

**THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**CONC No. 832of 2015**

*(BHOPAL GAS PEEDITH MAHILA UDYOG & OTHERS Vs THE STATE OF MADHYA PRADESH & OTHERS)*

**Dated: 28/11/2023**

*Shri N.D. Jaiprakash – Advocate for the petitioner No.2 in person.*

*Shri Vikram Singh – Advocate for respondents No.1, 2, 5, 6 & 7.*

*Shri H.S. Ruprah – Additional Advocate General with Shri S.K. Shrivastava – Government Advocate for respondent/State.*

*Shri M.K. Rajak and Shri Sanjay Sarwate – Advocates for respondents No.8 & 9.*

*Shri Anshuman Singh – Advocate for Monitoring Committee.*

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**1.** This Court by order dated 03.02.2023 held that *prima facie* respondents No.8 & 9 who are functionaries of National Informatics Centre, are held liable for causing contempt of Apex Court order dated 09.08.2012 [Para 35(9)] which directed the Monitoring Committee to ensure digitization of records of BMHRC as well as the attached Government hospitals.

**1.1** This Court as a necessary consequence directed the Registry to draw charges under Contempt of Courts Act, 1971 (for brevity “**Act of 1971**”) against respondents No.8 & 9 and invite their responses to the same.

**1.2** Charges were drawn by Registry against respondents No.8 & 9.

**1.3** Respondents No.8 & 9 filed their respective reply.

**1.4** When the case was taken up on the next date i.e. 20.02.2023, replies to the contempt charges against respondents No.8 & 9 were taken on record. This Court rejecting the distinction being drawn by respondents No.8 & 9 between the concept of computerization and digitization by recording its dismay that despite elapse of more than ten and a half years, process of

digitization has not yet concluded. As such, directions were passed to Registry to draw charges of contempt against respondent No.4 who was responsible for completing the process of computerization/digitization.

**1.5** Accordingly, Registry drew up charges against respondent No.4.

**1.6** On the next date of hearing i.e. 21.03.2023, this Court looking to the various contentions and counter contentions of rival parties took assistance of the Monitoring Committee to submit a report on the following issues :-

*“(i) Whether the directions passed by the Apex Court in all sub paras of Para 35.17 of order dated 09.08.2012 in WP (C) No.50/1998 have been complied with or not?”*

*(ii) The Committee is also required to detail the extent of compliance in cases where partial compliance has been made.*

*(iii) The Committee is further requested to prima facie fix liability for non compliance on any of the parties in this contempt and WP, so as to assist this Court to take decision as regards contempt.*

*(iv) The Monitoring Committee is requested to file report as expeditiously as possible preferably within a period of three months.”*

**1.7** On next date of hearing i.e. 12.06.2023, this Court adjourned the matter awaiting report of the Monitoring committee.

**1.8** Thereafter, when the case was taken up on 11.07.2023, report of the Monitoring Committee was placed on record and the same was perused. This Court however took cognizance of issue of deficiency of staff with the Monitoring Committee, and thus passed appropriate directions. Besides, this Court also directed Secretary Health, Government of India to cure all the deficiencies pointed out by the Monitoring Committee in its report as regards deficiency in staff in BMHRC failing which this Court may be compelled to take coercive steps.

**1.9.** Thereafter, this matter come up on 23.08.2023 but could not be taken up due to paucity of time.

**1.10.** On the next hearing on 31.08.2023, the case was directed to be listed before a Bench of a different composition.

**1.11.** On 09.11.2023, the matter was again taken up but no order was passed

in this Contempt Petition except that the same be tagged alongwith W.P. No.15658/2012.

**1.12.** On 28.11.2023, this Contempt Petition was again taken up and report of the Monitoring Committee dated 05.07.2023 submitted in compliance of the order of this Court dated 21.03.2023 was minutely perused.

