

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION

CONTEMPT PETITION (CIVIL) NO. 1920 OF 2017

IN

WRIT PETITION (C) No.213 OF 2011

IN THE MATTER OF:

DEMOCRATIC YOUTH FEDERATION

OF INDIA

.....

PETITIONER

VERSUS

UNION OF INDIA & ORS.

.....

RESPONDENTS

AND IN THE MATTER OF:

REMYA P. AND ORS.

.....

PETITIONERS

VERSUS

STATE OF KERALA

.....

CONTEMNOR/
RESPONDENT

PAPER BOOK

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ADVOCATE FOR THE PETITIONERS: **SUVIDUTT M.S.**
FILED ON: **02.11.2017**

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION

CONTEMPT PETITION (CIVIL) NO. OF 2017

IN

WRIT PETITION (C) No. 213 OF 2011

IN THE MATTER OF:

1. Remya P,
Aged 30 years,
W/o.Vinod Kumar,
Amabalathara Kalichamaram,
P.O.Pullur, Kasargod-671531
Kerala
2. Jameela M.P,
Aged 39 years,
W/o.Ashraf C.H,
Manpidichadukkam, Ambalathara,
P.O.Pullur, Kasargod-671531
Kerala
3. Sisily,
Aged 58 years,
W/o.Steephan U.K,
Urumbil House,
Naikkayam, P.O.Attenganam,
Kasargod-671531
Kerala
4. M.Badhavi,
Aged 51 years,
W/o.Radhakrishnan,
Ganikarmoola,
P.O.Edaneer, Kasargod-671541
Kerala

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PETITIONERS

VERSUS

Dr. K.M. Abraham, IAS
Chief Secretary, Govt of Kerala,
Govt. Secretariat,

Thiruvananthapuram,
Kerala-695001

.....

CONTEMNOR/
RESPONDENT NO.10

IN

WRIT PETITION (C) No.213 OF 2011

IN THE MATTER OF:

Democratic Youth Federation of India
Youth Centre,
DYFI Kerala State Committee Office,
University Road,
Thiruvananthapuram,
Kerala – 695 034

(Represented by its Secretary)

.....

PETITIONER

VERSUS

1. Union of India
Represented by the Secretary,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi
2. State of Andhra Pradesh
Represented by Chief Secretary,
Government Secretariat,
Hyderabad – 500001
Andhra Pradesh
3. State of Maharashtra
Represented by Chief Secretary,
Government Secretariat,
Mumbai – 400001
Maharashtra
4. State of Arunachal Pradesh
Represented by Chief Secretary,
Government Secretariat,
Itanagar – 791101
Arunachal Pradesh
5. State of Assam

Represented by Chief Secretary,
Assam Secretariat,
Janta Bhawan,
Dispur, Guwahati – 781 006
Assam

6. State of Bihar

Represented by Chief Secretary,
Old Secretariat,
Patna – 800015
Bihar

7. State of Chattisgarh

Represented by Chief Secretary,
DKS Bhawan, Mantralaya,
Raipur,
Chattisgarh

8. State of Goa

Represented by Chief Secretary,
Sanrit Apartments, 1st Floor,
Government of Goa,
Panjim,
Goa – 403 001

9. State of Gujarat

Represented by Chief Secretary,
Sachivalaya,
Gandhinagar – 10
Gujarat

10. State of Kerala

Through Its Chief Secretary,
Government of Kerala,
Govt.Secretariat,
Thiruvananthapuram,
Kerala-695001

11. State of Tamil Nadu

Represented by Chief Secretary,
Secretariat,
Chennai – 600 009

Tamil Nadu

12. State of Karnataka

Represented by Chief Secretary,
Government Secretariat,
Bangalore – 560001
Karnataka

13. State of Haryana

Represented by Chief Secretary,
Room No.45, 4th Floor, Civil Secretariat,
Chandigarh – 160 019
Haryana

14. State of Himachal Pradesh

Represented by Chief Secretary,
Vill and P.O. Samirpur, Distt Hamirpur,
Shimla – 171 002
Himachal Pradesh

15. State of Jharkhand

Represented by Chief Secretary,
Kanke Road, Ranchi,
Jharkhand

16. State of Jammu & Kashmir

Represented by Chief Secretary,
Civil Secretariat, Jammu-Tavi,
Govt. of Jammu & Kashmir,
Jammu/ Srinagar

