

IN THE SUPREME COURT OF INDIA**INHERENT JURISDICTION****Contempt Petition (Civil) No 244 of 2021****IN****Writ Petition (Civil) No 213 of 2011****Baiju K G & Ors****... Petitioners****Versus****Dr V P Joy****... Respondent****ORDER**

- 1 The contempt jurisdiction of this Court was invoked for non-compliance of an order passed on 10 January 2017, requiring the State of Kerala to release compensation of Rs 5 lakhs to all persons affected by the use of Endosulfan. There was also a direction for considering the feasibility of providing medical treatment to deal with the health issues faced by affected persons.
- 2 Initially on 8 April 2022, this Court granted time to the State Government to enable it to effectuate compliance. Following the initial order, orders have been passed by this Court on 13 May 2022 and 18 July 2022.
- 3 On 5 August 2022, this Court noted that the State of Kerala had submitted a report on the updated status of providing compensation and palliative care to the victims of Endosulfan.
- 4 Finally, on 18 August 2022, this Court passed the following order :

- "1 An affidavit has been submitted by the petitioners in response to the status report which has been filed by the State of Kerala on 4 August 2022.
- 2 Mr P N Ravindran, senior counsel appearing on behalf of the petitioners, submits that there is no grievance in regard to the work which is being rendered by the District Health Authorities in Kasaragod, but the limitation arises due to the absence of proper infrastructural facilities for the treatment of the Endosulfan victims.
- 3 A report titled as "Situational Analysis of Healthcare Facilities for Endosulfan Victims in Kasaragod" is annexed to the affidavit of the petitioners.
- 4 In order to enable this Court to have an objective assessment of the medical and healthcare facilities which are available for the Endosulfan affected areas of Kasaragod at various levels, including the District Hospitals, General Hospitals, Community Healthcare Centres and Primary Healthcare Centres, we direct that the Secretary of the District Legal Services Authority¹, Kasaragod shall submit a report to this Court. The Secretary of the DLSA shall do so after visiting the healthcare facilities. The Secretary, DLSA shall submit a report on:
- (i) The existing healthcare facilities; and
- (ii) The facilities in regard to palliative care and physiotherapy.
- 5 The report shall cover the Endosulfan affected areas of Kasaragod District in Kerala, including at the District Hospitals, General Hospitals, Community Healthcare Centres and Primary Healthcare Centres.
- 6 Counsel instructing Mr Jaideep Gupta, senior counsel appearing on behalf of the State shall forward a copy of this order to the Secretary, DLSA, Kasaragod.
- 7 The Registrar (Judicial) shall forward a copy of this order to the Registrar General of the High Court so that the order can be made available to the Secretary, DLSA, Kasaragod. Counsel appearing on behalf of the State shall also provide a complete set of papers to the

1 "DLSA"

Secretary, DLSA, Kasaragod so as to facilitate the submission of the report.

- 8 All concerned authorities of the State Government shall cooperate with the Secretary, DLSA by providing necessary information and other logistical support to facilitate site visits at the facilities.
- 9 The report shall be submitted within a period of six weeks.
- 10 List the proceedings on 21 October 2022."

- 5 The Secretary of the District Legal Services Authority, Kasaragod has since submitted his report. The conclusions in the report are extracted below for convenience of reference :

- "70. As per the G.O (Rt.) No.1186/13 H&FWD dated 02.04.2013. The government of Kerala has empanelled 17 hospitals for extending free medical treatment for the endosulfan patients. Out of which, 3 hospitals are private medical colleges at Mangalore and Manipal of Karnataka State. Usually patients would prefer these private hospitals at Mangalore of Karnataka state, as they are nearest empanelled hospitals to Kasaragod District.
71. District Hospital, Kanhangad and General Hospital Kasaragod are two hospitals empanelled in the Kasaragod District. However, there is no super specialty facility in this two empanelled hospital in the District. Yonappoya Medical College Hospital, Mangalore Kasthurbha Medical College, Mangalore are two private tertiary care hospitals existing near to the Kasaragod district at a distance of 70 to 100 kms, although, these hospitals are situated in the Karnataka state. Similarly, the Government Medical College Hospital Kannur is situated in the neighbouring District at a distance about 60 to 90 kms.
72. Free transportation is available to endosulfan patients at all Government Healthcare centres to reach these three empanelled Medical Colleges. The vehicles allotted by NHM is on contract basis and thus transport facility is subject to monthly permissible limit of 2000 kms per month. So, free transportation is not made available to the patients to reach distant places. Considering the facility of District Hospital and General hospital at

