mridula Ray Bharadwaj, Adv

Mr. D.S. Mahra, Adv

Mr. R.K. Jain, Sr. Adv

Mr. S.B. Upadhyay, Adv

Mr. Kuldeep Parihar, Adv.

Mr. H.S. Parihar, Adv.

Ms. Indra Jaising, Sr. Adv

Ms. Lalit Mohini Bhat, Adv

Mr. Naveen R. Nath, Adv.

Mr. Harish Uppal, Adv

UPON hearing counsel the Court made the following

ORDER

I.A.Nos.50-51 in Civil Appeal Nos.3187-3188 of 1988:

Issue notice.

Four weeks' time is granted to the parties, including the applicants in I.A.Nos.46-47 and 48-49 in Civil Appeal Nos.3187-3188 of 1988, to file counter affidavits to these interlocutory applications.

I.A.Nos.5-6 in in I.A.Nos.46-51 Civil Appeal Nos.3187-3188 of 1988:

The very question raised in these interlocutory applications is said to be pending consideration before the High Court. this being the position, no orders are required to be passed on these interlocutory applications. Hence, they are disposed of accordingly. However, liberty is reserved to the applicant in these interlocutory applications, if need be, to make an appropriate application at an appropriate stage.

I.A.Nos.48-49 in Civil Appeal Nos.3187-3188 of 1988:

Issue notice.

Four weeks' time is granted to the Union of India to file counter affidavit.

I.A.Nos.46-47 in Civil Appeal Nos.3187-3188 of 1988:

We have perused the Report of the Welfare Commissioner annexed to his letter dated 18th August, 2004 and heard the learned counsel for the parties in regard to the said Report. The action plan proposed by the Welfare Commissioner appears to be well thought and well-considered. There appears to be no objection for accepting the Report and the action plan, as proposed by the Welfare Commissioner. In this view, we approve the action plan, as proposed by the Welfare Commissioner, and permit him to proceed accordingly in the matter. We may only add that the disbursement of pro-rata compensation may commence from 15th November 2004 and shall be completed by 30th April 2005.

Interlocutory applications are, accordingly, disposed of.

I.A.Nos.1-2 in I.A.Nos.46-47 in Civil Appeal Nos.3187-3188 of 1988:

Mr. S. Muralidhar, learned counsel, states that in view of the orders passed in I.A.Nos.46-47 in Civil Appeal Nos.3187-3188 of 1988, these interlocutory applications do not survive for consideration. Accordingly, they are dismissed.

Writ Petition (Civil) No.547 of 2004:

We are not inclined to entertain this petition under Article 32 of the Constitution of India. The writ petition is, accordingly, dismissed.

However, it is open to the petitioner to approach the High Court in the first instance.

(T.I. Rajput)

(Shelly Sengupta)

Court Master

Court Master

Mr. Sakesh Kumar, Adv.
For Mr. S.K. Agnihotri, Adv.

Ms. Madhu Sikri, Adv
Mr. Jainendra Maldahiyar, Adv.

UPON hearing counsel the Court made the following

ORDER

The terms and conditions for the Monitoring Committee and the Advisory Committee shall be as under:

A. PROCEDURAL MATTERS:

1. The Monitoring Committee will have a minimum quorum of three other than the Convenor.
2. The Monitoring Committee will meet at least once every month and more frequently if so decided by the Monitoring Committee.
3. The Monitoring Committee will keep a record of all its deliberations and submit a Report on its activities through its Chairman once in every three months to the Hon'ble Supreme Court and a copy of the same will be sent to the Government of Madhya Pradesh, Department of Medical Education.
4. The Monitoring Committee will determine its own rules of procedure in regard to the receipt, hearing and disposal of the complaints and grievances by the Bhopal Gas Victims in particular and the public in general. It will be open to the petitioners and their representatives to make suggestions/submissions before the Monitoring Committee.
5. The Government of Madhya Pradesh, Medical Education Department will provide the space as well as logistic support (Secretarial assistance, conveyance, etc.) to the Monitoring Committee in order to ensure its smooth and effective functioning.
6. The Chairman and Members of the Monitoring Committee will function on an honorary basis.
7. The Government of Madhya Pradesh will take all necessary steps to implement the sugges-

tions of the Monitoring Committee.

8. It will be open to the Monitoring Committee, any of the petitioners or the State Government to apply to the Hon'ble Court in regard to the functioning of as well as the implementation of the suggestions of the Monitoring Committee.

B. TERMS OF REFERENCE OF THE MONITORING COMMITTEE:

The Monitoring Committee shall over see the function of the hospitals and clinics run by the Government of Madhya Pradesh for catering to the health care needs of Bhopal Gas Victims. It shall be a constant endeavour of the Monitoring Committee to ensure that timely, efficient and effective health care is made available to the Gas Victims. Without prejudice to the aforesaid the Monitoring Committee shall particularly monitor the following:

1. Quality, adequacy and availability of medicines and other clinical disposables for the hospitals and clinics. The Monitoring Committee shall not in any way be concerned with the purchase of medicines, medical equipments and other clinical disposables which shall remain the responsibility of the State Government, through the appropriate department.
2. Suitability, availability and maintenance of the medical equipment.
3. The deployment of adequate, component medical and personnel and staff and their availability.
4. Complaints and grievances of victims of Bhopal Gas disaster in particular and the public in general in relation to:
 - (a) the treatment offered at and the functioning of the hospitals/ clinics run by the Government for the Bhopal Gas victims.
 - (b) purchase of medicines including emergency/ local purchase and undergoing clinical tests in hospitals/ clinics run by the Government of the instance of doctors or staff in such hospitals.
 - (c) purchase and maintenance of equipment for hospitals/ clinics run by the Government for the Bhopal Gas victims.
 - (d) Behaviour of doctors or staff towards patients or their attendants in the hospitals run by the Government for the Bhopal gas victims.