17. State of Madhya Pradesh

Represented by Chief Secretary,
Government of Madhya Pradesh,
Bhopal – 462 003
Madhya Pradesh

18. State of Manipur

Represented by Chief Secretary,
Old Secretariat Building,
Government Secretariat,
Imphal – 795 001
Manipur

19. State of Meghalaya

Represented by Chief Secretary,
Government Secretariat,
Shillong –1, Shillong – 793 001
Meghalaya

20. State of Mizoram

Represented by Chief Secretary,
Secretariat Building,
Aizwal (Mizoram), Aizwal – 796 001
Mizoram

21. State of Nagaland

Represented by Chief Secretary,
Nagaland Secretariat,
Kohima – 797 001
Nagaland

22. State of Orissa

Represented by Chief Secretary,
Government Secretariat,
Bhubanewar – 751 001
Orissa

23. State of Punjab

Represented by Chief Secretary,
Government of Punjab,
Chandigarh – 160019
Punjab

24. State of Rajasthan

Represented by Chief Secretary,
Government of Rajasthan,
Jaipur – 302005
Rajashtan

25. State of Sikkim

Represented by Chief Secretary,
Tashiling Secretariat,
Gangtok – 737101
Sikkim

26. State of Tripura

Represented by Chief Secretary,
Tripura Secretariat,

Agarthala – 799001

Tripura

27. State of Uttar Pradesh

Represented by Chief Secretary,

Room No.307, (Third Floor),

Lal Bahadur Shastri Bhawan,

Uttar Pradesh Secretariat,

Lucknow,

Uttar Pradesh

28. State of Uttarakhand

Represented by Chief Secretary,

Govt. of Uttarakhand,

Chief Minister Niwas,

Circuit House, Old Annexe, Cannt Road,

Dehradun – 248 001

Uttarakhand

29. State of West Bengal

Represented by Chief Secretary,

Government of West Bengal,

Writing Building,

Kolkatta – 700001

West Bengal

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RESPONDENTS

CONTEMPT PETITION UNDER ARTICLE 129 OF THE
CONSTITUTION OF INDIA READ WITH SECTION 12 OF THE
CONTEMPT OF COURTS ACT, 1971 AND RULE 3(C) OF THE
RULES TO REGULATE PROCEEDINGS FOR CONTEMPT OF THE
SUPREME COURT, 1975, FOR WILFUL DISOBEDIENCE TO
THE ORDER OF THIS HON'BLE COURT DATED 10.01.2017 IN
W.P.(C)NO.213/ 2011

TO

THE HON'BLE CHIEF JUSTICE OF INDIA

AND HIS COMPANION JUSTICES OF THE

SUPREME COURT OF INDIA

THE HUMBLE PETITION OF
THE PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The petitioners herein are residents of Endosulfan affected area in Kasargod district in Kerala. The children of the petitioners are affected by the spread of a toxic pesticide called Endosulfan and they are included in the list of "Endosulfan victims". It is submitted that the first petitioner's daughter, Ms. Archana P is suffering from Cardio Vascular problems on being impacted by the pesticide. True copy of the beneficiary identification Card is produced herewith and marked as **ANNEXURE – P1 (Page 16)**. Due to the same reason, The second petitioner's son, Master Afsal is suffering from high hormonal imbalance. Once in every 60 days, an injection costing Rs.18,500 has to be taken for saving the life of the child. The true copy of the *Sneha Santhwanam* card of Afsal is produced herewith and marked as **ANNEXURE – P2 (Page 17)**. The 3rd petitioner's daughter, Ms. Nisha is having 70% permanent severe disability due to mental retardation. The true copy of the disability certificate dated 11.06.2004 issued by the Health Services Department, Government of Kerala is produced herewith and marked as **ANNEXURE – P3 (Page 18)**. The true copy of the *Sneha Santhwanam* card of Ms. Nisha is produced herewith and marked as **ANNEXURE – P4 (Page 19)**. The 4th petitioner's daughter, Ms. Vijaya Lakshmi is suffering from low motor disability. The true copy of the medical report is produced herewith and marked as **ANNEXURE – P5 (Pages 20 to 21)**. She is not

issued with any card till date. Annexures P1 to P5 would show that the children of the petitioners are endosulfan victims. All of them are included in the victim list prepared by the State of Kerala.