Kasaragod, it can be seen that there is no facility for tertiary medical care in Kasaragod District and only remedy for the patient is to depend on the other nearby empanelled super specialty hospitals. So, many a time, needy patient has to travel to the other districts.

73. So, want of tertiary care facility in the district is a major difficulty in the field of health care in the District. So, establishment of centralised multi specialty tertiary care unit with more facility for palliative care and physiotherapy in the District, would be suitable alternative. It can be done either of the following methods.

- i) Complete proposed Medical College Hospital, at Ukkindadka of Kasaragod District at the earliest.
- ii) Establish multi specialty tertiary care/trauma care at (a) District Hospital Kasaragod at Kanhangad and (b) General Hospital Kasaragod."

6 We have heard Mr P N Ravindran, senior counsel appearing on behalf of the petitioners and Mr Jaideep Gupta, senior counsel appearing on behalf of the State of Kerala.

7 As traced above, this Court has been monitoring compliance for over a year. It is common ground that the direction with regard to the payment of compensation has been complied with.

8 The surviving issue relates to providing adequate medical and palliative care to the victims of Endosulfan.

9 This is a matter where the High Court of Kerala would be in a good position to monitor compliance on the ground.

10 Hence, we direct that these proceedings shall stand transferred to the High Court of Kerala and be taken up under Article 226 of the Constitution of India.

- 11 We request the Chief Justice of the High Court of Kerala to either take up proceedings before the first court or assign it to an appropriate Division Bench for monitoring all aspects especially relating to the provision of medical and palliative care.
- 12 The High Court would be at liberty to conclude the proceedings at an appropriate stage once it is satisfied that requisite steps have been taken by the Government of Kerala.
- 13 There shall be an order in the above terms. The Registrar (Judicial) shall take expeditious steps in compliance with the above directions.
- 14 The Contempt proceedings are closed insofar as this Court is concerned in view of the above directions.
- 15 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[J B Pardiwala]

New Delhi;
May 16, 2023
GKA

ITEM NO.21

COURT NO.1

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

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)

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

Date : 16-05-2023 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

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

For Respondent(s) Mr. Jaideep Gupta, Sr. Adv.
 Mr. Nishe Rajen Shonker, AOR
 Mrs. Anu K Joy, Adv.
 Mr. Abraham C. Mathew, Adv.
 Mr. Alim Anvar, Adv.
 Ms. Manicka Priya, Adv.
 Mr. Riddhi Bose, Adv.

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

- 1 The Contempt proceedings are closed insofar as this Court is concerned in view of the directions contained in the signed order. Operative part of the signed reads as under :-

- 10 Hence, we direct that these proceedings shall stand transferred to the High Court of Kerala and be taken up

under Article 226 of the Constitution of India.

- 11 We request the Chief Justice of the High Court of Kerala to either take up proceedings before the first court or assign it to an appropriate Division Bench for monitoring all aspects especially relating to the provision of medical and palliative care.
- 12 The High Court would be at liberty to conclude the proceedings at an appropriate stage once it is satisfied that requisite steps have been taken by the Government of Kerala.
- 13 There shall be an order in the above terms. The Registrar (Judicial) shall take expeditious steps in compliance with the above directions.
- 14 The Contempt proceedings are closed insofar as this Court is concerned in view of the above directions.
- 15 Pending applications, if any, stand disposed of.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR

(Signed order is placed on the file)