

Punjab-Haryana High Court

Cancer Peerat Kissan Committee vs State Of Punjab And Others on 31 July, 2009

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No.11425 of 2005

Date of decision: 31st July, 2009

Cancer Peerat Kissan Committee

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE T.S. THAKUR
HOB'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Present: Mr. Amit Jhanjhi, Amicus Curiae for the petitioner.
Mr. Rupinder Khosla, Additional Advocate General Punjab,
for respondents No.1 and 2.
Mr. Chander Mohan Sharma, Central Govt. Standing Counsel
for respondent No.4.

Notes: 1. Whether reporters of local newspapers may be allowed to
see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the Digest?

KANWALJIT SINGH AHLUWALIA, J.

Cancer Peerat Kissan (farmers) Committee has filed present writ petition projecting misery, which has befallen upon farmers of Mukatsar and Bathinda Districts of Punjab.

With science and technology having become an inseparable part of the daily life, the creation of scientific awareness among the masses has become all the more important now than ever before. Therefore, present writ petition raises an important question of human concern regarding excessive use of pesticides. There is no doubt that pesticides have hazardous health effects and though beneficial to the agriculture sector and in vector bone disease control, pesticides can be source of many diseases and deterioration of human health.

By way of present writ petition, in the form of public interest litigation, we have been called upon to issue directions to the State of Punjab to take effective preventive steps to save the ruralities of Bathinda and Muktsar districts from affliction of deadly disease of cancer and provide necessary medical treatment, amenities and care to the suffering families. Petitioner, Cancer Peerat Kissan Committee has urged that residents of various villages of Muktsar and Bathinda Divisions are suffering from deadly disease of cancer, which has taken a heavy toll of human lives. It is stated that the ground water in the area is having high fluoride and selenium contents and has contributed to rise of cancer disease and has caused agony and trauma. A grievance has been made that State of Punjab has not taken effective steps to alleviate the suffering of farmers and there is lack of necessary medical expertise and facilities to cope up with effects of the dreaded disease. It is depicted in the writ petition that there are no facilities available in the area for treatment of cancer.

In the written statement filed by the Additional Director, Health and Family Welfare Department, Punjab on behalf of the Govt. of Punjab, it has been stated that in order to curb and check the growing incidents of incurable disease like cancer, a High Powered Committee was constituted for implementation of necessary measures and to review and monitor the grave situation from time to time. In the reply, it is averred that a special campaign was launched to impart knowledge to people about the early symptoms, preventive measures and treatment of cancer disease by holding rallies with the participation of school children at Block, Tehsil and District level. A study was also undertaken by expert group under the Chairmanship of eminent agriculture scientist and medical specialist, Dr. S.S.Johl, Vice Chairman, Punjab State Planning Board and Dr. K.K.Talwar, Director PGIMER, Chandigarh. Punjab Agricultural University carried investigative study on contamination of drinking water, soil and plants with poisonous heavy metals and pesticides as a potential cause of abnormally high incidence of cancer in south-western Punjab. Furthermore, an epidemiological study of cancer cases reported from the villages of Talwandi Sabo Block in District Bathinda and Chamkaur Sahib Block of District Ropar was conducted by Department of Community Medicine, PGIMER, Chandigarh. Centre for Science and Environment, New Delhi undertook analysis of pesticide residues in blood samples in State of Punjab. Directorate of Health Services and Family Welfare launched a study regarding pesticides prevalence in human blood and urine in Punjab. Furthermore, a survey of cancer patients was also conducted by the Department in four districts of Punjab, Mansa, Muktsar, Bathinda and Faridkot. Some of the findings of these committees can be summed up as under:

(a) Excessive use of pesticides in the area of cotton crop was considered as one possibility but the study concluded that the sample size of the study was too small to make any definite conclusion.

(b) In the shallow hand pumps, contents of arsenic was found more than the permissible limit, a possible cause, due to disposal of industrial waste was not ruled out.

(c) The study taken by PGIMER, Chandigarh revealed that higher prevalence of cancer was due to residues of pesticides found in the drinking water.

