

December 20, 1999, has been actively involved in occupational health work, specifically concerning stone crusher workers, stone quarry workers and construction workers.

2. Silicosis is an incurable occupational lung disease caused by prolonged inhalation of silica dust and it has been rampant throughout India due to inadequate detection, monitoring, and remedial measures. It predominantly affects workers engaged in industries such as mining, construction, stone cutting, and sandblasting, where they are exposed to high levels of silica dust. Over time, the inhaled silica particles cause inflammation and scarring of the lung tissue, leading to reduced lung function and severe respiratory distress. The disease manifests in three forms: chronic, accelerated, and acute silicosis, depending on the intensity and duration of exposure. Chronic silicosis, the most common form, develops over 10 to 30 years of low to moderate exposure, while accelerated and acute forms occur over shorter periods with higher exposure levels. The symptoms include shortness of breath, persistent cough, chest pain, and fatigue, often leading to severe disability and premature death. Despite its preventable nature through adequate safety measures, monitoring, and

use of protective equipment, the lack of stringent enforcement and awareness has resulted in a significant number of workers contracting this debilitating disease. The petitioner underscores the urgent need for systemic reforms to address the detection, prevention, and treatment of silicosis to protect the health and rights of workers across the country.

3. The petitioner contends that the pervasive and unchecked prevalence of silicosis among workers in various industries constitutes a violation of the workers' fundamental rights under the Constitution of India. Central to this petition is the assertion that the right to health, safety, and a life of dignity, enshrined under Article 21 of the Constitution, is being grossly neglected. Furthermore, the Petitioner invokes the Directive Principles of State Policy, particularly Articles 39(e) and 42 of the Constitution of India which mandate the State to ensure that the health and strength of workers is not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. The petitioner argues that the State's failure to protect workers from hazardous conditions and provide adequate medical care, compensation, and

rehabilitation is a direct infringement of these constitutional mandates. Additionally, the petitioner submits that the Right to a clean and healthy environment, as implicit under Article 48A, is being violated. The petitioner also references Article 43, which directs the State to ensure a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities for workers.

4. The Petitioner organization highlights the lack of sufficient insurance, treatment, compensation, and rehabilitation for victims and their families. The Petitioner has urged this Court to direct the constitution of a high-level committee to comprehensively address the detection and management of silicosis and other occupational diseases among workers, particularly in the unorganized sector. Furthermore, the Petitioner seeks guidelines for the prevention and treatment of such diseases, the rehabilitation of affected persons and families, compensation for the families of deceased workers, and alternative employment opportunities for the victims' family members.

Summary of Proceedings thus far

5. This Writ Petition was filed in 2006. Since then, various orders have been passed and it would be necessary to go through them to understand the current scenario pertaining to this writ petition. The original Writ Petitioner had the following Respondents:

- The Union of India
- Ministry of Law, Justice and Company Affairs.
- Ministry of Health and Family Welfare
- The State of Haryana
- The State of Rajasthan
- The State of Gujarat
- The State of Delhi
- The Union of Territory of Puducherry.

5.1. On 27.03.2006, notice was issued to these respondents. Given the human rights aspect of this matter, the National Human Rights Commission¹, a statutory body constituted under Protection of Human Rights (Amendment) Act, 2006, was also made a party to these proceedings constituted to ensure compensation is reached to the families of the victims.

¹ NHRC

- 5.2. On 25.07.2008, NHRC was permitted to implead the Central Pollution Control Board² as a party.
- 5.3. On 5.3.2009, pursuant to court's order, the NHRC submitted its preliminary report on a survey on silicosis affecting workers in various industries which showed that the issue is widespread across many states, and further surveys were needed. The Ministry of Health and Ministry of Labour, Union of India, were directed to provide all necessary assistance to the NHRC for further action regarding silicosis. The NHRC was directed to address specific confirmed cases of silicosis, recommending immediate medical relief for sufferers and compensation for families of those who died due to the said disease.
- 5.4. On 01.02.2010, the State of Madhya Pradesh was also added as a respondent in this matter.
- 5.5. On 12.11.2010, following an order of this court dated 05.03.2009, the NHRC submitted a detailed report highlighting the State of Gujarat's failure to protect workers affected by Silicosis

² CPCB

and recommending compensation to them. The report observed that there was failure on the part of the enforcement agencies in Gujarat to ensure protection of the mine workers in Godhra and it recommended an amount of Rs 3,00,000/- as compensation to the next of kins of the 238 workers who had died due to Silicosis. Moreover, the 304 workers which had come from the State of Madhya Pradesh to work in Gujarat as mine workers were directed to be given rehabilitation packages by the relevant authorities of the State of Madhya Pradesh.

5.6. On 18.2.2014, given the prevalence of the issue in this matter, the Court impleaded the remaining States as Respondents in this matter.