**1.13.** The report indicated the following glaring deficiencies in compliance of various directions of Apex Court and of this Court :-

S.No.	SC Directions	Compliance Report
1.	Infrastructure, staff and salary provided to the Monitoring Committee [Para 35(4) of Apex Court order dated 09.08.2012].	Not complied with to the extent of not providing the requisite coordinator despite directions of this Court passed on 11.07.2023 and also failing to provide Stenographer.
2.	Medical Council and State Government to oversee proper functioning of hospitals dealing with gas victims [Para 35(6) of Apex Court order dated 09.08.2012].	Not complied by Medical Council and State Government to the extent of their responsibilities towards the gas victims who are treated in private hospitals as per response of the State Government is rather vague and not specific on this aspect.
3.	ICMR & NIREH to ensure research work to be carried out and also to ensure disbursement of its complete benefit to gas victims [Para 35(7) of Apex Court order dated 09.08.2012].	Partially complied to the extent that since its inception on 11 <sup>th</sup> October 2022, ICMR-NIREH has completed 14 different research studies among the survivors of Gas Tragedy however whether it has benefitted the gas victims require some expert assessment and scrutiny.
4.	Monitoring Committee to operationalize- (i) Computerization of medical information. (ii) Publication of health booklets. (iii) Preparation of smart cards to be provided to gas victims. [Para 35(9) of Apex Court order dated 09.08.2012].	The extent of non-compliance : - <b>(i) Computerization-</b> Though 06 Gas Relief Hospitals were computerized within the said duration but the digitization of medical records was not done as it was not handed over to NIC. <b>(ii) Publication of Health Booklets</b> – 4 Lakhs health booklets had been prepared by BMHRC and it is stated that photocopies of 18,552 health

		<p>booklets have been issued to the gas victims whereas as per the response of State Government 92978 booklets have been prepared. In total 1,10,000 booklets have been supplied to the gas victims. However, majority of gas victims, i.e. around 4.6 lakhs have not been given health booklets.</p> <p><b>(iii) Issuance of smart card to the victims-</b> As per response of BMHRC, about 3,41,000 smart cards have been issued to the gas victims and for remaining cards house to house campaign were conducted for distribution thereof but the efforts proved futile.</p>																											
5.	<p>Appointment of doctors of different categories and staff in hospitals and allied departments. [Para 35(10) of Apex Court order dated 09.08.2012].</p>	<p>Substantially not complied with to the extent that there is shortfall of specialists/doctors/staff in all hospitals run by the State Government in the department of Gas Relief &amp; Rehabilitation as well as BMHRC as enumerated below :-</p> <p><b>(i) Regarding vacancy in hospitals run by BGTRRD of State Government :-</b></p> <table border="1" data-bbox="826 1361 1396 1617"> <thead> <tr> <th>Category</th> <th>Sanctioned Post</th> <th>Vacant</th> </tr> </thead> <tbody> <tr> <td>Class I</td> <td>89</td> <td>41</td> </tr> <tr> <td>Class II</td> <td>157</td> <td>65</td> </tr> <tr> <td>Class III</td> <td>601</td> <td>266</td> </tr> <tr> <td>Class IV</td> <td>400</td> <td>126</td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>1247</b></td> <td><b>498</b></td> </tr> </tbody> </table> <p><b>(ii) Regarding vacancies of Super Specialists :-</b></p> <table border="1" data-bbox="826 1765 1396 2000"> <thead> <tr> <th>Cadre</th> <th>Sanctioned Post</th> <th>Vacant</th> </tr> </thead> <tbody> <tr> <td>Associate Professor (Gastroenterology)</td> <td>1</td> <td>1</td> </tr> <tr> <td>Associate Professor (Ophthalmology)</td> <td>1</td> <td>1</td> </tr> </tbody> </table>	Category	Sanctioned Post	Vacant	Class I	89	41	Class II	157	65	Class III	601	266	Class IV	400	126	<b>TOTAL</b>	<b>1247</b>	<b>498</b>	Cadre	Sanctioned Post	Vacant	Associate Professor (Gastroenterology)	1	1	Associate Professor (Ophthalmology)	1	1
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	Associate Professor (Radiology)	1	1
	Associate Professor (Gastroenterology Surgical)	1	1
	Associate Professor (Nephrology)	1	1
	Associate Professor (Neurology)	1	0
	Associate Professor (ICU)	1	1
	Associate Professor (Psychiatric)	1	1
	Assistant Professor (Gastroenterology)	1	1
	Assistant Professor (Ophthalmology)	1	0
	Assistant Professor (Pediatric Medicine)	1	1
	Assistant Professor (Pathology)	3	2
	Assistant Professor (Radiology)	2	1
	Assistant Professor (Dialysis Unit)	1	1
	Assistant Professor (Gastroenterology surgical)	1	1
	Assistant Professor (Neurology)	1	1
	Assistant Professor (ICU)	3	2
	Consultant Medicine	1	1
	Consultant cardio thoracic Surgery	1	1
	Consultant Pediatrics	1	1
	<b>TOTAL</b>	<b>27</b>	<b>20</b>

