

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

WP No. 2802 of 2004

(ALOK PRATAP SINGH (DECEASED) IN REM vs THE UNION OF INDIA AND OTHERS)

WP/1993/2004

Dated : 03-12-2024

Shri Naman Nagrath, Senior Advocate with Shri K.N. Fakhruddin, Advocate for petitioners.

Shri Pushpendra Yadav, Deputy Solicitor General and Shri S.K. Shukla, Advocate for respondent No.1/Union of India.

Shri H.S. Ruprah, Additional Advocate General with Dr. S.S. Chouhan, Government Advocate for State.

Shri Ashish Shrotri, Advocate for respondent- M.P. Pollution Board.

Shri Ravindra Shrivastava - Senior Advocate and Shri Kishore Shrivastava- Senior Advocate with Ms. Shiraz Patodia, Shri Ashish Singh, Ms. Divya Shirma, Ms. Juhi Chawla and Shri Kunal Thakre- Advocates for respondent No.4.

Shri Rajeev Mishra, Shri S.K. Verma and Ms. Shakshi Pawar, Advocates for respondent No. 7.

Shri Shreyas Dharmadhikari, Advocate for intervenor International Campaign for justice Sambhavana Trust, Bhopal.

Shri N. D. Jayprakash, appears through V.C. for Intervenor/Bhopal Gas Peedith Sangharsh Sahyog Samiti and Shri Avininder Singh, Senior Advocate and Shri Teerthesh Bhariya, Advocate, Shri Akshay Pawar, Advocate for intervenor/B.G.I.A.

We have perused the various orders passed by this Court on

30.03.2005, 13.05.2005 and 23.06.2005 and thereafter the recently passed order dated 11.09.2024. Though some steps have been taken but they are minimal and cannot be appreciated for the reasons that the present petition is of the year 2004 and almost 20 years have elapsed but the respondents are at first stage, as mentioned in para 7(i) of order dated 20.03.2005 and para 4(i) of order dated 13.05.2005. This is a really sorry state of affairs because the removal of toxic waste from plant site, decommissioning the MIC and Sevin plants and removal of contaminants that have spread in the surrounding soil and ground water, are of paramount requirement for safety of general public of Bhopal city. Incidentally, the MIC gas disaster at Bhopal took place this very date, exactly 40 years ago.

2. In view of the above, we hereby direct that the Principal Secretary, Bhopal Gas Tragedy Relief and Rehabilitation Department to perform its statutory obligations and duties under the Environmental Laws of this country. We further direct immediate clean up of the Union Carbide Factory site at Bhopal and to take all remedial measures for removal and safe disposal of the entire toxic waste/material from the area concerned. The cost if any, to implement the directions, shall be borne by the State Government and Central Government as already directed by this Court. The learned counsel appearing for Central Government submits that they have already paid their share to the State Government, however, the State Government has not spent that amount. Whereas the learned Additional Advocate General appearing for State submits that they have already received Rs.126 crores and contract awarded and the contractor has already been paid 20% of the

aforesaid amount, however, till date the contractor concerned has not taken any steps. He further submits that they will start the process within three weeks from today.

3. The Regional Officer, M.P. Pollution Board, Dhar is present in person. He submits that they are ready to dispose of material and they have 12 trucks available with them and the State Government can utilize the same for the purpose of transportation of the toxic waste/material.

4. It is not in dispute that the contract for this purpose is dated 23rd September, 2021. The money has already been paid on 04.03.2024. The plan produced by the Counsel for State Government is dated 20.03.2024 and as per the said plan the minimum period has been shown as 185 days and maximum 377 days.

5. We fail to understand that in spite of issuance of various directions from time to time by the Hon'ble Supreme Court as well as by this Court, pursuant to the plan dated 23.03.2024, till date no steps seem to have been taken to remove the toxic waste/material. They are still in state of inertia despite 40 years from the date of gas tragedy. Though plan has been sanctioned, contract has been awarded, but still the authorities are in inertia that may lead to another tragedy to take shape before acting further.

6. Accordingly, we hereby direct the respondents/State Government and the concerned authorities to sit together and if any permission or any formality is required, the same is to be granted within one week. If any of the departments fails to comply with the order passed by this Court, the Principal Secretary of the Department shall be prosecuted under the Contempt of

Courts Act. Further, the steps for removal of toxic waste/material shall be taken and sent to the place assigned within four weeks from today failing which the Chief Secretary of the State Government of M.P. and the Principal Secretary, Bhopal Gas Tragedy Relief and Rehabilitation Department shall be personally present before this Court to explain as to why various orders passed by this court have not been complied with. If any of the authorities creates any hurdle or impediment regarding compliance of the orders of this Court, the Chief Secretary of the State Government of M.P. shall indicate on the next date of hearing so that this Court may take strict action against the said authority.

7. We hereby make it clear that all the safety measures shall be taken during transportation and disposal of the toxic waste/material.
8. The compliance report shall be supported with personal affidavit of Principal Secretary, Bhopal Gas Tragedy Relief and Rehabilitation Department, Government of Madhya Pradesh. The said report shall contain each day's progress starting from tomorrow onwards.
9. For compliance of this order, list the case on 06.01.2025.

(SURESH KUMAR KAIT)
CHIEF JUSTICE

(VIVEK JAIN)
JUDGE