



NHRC's Recommendations on Endosulfan

NATIONAL HUMAN RIGHTS COMMISSION
FARIDKOT HOUSE
NEW DELHI

Name of the complainant : Suo motu

Case No. : 477/11/6/2010

Date : 31st December, 2010

CORAM

Justice Shri K.G.Balakrishnan, Chairperson
Justice Shri B.C.Patel, Member
Shri Satyabrata Pal, Member

PROCEEDINGS

In 2001, taking cognizance of reports in the media that the aerial spraying of the pesticide endosulfan in the District of Kasaragod in Kerala had led to severe health hazards, the Commission asked the Indian Council of Medical Research for a report which was submitted in July, 2002 by one of its constituent institutions, the National Institute of Occupational Health (NIOH), after a thorough environment epidemiological study, conducted to rigorous scientific standards, and which took into account earlier investigations and surveys.

The two most important conclusions of the study were:-

"There is significant higher prevalence of neurobehavioural disorders, congenital malformations in female subjects and abnormalities related to male reproductive system in the study group (Padre village, Enmakaje Panchayat) as compared to the reference group (Miyapadvadu village of Meenja Panchayat)

Regarding the aetiological factors, responsible for these health problems, various factors were compared and it was found that the two groups differed mainly with respect to aerial spray of endosulfan. Therefore, the most probable cause for the health problems in the study area could be relatively high and continued exposures to endosulfan through various environmental media such as food, water, soil and air."

Based on these conclusions, the NIOH made a series of recommendations among which the most important were the following-

"The possibility of endocrine disrupting effect of endosulfan observed in the study has great relevance to the health of the future generations. Considering the potentiality of grave consequence, the Principle 15 of the Rio Declaration of the Earth Summit should be followed. This relates to the precautionary principle

and emphasizes that lack of scientific certainty is no reason to postpone action to avoid potentially serious or irreversible harm to the environment.

The populations included in the present study should be followed up for the detection of endocrine related cancers◆◆..

The affected persons should be provided relief."

The Commission has been informed that, though the Government of Kerala forbids the use of endosulfan, this ban has been easily circumvented. In Kasargod, aerial spraying stopped in 2000, but the problems studied by the NIOH continue with a new generation of children being affected, this confirms the fears that the NIOH expressed about the impact of endosulfan, once absorbed in the environment, on the health of future generations.

The Commission found this deeply disturbing and asked the Government of India for its views. It has been informed by the Ministry of Agriculture that the Government does not believe endosulfan causes problems and as a State Party to the Stockholm Convention on Persistent Organic Pollutants, opposes efforts to have it listed as one of the Annex A Chemicals, which are those that must be eliminated. The Commission was also informed that the Government of India has asked the ICMR to review the NIOH study.

Taking cognizance of fresh reports received in November, 2010, the Commission sent a team of its officers to do an independent investigation, which confirmed a continued high incidence of the medical disorders recorded by the NIOH, and found that the relief sanctioned by the Government of Kerala has made very little impact because it is meagre, irregular and sometimes siphoned off before it reaches the intended beneficiaries.

The Commission finds this inexplicable because developments abroad have vindicated and gone beyond the conclusions that the NIOH reached in 2002. In the eight years that have elapsed since then, endosulfan has been banned in over 60 countries including all the major industrial nations, not because it was an inefficient pesticide, but because independent studies there had confirmed that its commercial utility was far outweighed by the great harm it caused to human health, to flora and fauna, and to the environment. The governments of these countries, therefore, put the right to health of their citizens, the lives of future generations and the protection of the environment above the commercial interests of the producers and users of endosulfan.

At the last meeting of the Review Committee of the Stockholm Convention in October, 2010, which recommended that endosulfan should be listed as an Annex A chemical, the Commission is told that India called for a vote, in which it was the only country that voted against.

The Government of India claimed at that meeting and in its response to the Commission, that there is no scientific basis for the action recommended by the experts of the Stockholm Convention or for the ban already imposed by other nations. The Commission is at a loss to understand the logic of this stand. The countries that have banned endosulfan are those that have access to the most advanced scientific research, they include the U.S., the EU, Japan, the Republic of Korea, Australia and New Zealand, which have taken their decision on the basis of scientific data and studies.