**(iii) Regarding Vacancies of Specialists**

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Category	Sanctioned Post	Vacant
Medical Specialist	7	5
Surgical Specialist	4	3
Radiologist	4	4
Ophthalmologist	6	0
Gynecologist	10	2
Pathologist	5	3
Anesthetics	5	3
Psychiatric	1	1
Pediatric	9	3
<b>TOTAL</b>	<b>51</b>	<b>24</b>

**(iv) Regarding vacancies in Hospital wise Staff Position :-**

<b>(A) KAMLA NEHRU HOSPITAL</b>		
Category	Sanctioned Post	Vacant
Class I	28	14
Class II	40	23
Class III	146	61
Class IV	20	06
<b>TOTAL</b>	<b>234</b>	<b>104</b>

<b>(B) JAWAHAR LAL NEHRU HOSPITAL</b>		
Category	Sanctioned Post	Vacant
Class I	11	08
Class II	23	06
Class III	82	34
Class IV	103	41
<b>TOTAL</b>	<b>219</b>	<b>89</b>

<b>(C) INDIRA GANDHI MAHILA AVAM BALYA CHIKITSALAYA</b>		
Category	Sanctioned Post	Vacant
Class I	13	07
Class II	42	20
Class III	130	55
Class IV	106	31
<b>TOTAL</b>	<b>291</b>	<b>113</b>

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6.	Union of India, State Government and ICMR to consider providing autonomy to BMHRC to covert it into a teaching institute. [Para 35(11) of Apex Court order dated 09.08.2012].	Not complied with to the extent that though proposal of merger of BMHRC with AIMS has been made it has not yet been implemented. Though BMHRC has become a teaching institute only DNB Ophthalmology and MD Anaesthesia courses have been started so far. It is clear that BMHRC has not become a fully functional and operational teaching institute and only a feeble effort in that																																																																																							

		direction has been made.
7.	State Government and Monitoring Committee to evolve a methodology of common referral system. [Para 35(17) of Apex Court order dated 09.08.2012].	Not complied to the extent that the referral system of BMHRC as well as hospitals run by Gas Relief & Rehabilitation is not satisfactory and deserves streamlining and strict follow up.
8.	Monitoring Committee with the aid of Advisory Committee, NIREH and the specialized doctors of BMHRC to issue standardized protocol for treating each category of ailment suffered by gas victims. [Para 35(18) of Apex Court order dated 09.08.2012].	Partially complied with to the extent that ICMR/NIREH has issued two treatment protocols that are :- (a) Management of Chronic Obstructive Pulmonary Disease. (b) Manual of Mental Health Care for Medical Officers of Bhopal. However, so far as other diseases of gas victims is concerned, such treatment protocols and training programmes have not been shown to be conducted.

2. From the aforesaid tabular illustration revealed from report of p Monitoring Committee, it is obvious that despite elapse of more than ten and a half years, respondents have demonstrated no urgency or sincerity in complying with directions of Apex Court as well as of this Court. Thereby leaving the gas victims in the lurch. The respondents have tried their level best to render the concept of Public Interest Litigation (PIL) nugatory by dragging their feet in the process of compliance. This Court does not see any good reason behind the laxity on the part of respondents except respondents' insensitivity towards gas victims.

3. Accordingly, this Court is compelled to take coercive steps against respondents/proposed contemnors.

4. The responses filed by respondents No.4, 8 & 9 to the charges framed against them under the Act of 1971 are on record and have been found to be unsatisfactory.

5. Accordingly, respondents No.4, 8 & 9 are *prima facie* found guilty of causing contempt of Apex Court as well as of this Court and therefore,



respondents No.4, 8 & 9 are called upon to submit their explanation as regards quantum of punishment under the Act of 1971.

6. As regards the remaining contemnors, Registry is directed to frame charges against them under the Act of 1971 inviting the said remaining contemnors to file their reply which shall be considered on the next date of hearing.

7. List the matter on **16.01.2024**.

**(Sheel Nagu)**  
**Judge**

**(Devnarayan Mishra)**  
**Judge**