(d) The study conducted by Centre for Science and Environment, New Delhi showed that the level of pesticides in the blood of people from rural Punjab was very high and was further contaminated with newer OP pesticides. It was noted by one of the committees that the prevalence of cancer in the Districts of Muktsar and Bathinda is higher than national average.

Following recommendations were made by the committee:

- (i) In depth study to know the exact causes and incidents of cancer, specifically in relation to the use of pesticides be undertaken.
- (ii) Subsidized Medi-claim Policy to the extent of 50% of the premium should be made available for the cancer patients below poverty line and other poor people.
- (iii) Educational and informative campaigns should be initiated to make people aware for taking necessary precautions and protective measures, i.e. use of Mask and Gloves etc. while spraying the pesticides.

Arguments of this case were heard at length on December 12, 2008. Taking into consideration the arguments advanced by counsel for the parties, this Court formulated a view that in order to provide immediate relief and to ameliorate the cause of sufferers, to provide care to the cancer patients, following preventive and remedial measures ought to be taken by the State Govt. Thus, the order dated December 12, 2008 read as under:

"Mr. Amol Rattan Singh has filed an additional affidavit sworn by the Joint Director (Health), Government of Punjab, Chandigarh. A reading of the said affidavit shows that a number of steps are being taken to grapple with the problem arising out of wide spread of cancer presumably on account of underground pollution caused by use of pesticides. Details of the steps allegedly taken however need to be verified as the same have not been set out in the affidavit. We, therefore, direct the Government of Punjab to place on record:-

- (i) the steps that have been taken by Punjab Infrastructure Development Board (PIDB) so far in regard to the setting up of Super Specialty Cancer Centre at Bhatinda under the proposed public private partnership and the time frame within which the proposed Super Specialty Hospital will come up at Bhatinda;
- (ii) the government shall also indicate the reasons why the supply of the machine meant for the proposed Mammography Unit in the Mobile Medical Unit at Bhatinda District Hospital is being delayed and what action has been taken to expedite the said supply;
- (iii) the government shall indicate as to what norms have been framed for declaring the patients below the poverty line to be able to take financial assistance under the

State Illness Fund established by it;

(iv) The State Public Health Laboratory, Chandigarh shall file a report as to the number of tests conducted in respect of Water Quality to detect poisons like Arsenic, Copper, Cyanide and Chromium in different regions of the State and the results of such tests;

(v) report of the team of experts constituted by the Government of India for setting up of a Regional Cancer Centre at Government Medical College, Amritsar shall be placed on the record;

(vi) The Principal, Government Medical College, Amritsar shall submit a status report as regards the construction of the Regional Cancer Centre Building at Amritsar and the process undertaken for purchase of equipment which according to the affidavit was started in May/June, 2008. The delay if any in the purchase of equipment shall also be indicated together with the time frame within which the equipment shall be installed;

(vii) The Principal, Government Medical College, Patiala shall report whether the Brachy Therapy Machine has been installed and is functional. If it is not the reason why the machine has not been made functional shall be indicated. The process for the purchase of Simulator and Mammography Unit is said to have been started. The reasons for the delay if any in the completion of that process shall also be indicated; and

(viii) The Principal, Government Medical College, Faridkot shall report whether the construction of the building and purchase of equipment has started? If the same has not been started, the reasons for the same shall also be indicated.

(ix) Similarly, the Principal of Shri Guru Ram Dass Institute of Medical Sciences and Research, Amritsar shall report whether Cobalt Radioactive Source has been delivered by the supplier? If not, the reasons for the delay together with the time frame within which the machine shall be received and installed, shall be given;

(x) Director, PGI, Chandigarh shall report whether the regional cancer centre for Punjab in the PGI, is functioning satisfactorily and if there are any deficiencies, the nature of such deficiencies and the need if any for augmentation of the man power and machinery required shall be identified.

The needful shall be done in terms of the above expeditiously but not later than six weeks from today."

In compliance with the order dated December 12, 2008, additional affidavit has been filed by the Joint Director, Office of Health Services, Punjab on behalf of State of

Punjab and the Director, Health Services, Punjab, Chandigarh. It enumerates following steps taken by the Department to combat the menace of cancer:

1) Govt. has taken effective steps and has signed an agreement with M/s Max Lifecare for establishing Greenfield Super Specialty Hospitals at Bathinda and Mohali. To facilitate setting up of such hospitals, necessary paper work has been executed and concessions have been also granted to the operator of the hospitals, besides appointment of M/s IL&FS IDC as Project Developers.