5.7. On 4.5.2016, the Court observed that the directions issued in the report submitted by the NHRC on 12.11.2010 were not followed by the State of Gujarat. The Employees State Insurance Corporation³ was impleaded as a party-respondent through its Director General. The State of Gujarat was directed to comply with NHRC's recommendation by paying ₹1 lakh to

³ ESIC

the kins of each of the 238 deceased workers and depositing remaining ₹2 lakhs in their names in fixed deposits within one month. The Chief Secretary of Gujarat was directed to transfer ₹3 lakhs per deceased worker to the District Collectors of Jhabua and Alirajpur for distribution. The distribution was to be handled by the District Collectors, and assistance from ESIC could be sought if needed. The State of Madhya Pradesh was directed to file an affidavit detailing the rehabilitation steps for the 304 affected individuals identified by NHRC. The CPCB was also ordered to file an affidavit on actions taken based on the Committee's report on silicosis and pneumoconiosis in Godhra, Gujarat.

5.8. On 23.8.2016, the Court reviewed the affidavit filed by the District Collectors of the affected regions in the State of Gujarat and acknowledged their efforts in ensuring the compensation was received by the next of kins of the victims. The Court also reviewed the Additional Affidavit filed by the CPCB and observed that 16 out of 30 operational quartz grinding units in Gujarat were non-compliant

with statutory mandates. The CPCB also made recommendations for the State Pollution Control Board⁴ to address deficiencies. The Court directed the SPCB to file an affidavit within four weeks on actions taken based on these recommendations and on closing down 14 non-operational units. It was further stated that if non-compliant units intend to restart, they must meet mandatory requirements. SPCB must ensure compliance with mandatory pollution prevention measures and take steps to close non-compliant units. The CPCB also conducted an inspection of the quartz grinding units in the State of Gujarat and had made the following recommendations:

“i. Adequate provision of dust extraction systems shall be made at potential sources such as jaw crusher hoppers, transfer points of materials from conveyor belts, disintegrators, transfer points of materials from bucket elevators to other plant equipment, rotary screens, magnetic separators, vibratory screens, etc. The dust extraction systems of such potential sources shall be routed through an Air Pollution Control Device (APCD). Stacks attached to APCDs are to be equipped with adequate

⁴ SPCB

monitoring facilities as per CPCB Emission Regulation, Part-III.

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

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

iv. The internal roads shall be made of bitumen/concrete to reduce fugitive emissions by vehicular movement, with proper cleaning and wetting mechanisms.

v. Provision of a green belt shall be made along the periphery of the individual units.

vi. Provision shall be made for systematic water sprinkling at places of dust generation to reduce fugitive emissions, and records of water utilization shall be maintained.

vii. A telescopic chute or any other system shall be adopted to reduce fugitive emissions while loading the products into trucks or fine dust in bags.

viii. Provision of Personal Protective Equipment (dust masks, helmets, safety shoes, goggles, earplugs) and utilization by all workers during the 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 housekeeping shall be improved.

xi. The units shall submit a time-bound action plan to comply with the above measures within 30 days.”

5.9. Hence, pursuant to the recommendation of the CPCB, the Court directed the SPCB Chairmen of Haryana, Rajasthan, Madhya Pradesh, Puducherry, Jharkhand, and Delhi to inspect quartz grinding units and report deficiencies within three weeks. SPCB Chairmen were directed to personally visit units' post-compliance period and take steps to close non-compliant units.

5.10. The State of Madhya Pradesh had identified 334 silicosis-affected individuals who claimed rehabilitation actions. The District Legal Services Authorities of Jhabua, Alirajpur, and Dhar were directed to verify actual distribution of benefits and submit a report within eight weeks. They were to ensure that no silicosis-affected individual was deprived of benefits. In case of deceased victims, compensation was to be processed as per policy.

5.11. The Court made further observation on the general problems of silicosis in India and

observed that the severity of the problems is mainly in the States of Delhi, Haryana, Rajasthan, Madhya Pradesh, Gujarat, Jharkhand, and Puducherry. The NHRC had conducted a detailed survey on this issue and submitted a report to the duty holders concerned. But the court noted that no meaningful action has been taken either in any of the prevention and rehabilitation areas. The Court made further observations that vide order dated 30th January 2008 in W.P.(C) No. 79 of 2005 titled 'Occupational Health & Safety Association Versus Union of India & Ors.' this Court had considered certain aspects on the reduction of occupational hazards of the employees of the Thermal Power Stations in the country and had also issued the following directions:

- “i. Comprehensive medical check-up of all workers in all coal-fired thermal power stations by doctors appointed in consultation with the trade unions. The first medical check-up is to be completed within six months.*
- ii. 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.*

- iii. Services of the workmen not to be terminated during illness and to be treated as if on duty.*
- iv. Compensation to be paid to workmen suffering from any occupational disease, ailment, or accident in accordance with the provisions of the Workmen's Compensation Act 1923.*
- v. Modern protective equipment to be provided to workmen as recommended by an expert body in consultation with the trade unions.*
- vi. 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), Ahmedabad, Gujarat.*
- vii. All employers to abide by the Code of Practice on Occupational Safety and Health Audit as developed by the Bureau of Indian Standards.*
- viii. Safe methods to be followed for the handling, collection, and disposal of hazardous waste to be recommended by NIOH.*
- ix. Appointment of a Committee of experts by NIOH including representatives from trade unions and Health and Safety NGOs to look into the issue of Health and Safety of workers and make recommendations.”*

