

1989
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A CALL TO OBSERVE
19th APRIL 1989
AS
NATIONAL PROTEST DAY
AGAINST THE CARBIDE
SETTLEMENT

Bhopal
settlement
stinks

A Call to Observe National Protest Day Against the Carbide Settlement 19th April, 1989

The settlement arrived at by the Government of India and the Union Carbide Corporation (UCC), at the apparent behest of the Supreme Court purporting to settle the claim on behalf of over 5 lakh victims of the Bhopal gas tragedy, has met with widespread protest from within and outside Bhopal. To continue the struggle, the Bhopal Gas Peedith Sangarsh Sahyog Samiti (BGPSSS) appeals to all concerned organizations, individuals and others to *observe 19th April as a National Protest Day*.

The Supreme Court on 14-2-1989, ordered the American Multinational Company (UCC) to pay \$470 million (Rs. 705 crores) in *full and final settlement of all claims, rights and liabilities* arising out of the disaster that occurred on the night of December 2, 1984. By letting the perpetrators of the greatest industrial genocide of this century go completely unscathed, the Indian Government has betrayed the interests of the victims.

On the fateful night of December 2, 1984, a mixture of lethal gases (methyl isocyanate being one of the major components) escaped from the Union Carbide factory in Bhopal, killing several thousands and leaving several lakhs others permanently injured. Information on the long term effects of the gases are only now coming to light. Research conducted by the Indian Council of Medical Research, DRDE, etc. has shown the gas to have multi-system effects on the body with permanent effects on the eyes, lungs, gastrointestinal, central nervous system etc.; on the pregnancy outcomes resulting in a high rate of spontaneous abortions; still births and a possible increase in congenital malformations in future; effect on the immune system; mutagenic and

of "all past, present future claims (against UCC) with respect to all past, present and future deaths, personal injuries, health effects, compensation, losses, damages, civil and criminal complaints".

What does this order imply?

1. No civil liability has been established and therefore no punitive damages against UCC which would act as a deterrent to UCC or any other plant using unsafe technologies has been awarded;
2. As there was no trial, UCC has not been forced to disclose all the evidence it possessed on the effects of MIC, which would have provided evidence of their culpability and would have helped in defining the line of treatment to the gas victims;
3. Since the medical evidence has not been discussed openly through trial, it is now impossible to identify the true nature and extent of MIC induced damages, and thus neither the number of gas affected nor the seriousness of injuries have been identified;
4. Without knowing this, the decision of any amount as compensation is arbitrary;
5. The quashing of all criminal cases, similarly, means that the officers and the owners of the company are not being held responsible for faulty plant design and inadequate safety measures & maintenance;
6. Finally, the order denies all rights of the victims to sue for damages in future. Given that there is evidence that MIC causes genetic mutations, this denies the fundamental rights of people who are yet to be born, to redress.

By this order, the Supreme Court has arrogated to itself the power to legislate. The law does not permit a court to pronounce that all rights to make claims or initiate prosecution in future by

those who are not party to the proceedings are extinguished. By this order, the Supreme Court has ordered a paltry sum of \$470 million which is 1/7th of the government's original demand. This order has affected UCC to the extent of 50 cents/per share (at 1988 prices) and in fact the value of UC Cshares have gone up after the settlement was announced.

The Bhopal victims have been witness to the role of the government in the aftermath of the disaster. The attempts by the government to underplay the enormity of the disaster, the half-hearted attempts towards substantiation of the claims for damages, the awarding of contracts worth Rs. 10 crores to Union Carbide after the disaster and the brutal suppression of anti-Carbide protests by the victims have all been testimonies for them, that the government is more interested in protecting Union Carbide than the gas affected victims of Bhopal. The Supreme Court settlement is the final testimony to the collusion between the UCC and the Indian Government. By this order, the Government of India will now defend UCC against any charges which might be lodged against them anywhere in the world. The gas victims who were looking forward to a judgement on interim relief are especially appalled at the quashing of criminal liability and are completely bewildered by the ridiculous amount of compensation. By all accounts, this sum will reach no more than 50 to 60,000 victims; yet, the number of people who have been incapacitated and cannot go back to their usual jobs run into lakhs; many would need medical treatment throughout their lives; and the slow poison will haunt their future generations also.

The Bhopal Gas Peedith Mahila Udyog Sangathan (BGPMUS), the largest organization of the gas victims, has resolved to continue their struggle against the Supreme Court settlement. Their demand is that the case be reopened, and a ruling be given by the Supreme Court on the matter of interim relief and the government provide a

subsistence allowance of Rs. 500/- per month per family till interim relief be awarded. The members of BGP MUS are committed towards litigating against Carbide till liabilities are affixed and adequate compensation is wrested.

In Delhi a group of individuals, organizations and Trade Unions have come together to protest against the settlement. The formation of a broad front, the Bhopal Gas Peedith Sangarsh Sahyog Samiti (BGPSSS) is a reflection of the concern expressed by a large number of individuals and organizations, at the betrayal of the gas victims and at the government's surrender to the multinational. The group is exploring all possible avenues to build public pressure to get the order reviewed.