2) It was stated that Mobile Medical Unit having Mammography Unit at Bathinda was not feasible but a Mammography Unit has been set up at Civil Hospital, Bathinda and same is currently operational.

3) Through the aegis of Punjab Health System Corporation, the State Illness Fund Scheme has been implemented to provide assistance to the below poverty line families. The beneficiaries also include persons who, on the basis of survey conducted by the Department of Panchayati Raj and Rural Development and State Urban Development Authority under Local Govt., have been issued Yellow Cards.

4) The State Laboratory has been performing qualitative testing of potable water and testing kits for the quantitative testing, of water samples regarding presence of Arsenic, Copper, Cyanide and Chromium, were issued. Some of the samples of potable water had failed and efforts are being made that the potable water available is within the permissible limits as per IS

- 10500: Drinking Water Specifications 1991.

5) For establishing Regional Cancer Centre at Govt.

Medical College, Amritsar, Govt. of India had constituted a team of expert Doctors, which opined that establishment of Regional Cancer Centre at Govt. Medical College, Amritsar is technically and realistically possible.

6) That the building for Regional Cancer Centre is under construction at Guru Nanak Hospital, Amritsar. Machinery and equipment for the treatment of cancer patients is in the process of being purchased.

7) That the Brachy Therapy Machine has been installed at Govt. Medical College, Patiala on 14th December, 2007 and same is functioning properly and satisfactorily. Furthermore, Govt. of India has released central assistance to the tune of Rs.2.00 crores for purchase of simulator and treatment planning system. Process is on to purchase simulator and treatment planning system. Furthermore, active steps have been taken for purchase of Mammography Unit for Medical College, Patiala.

8) A sum of Rs.47.00 lakhs has been released by PWD authorities at Faridkot for construction of building of Radiotherapy Block at Govt. Medical College, Faridkot and purchase order for procuring Cobalt Unit has been placed with the supplier.

9) Sri Guru Ram Das Rotary Cancer Hospital, Amritsar has placed an order for purchase of Cobalt Source to BRIT (Board of Radiation and Isotope Technology) and an advance amount has been also sent to the manufacturer.

10) PGIMER, Chandigarh was recognized as Regional Cancer Centre in March 2005 by Ministry of Health and Family Welfare, Govt. of India to cater to UT, Chandigarh and the State of Punjab.

In the affidavit so filed, it has been further stated that the Department is conscious of certain deficiencies and requirements for achieving an ideal set up. It further states that subject to availability of funds from the Govt. or from National Cancer Control Programme, necessary facilities will be upgraded and augmented from time to time and the Department shall continue to work to overcome the deficiencies or cure the shortcomings for providing service to the cancer patients.

Since, nobody had appeared for the petitioner, Mr.Amit Jhanjhi was appointed as Amicus Curiae. Mr. Amit Jhanjhi has expressed satisfaction over the steps taken by the State Government to improve the necessary medical care to the patients of cancer.

Mr. Rupinder Khosla appearing for the State has also assured that the State Govt. is concerned regarding the growing incidents of incurable disease like cancer and its effects, therefore, from time to time future action plan and strategies shall be drawn to check the incidents of cancer disease and provide better medical care to the sufferers of the disease.

Taking into consideration the steps taken by the Govt. of Punjab, satisfaction expressed by the Amicus Curiae and assurance given by the State Counsel, we are of the view that further monitoring by this Court is not required and the present writ petition can be disposed of with the direction to the State Govt. to continue with its endeavour to take preventive measures to contain re-occurrence of cancer disease and educate and make people at large aware regarding ill effects of over-use of pesticides. We are conscious of the fact that prevention and remedial measures are an on-going process. Therefore, as and when the need arises, this Court can be approached for further directions by filing a separate writ petition detailing ground realities. The petition is accordingly disposed of with the above observation leaving the parties to bear their own costs.

[T. S. THAKUR]
CHIEF JUSTICE

[KANWALJIT SINGH AHLUWALIA]
JUDGE

July 31, 2009

rps