

Statement (India): Thirty-sixth anniversary of Bhopal Gas Leak tragedy

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On the 36th anniversary of the Bhopal Gas leak tragedy, the Bhopal Gas Peedith Mahila Udyog Sanghathan (BGPMUS) and Bhopal Gas Peedith Sangharsh Sahayog Samiti (BGPSSS) have issued a statement highlighting the struggle for justice which the gas victims have been relentlessly waging for the past 35 years.

The year 2020 has been an extremely traumatic period for the Bhopal gas victims. The struggle for justice, which the gas-victims had been relentlessly waging for the previous 35 years, was itself a testimony to the failure of the Indian State to mete out justice to the gas-victims all these years. A glimmer of hope had risen in late 2019 when the Madhya Pradesh High Court at Jabalpur vide order dated 18 Dec, 2019 had directed as follows:

“Let Secretary, Ministry of Health and Family Welfare, Govt. of India, New Delhi remain personally present on 07.01.2020 to apprise the Court as to effective steps which have been taken by the Central Government from time to time in furtherance to the order passed by the Hon’ble Supreme Court* as also the recommendation given by the Reconstituted Monitoring Committee.”

*[* dated 08 Aug, 2012 in Writ Petition (C) No.50 of 1998. Please see the attached Background Note for further information regarding this order]*

Despite specific direction to the Secretary, MoHFW, to be present in person on 07 January, 2020 before the Court, the Secretary, sought exemption from personal appearance on the plea that he was busy with meetings organised by the Union Cabinet Secretariat. While he was again directed to appear before the Court on 13 February, 2020, he absented himself on the spacious plea that he was “busy holding of meetings in connection with the spread of Corona Virus”. When the Secretary absented himself yet again from the Court on 04 March, 2020, the Court could not but take serious note of it in its Order dated 04 Mar, 2020 that: “time and again the Secretary is trying to avoid personal appearance in the High Court for non-compliance of certain directions issued by this Court.”

The nation-wide “Janata curfew”, which the Prime Minister had proclaimed on 22 March, 2020 to curtail the spread of COVID-19, turned out to be a boon for those who were keen to circumvent the said High Court orders. Through an abrupt and ill-conceived decision on 23 March, 2020, the Government of Madhya Pradesh decided to convert the Bhopal Memorial Hospital & Research Centre (BMHRC) into a hospital exclusively for potential COVID-19 victims. In other words, the State Government took a decision to oust victims of a previous disaster from the hospital that was established exclusively to take care of their health needs in order to make way for potential victims of a new disaster, thereby, leaving the victims of the previous disaster in the lurch! The State Government’s decision was wholly illegal since it had no jurisdiction over BMHRC, which was an institution under the direct control of the Central Government.

When this outrageous decision became public, BGPMUS & BGPSSS immediately registered their protest against the thoughtless decision and urged the Principal Secretary, Department of Public Health and Family Welfare, Govt. of MP, via letter dated 24 March, 2020 to immediately rescind the order. When the State Government did not respond to the plea, BGPMUS & BGPSSS had no option but to file a petition before the Supreme Court on 03 April, 2020 to seek appropriate relief. While the petition was registered as Provisional Application No.123 of 2020, it was extremely difficult to get matter listed for virtual hearing during the lockdown that was in effect from 24 March, 2020. However, on 07 April, 2020, while hearing another petition, the Court expressed the view that the matter should be taken up before the Madhya Pradesh High Court. Realising that the High Court would overrule its untenable decision, the State Government finally on 15 April, 2020 withdrew its Order dated 23 Mar, 2020 and BMHRC regained its previous status. It was fully evident that the covert attempt to convert BMHRC into a COVID-19 hospital was done at the instance of the Ministry of Health & Family Welfare, which was desperate to escape the wrath of the High Court for failing to comply with the directions of the Supreme Court in Order dated 08 Aug, 2020 in WP (C) No.50 of 1998. The twenty-two year old matter is now listed before the MP High Court for hearing on 03 December, 2020.

