

**IN THE SUPREME COURT OF INDIA
INHERENT JURISDICTION**

Contempt Petition (Civil) No 1920 of 2017

in

Writ Petition (C) No 213 of 2011

Remya P. and Ors.

... Petitioner(s)

Versus

Dr K M Abraham

... Respondent(s)

ORDER

The contempt proceedings have been initiated for non-payment of the compensation of Rupees five lakhs in pursuance of the order of this Court dated 10 January 2017 to four affected individuals, viz., Kumari Archana, Master Afsal, Ms Nisha and Kum Vijayalakshmi.

The Chief Secretary of the Government of Kerala has filed an affidavit specifically dealing with the factual position in relation to the aforesaid four individuals. The relevant part of the affidavit is extracted below:

“6. The status of the specific cases pointed out by the petitioner are as follows:

a) Remya P (Mother of Kumari Archana): Kumari Archana is a native of Pullur Periyee Grama Panchayath and is included in the Endosulfan Victims List with O.P. No.59717. She attended speciality medical camp in 2013. The expert medical panel which recategorized the list has included Kum. Archana in ‘Other’ category, which is not eligible for National Human Rights Commission recommended financial compensation. Kumari Archana is undergoing free treatment under the rehabilitation project at Sreechithra Institute of Medical Sciences, Thiruvananthapuram. Smt. Remya has also been paid a monthly pension of Rs 1200 and already a total amount of Rs 40,400 is paid in this regard.

b) Jameela M.P. (Mother of Master Afsal): Master Afsal is a native of PullurPeriyee grama Panchayath and is included in the Endosulfan Victims List with O.P. No.4542. He attended speciality medical camp in 2010. The expert medical panel which categorized the list has included Master Afsal in ‘Other’ category, which is not eligible for National Human

Rights Commission recommended compensation. Master Afsal has been given free treatment since 2011. He is taking growth hormone injection every month from 2011 to February 2016. The cost per injection is Rs 16000. However, it is provided free of cost to him under the scheme. Under the Endosulfan Victims free treatment scheme, the State Government has already spent Rs.8,96,000/- for Master Afsal. The State Government is also providing other medicines through Community Health Centre, Periyar, Kasaragod. Master Afsal is also paid a monthly pension of Rs.1200 and till date he has been paid Rs.1,00,400 under the pension scheme. He was also paid a one time education scholarship of Rs.3000/-.

c) Smt. Sisily (Mother of Ms. Nisha): Ms Nisha is a native of Kodom Belur Grama Panchayath and is included in the Endosulfan Victims List with O.P. No.5283. She attended speciality medical camp in 2010. The expert medical panel which recategorized the list has included Ms. Nisha in 'Other' category, which is not eligible for National Human Rights Commission recommended compensation. The State Government has been giving free treatment to Kum. Nisha at Pariyaram Medical College. Medicines are disbursed every month from Community Health Centre, Panathady, Kasaragod. The Cost of medicines from 2012 to 2017 is rs.8981/-. Ms. Nisha receives Rs.1700 per month as pension to Endosulfan victims and so far she has received a total amount of rs.1,41,400 in this regard.

d) Smt. M. Badhavi (Mother of Kum. Vijayalakshmi): Kum. Vijayalakshmi is a native of Muliya Grama Panchayath and is included in the Endosulfan Victims List with PID No.1978/2. She attended speciality medical camp in 2010. The expert medical panel which recategorised the list has included Kum. Vijayalakshmi in 'Other' category, which is not eligible for National Human Rights Commission recommended compensation. Under the Endosulfan Victims relief scheme, Kum. Vijayalakshmi is provided with home based physiotherapy service. Free medicines are provided through Community Health Centre, Muliya, Kasaragod. Since 2012 the State Government has spent Rs.65658/- to supply medicines to her. Kumari Vijayalakshmi has been paid a monthly pension of Rs.2200 under the Endosulfan scheme and a total amount of Rs.1,82,400 is disbursed to her till date."

The above extract from the affidavit leaves no manner of doubt that each of the four individuals falls in the category of affected individuals. The fact that they are undergoing treatment, as a result of being affected by Endosulfan, is a clear indicator of the fact that they are entitled to the release of compensation in terms of the directions which were issued by this Court on 10 January 2017, while disposing of the writ petition. The order of the Court reads as follows:

"1. Having heard learned counsel for the rival parties, we are of the view, that the remaining aspects, which emerge out of the controversy

raised in the instant petition, can be disposed of by directing the respondents – State Governments, to release the entire undisbursed payment of compensation, quantified as Rs.5 lakhs each, to all the affected persons, within three months from today.

2. Needless to mention, that it shall be open to the State Governments to recover the aforesaid compensation either from the concerned industry or from the Government of India, in case it is open to the State Governments to make such recovery, in consonance with law.

3. We also hereby direct the State Governments, to take into consideration the feasibility of providing medical facilities/treatment for life-long health issues, arising out of the effects of endosulfan, keeping in mind, that there seems to be a large number of such affected persons.

4. The instant petition is disposed of, in the above terms.

5. As a sequel to the above, pending interlocutory applications also stand disposed of.”

In the circumstances, we see no reason and justification for the Government of Kerala to categorize these four individuals in the ‘Other’ category and to deny them payment of compensation.

We accordingly direct that the compensation in terms of the order of this Court dated 10 January 2017 shall be released to the natural guardians of the four minors within a period of two months from today against proper identification.

The contempt proceedings are disposed of in the above terms.

Liberty is granted to the learned counsel for the petitioners to apply for revival of the contempt proceedings if the above direction is not complied with.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Indira Banerjee]

New Delhi;
July 03, 2019

ITEM NO.46

COURT NO.10

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. 1920/2017 in W.P.(C) No.213/2011

REMYA P & ORS.

Petitioner(s)

VERSUS

Dr. K.M. ABRAHAM

Respondent(s)

Date : 03-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Mr. Kaleeswaram Raj, Adv.
Romsha Raj, Adv.
Mr. Suvidutt M.S., AOR

For Respondent(s) Mr. G. Prakash, AOR
Mr. Jishnu M.L., Adv.
Ms. Priyanka Prakash, Adv.
Ms. Beena Prakash, Adv.

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

The contempt petition is disposed of in terms of the signed order.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)