- * A public protest week has already been organized from the 1st to the 8th of March in Delhi. During this week, hoardings of Eveready battery that had begun to appear in Delhi after the settlement were blackened; a copy of the Supreme Court order was burnt in a central place in Delhi, the supreme Court was symbolically cleaned and effigies were burnt in front of UCIL office.
- * A writ petition has been filed in the Supreme Court challenging the settlement orders of 14th and 15th February, 1989. On the initiative taken by BGPSSS, a number of writ petitions have been filed by other organizations as well.
- * Jointly with the Bhopal Gas Peedith Mahila Udyog Sangathan, the group has held two public demonstrations in Delhi, both outside the Supreme Court and outside Parliament.
- * Members of Parliament were lobbied for the parliamentary debate and following that a large number of MPs issued a statement calling upon the government to review the settlement, establish liability against UCC and pay

immediate interim relief. Similarly demands have been voiced by a large number of professional groups and eminent persons. To continue with the struggle, BGPSSS is *observing 13th to 19th of April, 1989 as a national protest Week, culminating with the 19th of April, 1989 as National Protest Day.*

This protest week will press for the following demands :

- * Review the Settlement.
- * Pay immediate interim relief on a scale commensurate with the disaster.
- * Prosecute UCC separately for both civil and criminal liabilities.

We appeal to all to carry out the protest throughout the country by holding demonstrations and protest meetings, signature campaigns, mobilizing professionals, sending telgrams to the Prime Minister and President, organizing press conferences, writing in the local dailies, and monitoring media coverage on this issue.

On the 5th of April, 1989 a one day National convention against the Bhopal Settlement is being held by the All India Peoples Science Network at the Constitution Club in Delhi.

On the 15th and 16th April, 1989 the Bhopal Gas Peedith Mahila Udyog Sangathan is holding a two day convention in Bhopal at which future strategy will be worked out. All are invited to attend the convention. Further information will be sent to you.

An information package is being prepared by the BGPSSS and will be sent to you at cost price.

Support the cause of Bhopal victims and make the National Protest day against the Carbide settlement a success.

carcinogenic effects with a possible increase in cancer among the people directly affected as well as in children born to the affected parents; and an overall effect of premature ageing. These findings are only pointers to the *total* long term effects of the gas on the physical and mental health of the gas victims which can be assessed only if long term studies are conducted for the next 30-50 years.

Right from the beginning, the Union Carbide has denied all responsibility for the gruesome murders and damage caused by the unsafe pesticide plant in Bhopal. The government of India on its part by an Act of Parliament, "The Bhopal gas Disaster (processing of claims) Act, 1985, had taken upon itself the exclusive right to represent the victims in their fight for compensation. Implicit in the Act was the absolute duty assumed by the government to provide relief and rehabilitation to the victims during the litigation, irrespective of its duration.

Under this Act, the Government of India filed suit in the US Courts on behalf of the victims. In 1986, the case was transferred to India and the Indian government submitted at the District Court that suitable compensation for the disaster would amount to Rs. 3,900 crores. The hearings in District Court Bhopal resulted in an order to UCC to pay Rs. 350 crores as interim relief. With UCC appealing to the Madhya Pradesh High Court, the High Court reduced the amount to Rs. 250 crores. With both parties appealing, the case had reached the Supreme Court. The matter in front of the five judges bench in the Supreme Court on February 13th 1989, was for fixing the amount of interim relief to be paid by UCC and was *not* for the final settlement of the case. By the order of 14th February, 1989, the Supreme Court has not only proposed to settle the case in favour of UCC overlooking the genuine interests of the gas victims, but has gone further to quash all proceedings, including criminal prosecution against UCC. It disposes

The Bhopal Gas Peedith Sangarsh Sahyog Samiti is comprised of the following organizations: All India Lawyers Union (Delhi Unit), All India Students Federation (Delhi Unit), Action India, Ankur, CITU (Delhi Unit), Delhi Science Forum, Mahila Dakshita Samiti, JNU Students Union, Democratic Youth Federation of India (Delhi Unit), AITUC (Delhi Unit), Students Federation of India (Delhi Unit), Delhi Dehat Mazdoor Union, Nagrik Rahat Aur Punarvas Committee, Janwadi Mahila Samiti (Delhi Unit), National Federation of Indian Women (Delhi Unit), Saheli, Jagori, Nishant Natya Manch, Hind Mazdoor Kisan Panchayat (Delhi Unit), Sabla Mahila Sangh, Lokayan, People's Union for Democratic Rights, Nari Adhikar Sangarsh Samiti, Indian Students Association, Democratic Teachers Front, Alternative Communication Network, IFTU, Indian Students Union, All India Youth Federation (Delhi Unit) and Centre for Women's Development Studies.

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