2. It is submitted that, as per G.O. (Ms) No. 07/2012/H7 FWD dated 12.01.2012, the Department of Health and Family Welfare, Government of Kerala has passed the following order:

"At present Kerala Social Security Mission is providing assistant @ Rs.1700/- p.m to Endosulfan bedridden victims who are getting Rs.300 as disability pension, Rs.2000/- p.m. to those who are not getting disability pension and Rs.1000/ p.m. to other Endosulfan affected patients (vide GO(MS)89/2010/SWD dated 06.12.2010). As per the recommendations of the National Human Rights Commission read above, Government are pleased to sanction the financial assistance clubbing with that now being given by the Kerala Social Security Mission, as given below:-

(i) Rs.5 lakh to beridden/unable to move.

(a) Being the first step a lump sum amount of Rs.3 Lakh (Rupees Three Lakh only) may be disbursed in two instalment of Rs.1.50 lakh each i.e. the first instalment of Rs.1.50 lakh will be given before 31st March 2012 by the Plantation Corporation

and the second instalment by Government in next financial year after providing sufficient budget allocation for the same.

(b) Balance Rs.2 lakh will be treated/considered as a deposit and the beneficiaries will be given a monthly assistance of Rs.2000/- p.m. for a period of 5 years equal to the return from long term deposit of the solatium amount. The deposited amount of Rs.2 lakh will be returned to them in lump after 5 years and Plantation Corporation will meet the expenditure. Thereafter no financial assistance will be continued except the disability pension already drawn by the eligible persons.

2)The number of beneficiaries in this category comes about 2453, Government will have a financial commitment of Rs.36.79 crore (Rs.4.50 lakh x 2453) and Plantation Corporation has to meet Rs.36.79 crore during the current financial year and Rs.49.06 crore after five years on account of refund of deposit amount.

(ii) Rs.3 lakh to other disabled persons

(a) The method of payment is same as mentioned above ie, the lump sum amount of Rs.2 lakh be disbursed in two instalments i.e. the first instalment of Rs.1 lakh will be given before

31.3.2012 by Plantation Corporation and the rest Rs.1 lakh will be disbursed by Government during next financial year after providing sufficient budget provision in this regard

(b) Rs.1 lakh will be treated as deposit and the beneficiaries concerned will be given a monthly assistance of Rs.1000/- p/m for a period of 5 years equal to the return of the solatium amount. After 5 years Rs.1 lakh will be returned to the beneficiaries in lump and the Plantation Corporation have to meet the expenditure. No financial support will be continued after 5 years.

Since the number of beneficiaries are 1729 the Financial commitment of Government is Rs.17.29 crore and Rs.17.29 crore after five years to plantation Corporation”.

The true copy of the said G.O. (Ms) No. 07/2012/H7 FWD dated 12.01.2012 issued by the Department of Health and Family Welfare, Government of Kerala is produced herewith and marked as **ANNEXURE – P6 (Pages 22 to 23)**. However, till date, the said G.O. is not implemented by the Government of Kerala completely. The petitioners and several other persons who are entitled to get Rs. 5 Lakhs as promised by the State of Kerala are yet to receive the said amount, it is pertinent to note that it was only due to the aerial use of endosulfan that the physical and mental health of the petitioner’s children are affected badly and they are

severally ill. The petitioners had to spend a huge amount of money for the treatment of their children. They are having huge amounts of debt already.

3. State of Kerala has already prepared a list of endosulfan victims who are entitled to get Rs. 5 lakhs as promised in Ext. P6. The petitioners are not furnished with the copy of the said list. The respondent has refused to publish the copy of the list of victims, stating that publishing the same would cause infringement of the right to privacy of the endosulfan victims. The total number of persons included in the said list would come to around 6000. There are very many persons who are entitled to be included in the list , but not included in the list. The State Government has given different numbers, when enquired about the number of victims who are entitled to get Rs. 5 lakhs, at various point of time.
4. As per the information received by one Sri. Muneesa Ambalathara on 28.09.2017, the number of persons included in the list of victims at present is 5209. The true copy of the communication dated 28.09.2017 obtained by one Muneesa Ambalathara under the Right to Information Act is produced herewith and marked as **ANNEXURE – P7 (Page 24)**. Though in Annexure P7 it is stated that the persons included in the list of victims prepare by the State of Kerala is only 5,209, the actual number of victims is much more than that. Thousands of children already lost their lives due to the non-availability of proper medical care. The economic backwardness of the area prevents the persons like petitioners from giving proper care to their children on time.

