

03 December 2022

To:

Smt. Droupadi Murmu,
Hon'ble President of India,
Rashtrapati Bhavan, New Delhi – 110001

Through:

Shri Mangubhai Patel,
Hon'ble Governor of Madhya Pradesh,
Raj Bhavan, Bhopal – 462003

Sub: PRECARIOUS FATE OF THE BHOPAL GAS VICTIMS

Respected Rashtrapatiji,

On behalf of the Bhopal Gas Peedith Mahila Udyog Sanghathan (BGPMUS) and the Bhopal Gas Peedith Sangharsh Sahayog Samiti (BGPSSS), we the undersigned humbly wish to draw your kind attention to the following on the 38th anniversary of the Bhopal disaster:

Lack of Medical Care:

1. The Bhopal gas leak disaster of 02/03 December 1984 was the world's worst industrial disaster in which thousands of residents of Bhopal lost their lives and hundreds of thousands of others suffered injuries in varying degree.
2. At that time, Bhopal did not have the necessary medical facilities to provide adequate and appropriate medical treatment to all the gas victims and there was considerable delay in setting up new medical facilities.
3. Therefore, the Hon'ble Supreme Court in para 203 of the Judgment and Order dated 03.10.1991 in Civil Appeals Nos.3187-3188 of 1988 had directed that "***a permanent specialised medical and research establishment with the best of expertise***" [reported in (1991) 4 SCC 689] be established in Bhopal for the gas victims.
4. However, it was only after BGPMUS, BGIA and BGPSSS filed Writ Petition (Civil) No.50 of 1998 on 14.01.1998 that a new state-of-the-art medical facility was set up in Bhopal in the year 2000 called Bhopal Memorial Hospital & Research Centre (BMHRC) under the Bhopal Memorial Hospital Trust (BMHT).
5. Sadly, soon preference for treatment at BMHRC was provided to paying non-gas-victim patients due to which gas-victim patients found it difficult to get proper treatment at BMHRC.

6. When the matter of discrimination against gas-victim patients at BMHRC was brought to the attention of the Hon'ble Supreme Court, the Trustee of BMHT was forced to resign in the year 2010 and the Hon'ble Supreme Court entrusted the management of BMHRC to the Government of India (GOI).
7. When GOI failed to provide adequate emoluments to Consultants and Specialist doctors at BMHRC, most of them resigned from BMHRC and joined several private hospitals that had been set up in Bhopal by then.
8. As a result, since 2010, BMHRC was left with very few Consultants and Specialist doctors to treat the large number of gas-victim patients.
9. In response to WP(C) No.50 of 1998 filed by BGPMUS, BGIA & BGPSSS, the Hon'ble Supreme Court vide judgment & order dated **09.08.2012** [reported in **(2012) 8 SCC 326**] had directed the GOI to recruit the necessary Consultants and Specialist doctors, computerize medical records, and essentially restore the status of BMHRC as a super-specialty hospital.
10. However, the said directions of the Hon'ble Supreme Court dated 09.08.2012 have not been complied with by the GOI and the State Government of Madhya Pradesh even ten years after the judgment was pronounced.
11. Contempt Petition (Civil) No.832 of 2015 filed by BGPMUS & BGPSSS in Writ Petition No.15658 of 2012, which was filed on 05.05.2015 for non-compliance of the directions of the Hon'ble Supreme Court dated 09.08.2012 is currently pending before the Hon'ble High Court of Madhya Pradesh at Jabalpur
12. As of today, there are over 4.5 lakh registered gas victims, who have sought medical treatment at BMHRC. Regrettably, these gas-victim patients at BMHRC and the hospitals and clinics under the Gas Relief Department of the State Government are being denied the best available treatment with the best of expertise for no fault of theirs.
13. At the same time, a unit of the All India Institute of Medical Sciences (AIIMS), which was established in Bhopal in the year 2012, has the entire wherewithal to provide the best available treatment with the best of expertise to non-gas victim patients in Bhopal.
14. Despite a request from BMHRC, AIIMS (Bhopal) has declined to cooperate with BMHRC in providing the best available treatment to gas-victim patients. This essentially means that gas-victims in Bhopal are being denied "the best

available treatment with the best of expertise” that is available to non-gas-victim patients in Bhopal.

Inadequate Compensation:

15. The gas victims were provided inadequate compensation due to the unjust Settlement between the Union of India (UOI) and Union Carbide Corporation (UCC) under the aegis of the Hon'ble Supreme Court of India on 14/15 February 1989.
16. The unjust Settlement for a sum of \$470 million (i.e., about Rs.700 crores at the then exchange rate) was made on the assumption that only 3000 gas-victims had died and another 102,000 had suffered injuries in varying degree.
17. BGPMUS filed Review Petition No.229 & 623-624 of 1989 in CA Nos.3187-3188 of 1988 and BGPSSS filed Writ Petition (Civil) No.293 of 1989 against the Settlement Order dated 14/15 February 1989 questioning the basis of the Settlement, including withdrawal of criminal cases against the accused.
18. However, the Hon'ble Supreme Court dismissed the Review Petitions and the Writ Petitions, but restored the criminal cases against the accused, vide Judgment & Order dated 03.10.1991
19. After processing all the 1,000,000+ claims for compensation [a process that took over 12 years (from 1992 to 2004) to complete], the Claim Courts under the Office of the Welfare Commissioner, Bhopal, had determined that the total human casualty figures, including dead, was nearly 5,74,000.
20. Since the Claim Courts had established that the magnitude of the disaster was more than FIVE TIMES the figures on which the unjust Settlement was based, BGPMUS & BGPSSS filed I.A. Nos.48-49 in CA Nos.3187-3188 of 1988 on 14.09.2004 to seek enhancement of compensation by FIVE TIMES in accordance with the magnitude of the disaster as ascertained by the Claim Courts since the victims were only paid one-fifth of the amount that was due to them even under the unjust terms of the Settlement.
21. Unfortunately, the Hon'ble Supreme Court dismissed the said I.A. Nos.48-49 in CA Nos.3187-3188 of 1988 vide Order dated 04.05.2007 [reported in (2007) 9 SCC 707] although compensation that was received for 105,000 victims was dispersed among about 574,000 victims.
22. Subsequently, on behalf of 1,01,000 gas-victim, who signed individual petitions, BGPMUS & BGPSSS filed I.A. Nos.1 & 2 of 2007 in I.A. Nos.48 & 49 of 2004