5.12. The Court noted that these directions would be applicable to silica units as well. There was 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 the respective states. The Court made it clear that it was not concerned with any policy framework of the State. The report was on the benefits which have actually been made available to the victims. The Court also directed the Chief Secretary of the States concerned to submit a detailed report as above within a period of two months from today, failing which they will be present before this Court at their own expense on the next date of hearing. The court assigned various specialists across the State of India to constitute an enquiry and report to the court with regard to the medical facilities available to the patients affected by silicosis and whether any compensation was made available to them, etc. The required expenditure was to be borne by the State concerned where the enquiry is being conducted. On the legal framework, the learned senior counsel appearing for the petitioners had brought to the notice that the duty holders were the Director General of 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. The court directed 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.*
- ii. The number of workers working at these sites and the estimates of the number of workers suffering from silicosis/pneumoconiosis in the country, state-wise, and industry/mine-wise.*
- iii. The details of the number of workers suffering from silicosis/pneumoconiosis, their medical treatment, and compensation paid.*
- iv. Details of the number of workers who died due to silicosis during the last 10 years and the compensation, if any, paid.”*

5.13. Thereafter, the Court also directed the Director General of Mines Safety⁵ and the Director General, Factory Advice Service and Labour Institutes (DG-FASLI) to carry out a health and safety survey of silicosis-affected workers under section 91A of the Factories Act and section 9A of the Mines Act, by actively involving, apart from government officials, non-

⁵ DGMS

government organizations working in silicosis-affected areas, and submit a comprehensive report to the Court 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. The Court directed 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.

5.14. On 10.2.2017, the Court allowed the impleadment application of *Silicosis Peedit Sangh*.

5.15. On 1.5.2017, the Court reiterated the order dated 23.8.2016 regarding compensation for those affected by and deceased from silicosis to be implemented by all States. The NHRC was permitted to file its recommendations. The CPCB was directed to file an affidavit detailing whether the recommendations in its report were being followed by quartz and other silica dust-producing industries.

5.16. On 05.03.2019, the Court reviewed the report submitted by CPCB filed on 24.7.2017

after the inspection of polluting units which had been functioning in the respondent-State. According to them, a grim picture of large-scale environmental law violations was taking place which led to serious health problems and deaths in affected areas.

5.17. Mr. Prashant Bhushan, counsel for the Petitioner, suggested further steps needed to be taken to ensure the closure of these polluting units. The Respondent counsel indicated that many units have been ordered to be closed, and further action is being taken for the closure of non-functional and still-operating units. It was submitted that the respondents-States who allowed such units to operate should be made to pay adequate compensation to the victims. The Union of India be also directed to submit their response to the Reports submitted by the NHRC.

6. Having perused the various reports submitted by the respective State Committees, the NHRC, the CPCB, and the DGMS, the instant writ petition raises two primary aspects for consideration. For both these aspects, there are statutory bodies duly constituted. They would be in a better position to monitor and oversee that the mandate of law and the earlier

directions issued by this Court are not only duly implemented but further necessary steps are also undertaken.

7. Firstly, the environmental aspect of the matter pertains to ensuring that industries abide by certain minimal standards to prevent silicosis among their workers. In the event of non-compliance, these industries should face closure. In our considered opinion, the National Green Tribunal⁶ is the appropriate authority to oversee this aspect of the matter. The NGT, established under the National Green Tribunal Act in 2010, is tasked with the expeditious disposal of cases related to environmental protection and the speedy implementation of decisions. Given that this writ petition was filed in 2006, prior to the establishment of the NGT, these matters could not have been presented before the Tribunal initially. However, we now direct the NGT to oversee the impact of silicosis-prone industries and factories across India and ensure that the CPCB and the respective SPCBs comply with the earlier directions of this Court. Furthermore, we direct the NGT to undertake any

⁶ NGT

additional necessary steps to prevent the spread of silicosis by such industries and factories.

8. The second aspect concerns ensuring that adequate compensation is received by the affected workers or 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.

9. We further direct the Registry of this Court to ensure that all the relevant reports and affidavits pertaining to this matter, as submitted by the respective State Committees, the CPCB, the NHRC, and the DGMS, are forwarded to the NGT and the NHRC to facilitate the execution of their responsibilities effectively and swiftly. Petitioners would also be at liberty to approach the NGT and NHRC and extend all cooperation in implementation of the directions.

10. The Writ Petition is accordingly disposed of.

Transferred Case (C) No.8 of 2017

11. The Transferred Case (C) No.8 of 2017 is also disposed of in the same terms as above.

.....**J.**
(VIKRAM NATH)

.....**J.**
(PRASANNA BHALACHANDRA VARALE)

NEW DELHI
AUGUST 06, 2024