Thus the disbursement of Rupees 5 lakhs to the petitioners and family of the other victims is very much essential.

5. This Hon'ble Court, as per order dated 10.1.2017 in W.P(C)No.213/2011 had directed the State Government "to release the entire undisbursed payment of compensation, quantified as Rs.5 lakhs each, to all the affected persons, within three months from today". It is submitted that the State of Kerala has already prepared a list of victims/persons affected by Endosulfan. The said list is not exhaustive. The State Government has to release Rs. 5 lakhs each to all affected persons. It cannot limit disbursement of the amount only to the persons included in the present list maintained by the Government of Kerala. The children of the petitioners are Endosulfan victims, but till date the petitioners have not received Rs.5 lakhs as directed by this Hon'ble Court in its order dated 10.1.2017. They are identified as Endosulfan victims. The petitioners are under acute financial difficulties. There are very many persons in the State of Kerala who are suffering from the disease caused by aerial use of Endosulfan. The respondents are liable to disburse Rs.5 lakhs to each of them, forthwith.
6. It would appear that despite the clear directions in the order dated 10.1.2017 in W.P(C)No.213/2011 by this Hon'ble Court the State Government has, quite wilfully, taken no steps to disburse Rs.5 lakhs to the petitioners and other victims who already find a place in the list prepared by the State of Kerala. The conduct of respondents herein show wilful disobedience of the directions of this Hon'ble Court by not

disbursing Rs. 5 lakhs to the petitioners as well as to the family of other Endosulphan victims in the State of Kerala and thereby showing disrespect of the directions of this Hon'ble Court on 10.1.2017 in W.P (C) No.213/ 2011 is nothing but the contempt of the order passed by this Hon'ble Court and a civil contempt within the meaning of Section 2(b) of the Contempt of Court Act, 1971.

7. It is therefore just and necessary that this Hon'ble Court may be pleased to initiate contempt proceedings against the Respondent/ alleged Contemnor herein and punish them accordingly.
8. It is therefore, submitted that present petition is being filed for initiating the contempt proceedings under Section 12 of the Contempt of court Act, 1971 read with Rule 3 (c) of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975 against the Respondent/ alleged Contemnor herein.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may be pleased:

- a) To initiate the contempt proceedings under Section 12 of the Contempt of Court Act, 1971 read with Rule 3 (c) of the Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975 against the Respondent/ alleged Contemnor herein for wilful disobedience of the order dated 10.01.2017 in W.P.(C) No.213/ 2011 of this Hon'ble Court, and;
- b) To direct the Respondent/ alleged Contemnor herein to disburse Rs.5 lakh to the Petitioners and to all other families of Endosulpan victims in the State of Kerala forth with;

c) To pass such other order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND YOUR PETITIONERS, AS IN DUTY BOUND SHALL EVERY PRAY.

DRAWN BY

FILED BY

KALEESWARAM RAJ,

SUVIDUTT M.S.

THULASI K. RAJ &

ADVOCATE FOR PETITIONER

ARUNA A.

Drawn on: 31.10.2017

Filed on: 02.11.2017

New Delhi

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

CONTEMPT PETITION (CIVIL) NO. OF 2017

IN

WRIT PETITION (C) No. 213 OF 2011

IN THE MATTER OF:

REMYA P. AND ORS. PETITIONERS

VERSUS

STATE OF KERALA RESPONDENT

AFFIDAVIT

I, Remya P., Aged 30 years, W/o.Vinod Kumar, Amabalathara Kalichamaram, P.O.Pullur, Kasargod-671531, Kerala, at presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am the Petitioner in the Contempt Petition and being well conversant with the facts and circumstances of the present case and am competent to swear this affidavit on behalf of me and other petitioners as well.
2. That I have read over the accompanying Contempt Petition from Paras 1 to 8 (pages 1 to 14), and also the Annexures thereto, and I have understood the contents therein which are true to my knowledge.
3. That the Annexure – P1 and P7 are the true copy of their respective originals.

DEPONENT

VERIFICATION

Verified this on this 1st day of November, 2017, at New Delhi that the contents of the above Affidavit from para 1 to 3 are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

DEPONENT