before the Hon'ble Supreme Court on 13.10.2007 seeking clarification and modification of the said Order dated 04.05.2007.

23. On 25.02.2008, the Hon'ble Supreme Court disposed of I.A Nos.1 & 2 in I.A. Nos.48-49 of 2004 as withdrawn.
24. On 28.08.2008, nine gas-victims from BGPMUS & BGPSSS filed a petition before the Office of the Welfare Commissioner in Bhopal for determination of issues regarding magnitude and gravity of the disaster.
25. However, the Court of the Welfare Commissioner dismissed the petition on 31.01.2009.
26. Subsequently, the said petitioners on 28.10.2009 filed Writ Petition No.11276 of 2009 before the Hon'ble High Court of Madhya Pradesh at Jabalpur against the said judgment of the Hon'ble Welfare Commissioner.
27. On 30.11.2009, the Hon'ble High Court at Jabalpur dismissed the said WP No.11276 of 2009.
28. On 17.03.2010, the said petitioners filed Special Leave Petition (Civil) before the Hon'ble Supreme Court, which was registered by the Hon'ble Supreme Court on 23.04.2010 as SLP (C) No.12893 of 2010. The matter is currently pending before the Hon'ble Court and will be adjudicated after Curative Petition (Civil) Nos.345-347 of 2010 is disposed of by the Hon'ble Court.
29. Acceding to the plea of BGPMUS & BGPSSS that the magnitude of the disaster was five times greater than the basis on which the Settlement was arrived at, the Government of India on 22.12.2010 filed a Curative Petition (Civil) Nos.345-347 of 2010 against the Settlement order dated 14/15 February 1989 in CA Nos.3187-3188 of 1988 and against the Judgement and Order dated 03.10.1991 in Review Petition No.229 & Nos.623-624 of 1989 in CA Nos.3187-3188 of 1988 seeking an additional sum of Rs.7400 crores as compensation.
30. BGPMUS & BGPSSS filed an application for impleadment as parties in the same on 24.10.2013 and also filed additional I.A. No.22-24 on 10.09.2015.
31. After admitting the said Curative Petition on 28.01.2020, hearings began before a Constitution Bench on 11.10.2022, when the UOI submitted that it intends to pursue the Curative Petition. However, the Hon'ble Court is yet to decide whether it would permit organisations representing the gas victims to be impleaded as parties. The next date of hearing is scheduled on 10.01.2023.

Poor State of the Criminal Case:

32. Considering the pathetic pace at which the criminal cases against the accused in the Bhopal disaster cases are proceeding, there is very little hope that the accused would ever be prosecuted in their life time for the crimes they had committed. The cases are still pending at the Bhopal District and Sessions Court and as on date the gas victims have been denied permission to lead evidence.
33. Until and unless a Special CBI Court is set up, the Bhopal disaster criminal case will linger on for several more decades.

No Remediation:

34. Even after 38 years of the Bhopal disaster, the UOI and the State of Madhya Pradesh is yet to properly assess the magnitude and gravity of the problem created by contamination of soil and subsoil water in and around the former Union Carbide pesticide factory in Bhopal. Preliminary studies have shown that about 1.1 million tons of soil alone is contaminated. However, no attempt was made to evaluate and suggest ways and means to carry out remediation of the contaminates site despite the Hon'ble Supreme Court issuing specific directions in this regard in judgment & order dated 09.08.2012 in WP(C) No.50 of 1998.

Poor Rehabilitation:

35. A comprehensive plan to rehabilitate the most vulnerable sections of the gas-affected, especially the orphaned, the widowed, the elderly and the differently-abled is yet to be carried out by the Government of Madhya Pradesh.

The total failure to computerize medical records of all gas victims and provide a copy of his/her complete medical record in the form of a health-booklet to each gas victim is one of the gravest disservice rendered by the government to the gas victims. BGPMUS & BGPSSS humbly urge your honourable self to take up these issues with the GOI and the Government of Madhya Pradesh and ensure that the Bhopal gas victims are rendered justice without further delay.

It is earnestly hoped that your honorable self would do the needful at the earliest.

Thanking you,
Yours sincerely,

(Raeesa Bi)
President BGPMUS

(Shawar Khan)
Secretary, BGPMUS

(N.D.Jayaprakash)
Co-Convener, BGPSSS