Although the previous status of BMHRC was restored, there was little improvement in the quality of medical treatment being meted out to gas-victims, who were the most vulnerable section of the Bhopal population to an attack from COVID-19. Little attempt was made either to upgrade the status of BMHRC into a teaching hospital in order to attract the requisite number of super-specialists or to equip it with the necessary medical equipment and medicines. According to available reports, while surviving gas-victims constitute less than one-fourth of the current population of Bhopal, more than half the COVID-19 victims in Bhopal are suspected to be from among gas-victims.

Another extremely retrograde step, which the Madhya Pradesh Government took, was its decision to stop monthly pension to widows of gas-victims from December 2019 onward although the amount was a measly sum of Rs.1000/- (Rupees one thousand only) per month per person. At the initiative of Balkrishan Namdeo, the Gas Peedith Nirakshit Pension Bhogi Sangharsh Morcha made several representations to the State Government as well as held numerous dharnas to restore the pension to the 5000-odd widows. BGPMUS & BGPSSS too made representation to the State Government in this regard. When all attempts failed, BGPMUS & BGPSSS filed a complaint on behalf of the said widows with the National Human Rights Commission (NHRC) on 31 July, 2020 vide Complaint No.1556/12/8/2020. In response to the complaint, the NHRC on 07 August, 2020 did direct the State Government to file its Action Taken Report by 14 September, 2020, which it failed to do. NHRC has since listed the matter for hearing on 03 December, 2020.

The failure on the part of the Supreme Court to hear the long-pending Curative Petition against the unjust settlement of 14/15 February, 1989, has had an adverse impact on the interest of the gas-victims. Curative Petition (Civil) Nos.345-347 of 2010, which was filed by the Union of India on 03 December, 2010 to challenge the unjust settlement of 14/15 February, 1989 and to seek additional sum of at least another Rs.7728 crores as compensation was last listed before the Constitution Bench of the Court on 29 January, 2020. However, the hearing was postponed to 11 February, 2020. Sadly, the matter was never listed on that date or ever since then. Failure to dispose of the Curative Petition has also meant the indefinite postponement of the hearing of the Special Leave Petition [SLP(C) No.12893 of 2010] filed on 17 March, 2010 by eight members of BGPMUS and BGPSSS seeking enhancement of settlement sum by a factor of five in terms of the magnitude of the disaster as assessed by the Claim Courts and in terms of the gravity of injuries suffered by the gas victims on the basis of their medical records. Failure to dispose of the pending Curative Petition and the SLP has effectively denied the gas-victims several thousands of crores of additional compensation that they are legitimately entitled to for over a decade.

The pace at which the pending criminal cases against the perpetrators of the Bhopal disaster are concerned, there is not the faintest hope that they would ever be prosecuted in their life time since the whole process has become an almost complete farce. These in short are the numerous problems currently confronting the gas-victims. On the thirty-six anniversary of the Bhopal disaster, the gas victims still fervently hope that all those who have the power to render justice to the gas-victims will not be found wanting in fulfilling their obligations.

WE DEMAND:

- Speedy implementation of the Supreme Court Order dated 09 Aug, 2012 in Writ Petition (Civil) No.50 of 1998, which had directed the Union of India to provide the best medical care to the gas-victims;
- Speedy Disposal of Curative Petition (Civil) Nos.345-347 of 2010, which is currently pending before the Supreme Court of India, for enhancement of compensation and for remediation of the contaminated site in and around the UCIL plant at Bhopal;
- Setting up of a Special Court for speedy trial and prosecution of all the accused, who are responsible for causing the Bhopal disaster.
- Proper rehabilitation of all needy gas-victims, especially widowed gas victims; and
- Provision of safe drinking water, free medical care and compensation to all victims of contaminated water and toxic waste.

December 3, 2020

BGPMUS and BGPSSS

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P.S.

- South Asia Citizen We (SACW). 4 December 2020:
<http://www.sacw.net/article14485.html>