- (e) Admission and discharge of the patients in the hospitals run by the Government for the Bhopal Gas victims.
5. The effectiveness of the functioning of emergency medical services for Bhopal gas victims.
 6. The effectiveness of the system of registration in monitoring therapeutic response of patients and issuing of health book/ health card.
 7. System of regulation of prescription of drugs with potential toxicity including antibiotics, steroid and psychotropic drugs.
 8. Ambulance facilities for people too weak or sick to travel to the hospital and facilities for dignified transport of the dead to their homes.
 9. Safe disposal of medical wastes generated at the hospitals and clinics run by the Government for the Bhopal gas victims.
 10. Registration of patients and issuing of health book/ health card.
 11. Computerisation of medical data.
 12. Food and services available for indoor patients in different hospitals.
 13. Treatment of cancer.
 14. Registration and treatment of persons resident in Bhopal affected by contamination of the water and subsoil as a result of the Union Carbide Plant in Bhopal.
 15. Treatment of TB including Multi Drug Resistant TB.
 16. Provision of supplementation support medical services through hospitals and clinics based on Ayurveda, Unani and Homeopathy.

II. FUNCTIONING AND TERMS OF REFERENCE OF THE ADVISORY COMMITTEE.

A. PROCEDURAL MATTERS

1. The Advisory Committee will have a minimum of quorum of four.
2. The Advisory Committee will meet at least twice every year and more frequency if so decided by the Advisory Committee.
3. Advisory Committee will keep a record of all its deliberations and submit a Report on its activities through its Chairman once in every six months to the Hon'ble Court. It shall simultaneously send one copy of the report to the Government of Madhya Pradesh.
4. Advisory Committee will determine its own rules of procedure. It will be open to the petitioners and their representatives to the suggestions/ submissions before the Advisory Committee.
5. The Government of Madhya Pradesh, Medical Education Department will provide the space as well as well as logistic support (Secretarial assistance, conveyance, etc.) to the Advisory Committee in order to ensure its smooth and effective functioning.
6. The Chairman and Members of the Advisory Committee will function on an honorary basis.
7. The Government of Madhya Pradesh will take all necessary steps to implement the suggestions of the Advisory Committee.
8. It will be open to the Advisory Committee, any of the petitioners or the State Government to apply to the Hon'ble Court in regard to the functioning of as well as the implementation of the suggestions of the Advisory Committee.

B. TERMS OF REFERENCE OF THE ADVISORY COMMITTEE:

1. To examine the treatment practices currently followed by the medical personnel in the hospitals/ clinics run by the Government for the Bhopal Gas victims for the various ailments suffered by them.
2. To recommend/ advice on the appropriate line of treatment to be offered to the Bhopal Gas victims.
3. To recommend/ advice on the structure and content of the research to be undertaken in order to improve the quality of the treatment being offered to the Bhopal Gas victims.

4. To recommend/ advice on the structure and content of the research to be undertaken in order to document long term health consequences of toxic exposure including effect on children born to exposed parents after the disaster. The Advisory Committee shall from time to time and as found necessary consult with the Indian Council of Medical Research in this regard.
5. To recommend community health initiatives in health education and community participation in prevention and care.
6. To advice on what kinds of medical equipment and medicines need to be required to improve the quality of the treatment being offered to the Bhopal Gas victims.
7. To look into any other issues identical to the matters at 1 to 6 above.

List the petition after four months.

I.A.No.6 in W.P. (C) No.50 of 1998:

At request, six weeks' time is granted to the Union of India to file reply to the interlocutory application.

(T.I. Rajput)

Court Master

(Shelly Sengupta)

Court Master

Ms. Rekha Pandey, Adv
Ms. Sunita Sharma, Adv
For Ms. Anil Katiyar, Adv.

State of M.P. Mr. V.R. Reddy, Sr. Adv.
Mr. Sakesh Kumar, Adv

For Mr. S.K. Agnihotri, Adv.

ICMR: Mr. V.K. Rao, Adv
Mr. Sakeh Sikri, Adv
For Ms. Madhu Sikri, Adv

UPON hearing counsel the Court made the following

ORDER

Having heard learned counsel for the parties we appoint the following members to constitute the Advisory Committee:

1.	Director General, ICMR		Chairman
2.	Dr. P.M. Bhargav	Molecular Biologist	Member
3.	Dr. C.C. Chaubal	Ex. Professor of medicine re-	Member
		nowned Gastro Enterologist	
4.	Dr. Shyam Aggarwal	Oncologist	Member
5.	Dr. Deepak Mahta	Medical Practitioner	Member
6.	Dr. C. Satyamala		Member
7.	Director AIIMS		Member

We appoint the following members to constitute the Monitoring Committee

1.	Mr. O.P. Mehra	Retd. I.A.S.	Chairman
2.	Dr. M.H. Kanhere	Former Professor of Surgery	Member
3.	Dr. H.H. Trivedi	Ex. Professor of Medicine and Trustee of Sambhavana Trust	Member
4.	Mr. Purnendu Shukla	Journalist	Member
5.	Director of Medical Education		Member Convenor

The proposed terms of reference to the Advisory Committee and the Monitoring Committee will be given by the learned counsel for the parties within three days.

List this matter on Monday, the 23rd of August 2004.

I.A.No.6 in W.P. (C) No.50/98:

To be listed after four weeks during which period, the Union of India shall file objections of this application.

Sarita

(Shelly Sengupta)

Court Master

