

Supreme Court of India

Naresh Dutt Tyagi vs State Of U.P. And Ors. on 10 August, 1993

Equivalent citations: 1993 (4) SCALE 520, 1995 Supp (3) SCC 144

Bench: M Venkatachaliah, S Mohan

ORDER

1. The Primary Cooperative Society, Garh Mukteshwar, District Ghaziabad, said to be a federating unit of the U.P. Cooperative Union Ltd., stored certain chemical pesticides in a godown. The fumes emanating from the pesticides leaked to the contiguous property through the ventilators and, as a result, three young children aged four, seven and ten respectively of the petitioner who was residing in that part of the building, died. Petitioner's wife who was then in the family way suffered a miscarriage. The legal wrangles as to who is at fault and who is liable to the innocent victims, are going on. The questions whether such large-scale stocks of the hazardous chemicals are permissible to be stored in a residential block; whether the storage is regulated by statutory provisions, if not, whether any breach of common law duty has occurred and whether the governmental authorities are liable in damages, arise. Petitioner says that there was a breach of duty on the part of the officers of Government in not preventing storage of harmful chemicals in a residential block. It is also urged that the handling of the pesticides by the Cooperative Society was pan of 'State action' and the State is liable.

2. The U.P.Cooperative Union Limited says that it has no responsibility in the matter and the maintenance of safety standards in storage was the primary concern of the Primary Cooperative Society at Garh Mukteshwar. The State Government has so far been an unconcerned, silent onlooker on this grim tragedy.

3. The fact that the three children and an infant in the womb died on account of negligence in the matter of safe storage of these lethal chemicals is not disputed. We are not a little disturbed that the State of U.P., which is impleaded here, has taken a neutral stand and has not even chosen to file counter-affidavit. Petitioner urges that there has been a breach of duty of the officers of Government in permitting such storage.

4. The tragedy is one of grim dimensions for the unfortunate petitioner. We direct the State of U.P. to pay a sum of Rs. 10,000/-, even if it be as an ex-gratia payment, to the petitioner, within four weeks from today. We also direct the State of U.P. to deposit Rs. 30,000/- in a fixed deposit in a Nationalised Bank at Garh Mukteshwar in the joint names of the petitioner and his wife, Smt. Munni Devi, for a period of one year in the first instance. The deposit shall be made within four weeks from today. The Bank shall be instructed by Government that it shall not permit the deposit to be withdrawn by the deposit-holders nor would they be permitted to raise any loan on the security thereof. The deposit shall be held subject to the orders of this Court. However, the quarterly interest accruing thereon shall be paid to the petitioner every quarter pending disposal of this matter. Direction as to the disposal of the corpus of the deposits will be part of the final decision of the case.

5. Liberty to mention after the deposit is made.

6. This order shall not prejudice the criminal trial which is proceeding against respondent Nos. 5 and 6.