The Government of India does indeed have independent but similar scientific evidence. The comprehensive scientific study carried out by the NIOH confirmed, well before this was accepted in some other countries that have now imposed a ban, that endosulfan had serious and long-term effects on health and on the environment. When it claims a lack of scientific evidence, the Government of India is either being disingenuous or disowning the work of the premier institute of medical research that it has set up. Its directives to the ICMR to review its study implies that the Government finds its conclusions inconvenient. The Commission is as deeply troubled by the implications of this stand as by the consequences it has already had on human rights in India and quite possibly in other countries to which

Indian companies have exported endosulfan.

The Commission reiterates that the present stand of the Government of India has led and will continue to lead to grave violations of human rights. Since endosulfan is a persistent organic pollutant, the dangers it poses will linger and multiply through the generations, causing harm on a scale that cannot presently be fully quantified.

In a Writ Petition O.P. Nos.20716 and 17026 of 2002 filed as Public Interest Litigation before the High Court of Kerala against the use of endosulfan, the Learned Single Judge (Shri Srikrishna C.J., as he then was) made the following observations:-

"After anxious soul-searching, we have reached the conclusion that between the two alternative, we must err on the safer side and choose the alternative which has less dangerous implications. If, ultimately, it is proved that ENDOSULFAN is an innocuous substance, not toxic and dangerous to human life and health, prohibiting its sale and distribution for a few months may perhaps result in nothing more than economic loss to the manufacturers. It is not as if the agricultural production in this country would come to a stand still if ENDOSULFAN is not used. There are several other insecticides which are registered under the Insecticides Act which could be used with equal efficiency. On the other hand, if it turns out that it is a toxic substance and its continued use had adverse effects on human beings and life and environment, we would have endangered life and health of the citizens. We have, therefore, decided to choose the lesser evil and, purely as a

precautionary measure, to impose a temporary ban on the use of ENDOSULFAN within the State pending the decision of the Central Government on consideration of the report of the expert committee appointed by it. We hope that the Central Government will expedite its decision."

The Commission called for a meeting of its Core Group of Health on 24th December, 2010 and the members of the Core Group unanimously expressed the view that the use of endosulfan be banned in India.

Basing itself on the findings of the NIOH study, which in the opinion of its authors, continue to be valid, and those of the Commission's team, which in December, 2010, looked at the problems that the victims continue to face, together with the advise of the distinguished medical specialists on its Core Group on Health, with whom it has urgently consulted, the Commission makes the following recommendations:-

To the Government of India, it recommends that:-

1. The Government to take administrative and legislative action to ban the use of endosulfan.
2. Conduct a nation-wide survey of populations that have been affected by the use of endosulfan, particularly sprayed from the air, to determine the scope of relief and rehabilitation that may be needed.
3. Supplement the efforts of the Government of Kerala (and of other State Governments where victims of endosulfan use are found) in the provision of relief and long-term rehabilitation; and
4. Join the international consensus at the next meeting in April, 2011 of the State Parties of the Stockholm Convention and permit the listing of endosulfan as an Annex A chemical.
5. As the victims are in large number about six thousand in small locality of eleven villages namely Kayyur-Cheemeni, Ajanur, Pullur-Periya, Kallar, Panathady, Muliya, Karadka, Kumbadje, Badiadka, Bellur and Enmakaje, a Centrally Sponsored Palliative Care Centre/Hospital should be established for Kasaragod District and sufficient and effective ambulance services be provided to all physically handicapped or mentally retarded victims with adequate and trained staff. State Government should render all help to establish the said Palliative Care Centre/Hospital.

To the Government of Kerala, the Commission recommends that:-

1. The State should pay at least Rs.five lakhs to the next of kin of those who died and to those who were fully bed ridden/unable to move without help or mentally retarded and Rs.three lakhs to those who have got other disability. A panel of doctor may assess the extent of physical disability to classify the categories of victims. The Union of India shall give adequate financial help to the State Government.
2. Conduct a survey of other populations that might also have been affected by the use of endosulfan including in Palakkad where there are reports of similar problems faced by villagers.
3. Increase the quantum of relief and rehabilitation for victims and their families, and ensure that it is paid regularly and in full.
4. Improve the facilities for diagnosis, treatment and therapy available at hospitals and health centres that tend to the victims, while ensuring that at least one of them is equipped and staffed to offer advanced care and all Primary Health Centres in the eleven villages which are seriously affected may be upgraded to Community Health Centres.

Response within eight weeks.

Source: <http://www.nhrc.nic.in/disparchive.asp?fno=2175>