

ITEM NO.29

COURT NO.4

SECTION PIL-W

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

CONMT.PET.(C) No.244/2021 in W.P.(C) No.213/2011

BAIJU K.G & ORS.

Petitioner(s)

VERSUS

DR. V.P. JOY

Respondent(s)

(With IA No.30400/2021 - EXEMPTION FROM FILING O.T.)

Date : 13-05-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s) Mr. P.N. Ravindran, Sr. Adv.
Mr. P.S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Shruti Jose, Adv.
Mr. Bharat Sood, Adv.

For Respondent(s) Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 A compliance report dated 9 May 2022 has been filed by the Chief Secretary to the Government of Kerala. The report indicates that on 16 March 2022, the Chief Secretary convened a meeting in connection with the need for

disbursing compensation to the victims of Endosulfan, in compliance with the judgment of this Court dated 10 January 2017. A team of officials from the Health and Revenue departments has been constituted to visit the homes of 3704 victims to whom compensation has to be provided. Of these victims, 102 are found to be bedridden, 326 to be mentally challenged, 201 to be physically disabled, 119 to be afflicted with cancer while 2966 fall in the residual category. The Government of Kerala has done virtually nothing for five years. Besides the fact that the delay is appalling, the inaction is in breach of the orders of this court.

- 2 The State Government has now taken a decision on 15 January 2022 by issuing GO(Rt) No 1877/2022/Fin to authorize the disbursal of an additional amount of Rs 200 crores for providing compensation to the victims of Endosulfan. As of date, an amount of Rs 5 lakhs has been disbursed only to eight persons who are the petitioners who have moved these contempt proceedings. We fail to understand the logic or the rationale of the State Government in disbursing compensation only to those who have the ability to move this Court.
- 3 There are a large number of victims to whom no compensation has been provided despite the passage of over five years since the date of the judgment of this Court. Most of the victims, as the data before the Court indicates, are from the marginalized segments of society. Many of the victims are in a pitiable condition to whom compensation on an urgent basis has to be provided.
- 4 That apart, in the order of this Court dated 10 January 2017, the State Government was directed to consider the feasibility of providing medical facilities or treatment to deal with life-long health issues arising out of the effects of Endosulfan, particularly having regard to the large number of persons involved. The State Government has not disclosed what steps it has taken to provide for medical treatment and rehabilitation to these victims.

The right to health is an integral part of the right to life under Article 21 of the Constitution. Without health, the faculties of living have little meaning. We would be justified in taking recourse to the coercive arm of law. However, our immediate concern is providing relief and rehabilitation to the victims who are suffering. We accordingly issue the following directions:

- (i) Since the payment of compensation has been made, though belatedly to eight petitioners who have moved these proceedings, costs quantified at Rs 50,000 each shall be paid over in addition to each of the eight persons within a period of three weeks from the date of this order;
- (ii) The Chief Secretary shall hold monthly meetings to ensure that the judgment of this Court dated 10 January 2017 is diligently implemented by undertaking the process of (a) identifying the victims of Endosulfan and drawing up a list of beneficiaries; (b) ensuring the disbursement of compensation of Rs 5 lakhs to each of the victims; and (c) taking steps for ensuring due medical facilities in terms of the earlier directions of this Court.
- (iii) An affidavit of compliance shall be filed before this Court indicating the progress which has been made between the date of this order and the next date of listing.

5 List the Contempt Petition on 18 July 2022.

(CHETAN KUMAR)
A.R. - cum - P.S.

(SAROJ KUMARI GAUR)
Court Master