

## Struggle for Justice: Case study of Asbestos Victims in Gujarat, India

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### Abstract

*This paper presents the struggle of the asbestos victims in India with special reference to the western state of Gujarat. It also highlights the story of victim Mangabhai, who is also participating in this conference. The report provides insights on how poor and unemployed persons are trapped into working in hazardous industries in India. This report will also focus on the struggle to get recognition for asbestos related sickness and the fight for compensation of the victims. The report will also highlight the problems of workers not getting the proper diagnosis and thus not getting any compensation. The report will also describe the efforts of our organisation, the Occupational Health and Safety Association (OSHA), to carry out studies on the prevalence of asbestos related diseases in other parts of India and our efforts to campaign for a complete ban on asbestos in India.*

*Mangabhai, who is suffering from asbestosis, worked in the boiler department of the Ahmedabad power plant since 1965. He was working as a casual worker in the plant and was classified as a permanent worker only in 1980. Mangabhai started to experience breathing problems in the early 1990s and soon it became very difficult for him to work. The company used to carry out medical check-ups for workers every 2-3 years, yet they found nothing wrong with him. At this juncture he came to me and explained his problems to me. I sought the advice of Dr S. H. Clarke, a retired OSH expert from the Industrial Toxicology Research Centre, India, who was working with the Consumer Education and Research Center (CERC). We identified 8 workers with the same problems and the CERC lawyer, the late Rani Advani, filed a petition in the Gujarat High Court. The court instructed the National Institute of Occupational Health, based in Ahmedabad, to examine the workers. Two of the workers died before they could be examined and two of them were diagnosed as suffering from asbestosis (including Mangabhai). Mangabhai has received only an interim compensation of 10,000 Rupees (US\$218) and is still waiting for the final judgment.*

I am accompanied by Sri Mangabhai Patel, an asbestos victim from India. He worked at the thermal power plant in Ahmedabad. Ahmedabad was the capital of the State of Gujarat until 1970, after which the capital was shifted to adjoining, specifically built, Gandhinagar. The power plant is owned by the Ahmedabad Electric Company. It was a state owned company; now it is in the public limited sector and owned by the Torrent Group, which has interests in the pharmaceutical industry as well. The thermal power plant was established in 1945, though in 1913 it was established to generate power using diesel.

Mangabhai was an unemployed youth and used to visit the power plant where large numbers of job seekers would be waiting at the gate like him. Some 8-10 people from his village, Chandkheda, were working in the power plant. So, he would beseech them to take him with them and do something to get him employed. They had advised him to be at the gate daily at 8 am. If there was a need for laborers in some part of the plant, supervisors would ring up the gate and ask the personnel department to send laborers needed. If lucky, he would get a chance. He was labeled as a 'non-card casual laborer' since 1965. In those days, there were 25 boilers and 16 turbines. In the boiler department, absenteeism remained high. So, he was sent to the boiler department most frequently. In 1973, he was given the status of 'card holder casual laborer'. As said earlier, he got work in the boiler department most of the days he worked. In the boiler department, he accompanied a mason, as his helper.

In 1980, he was made permanent. He was sent for a 'pre-employment medical examination' on 23-10-80 – after working for 7 long years. Medical Officer Dr. Doshi, declared him as 'fit for job'. On 1-12-80, he was given an appointment letter, appointing him as 'temporary laborer' for 6 months. He was supposed to have another medical examination within that six months but was not sent for an examination until a year later, i.e. on 18-01-82. He was declared to be suffering from TB and as a result he was refused appointment as a Probationer. He worked as a temporary laborer from 23-10-80 to 13-03-83. On 11-03-83, he was again examined by the doctor, who declared him 'fit'. He was lucky this time. Ultimately, from 01-06-83, he was classified as a permanent laborer.

Mangabhai was placed with the mason. Their job was to stem leakages from pipe-joints, arch, header cap or drum level. Valve joints used to be covered with asbestos. His job was to hammer the outer asbestos cover and remove it. Thereafter he had to make a fresh mixture of magnesium silicate, asbestos and other materials for necessary repairs. He had to bring from the stores materials like asbestos blocks, asbestos ropes, asbestos belt and return left-over material back to the stores.

In 91-92 he started to have breathing problems. He started getting tired early. By and by his condition worsened. The company used to carry out medical examinations every two-three years, but they did not detect any illness. Then he came to me one day and talked to me at length about his problem.

I went to Dr. S. H. Clarke, who was a retired occupational health expert working with the Consumer Education and Research Centre as a consultant. After retiring from the Industrial Toxicology Research Centre he had joined our power plant as Factory Medical Officer. He soon had some differences with the management and he quit. During his tenure, I had established good rapport with this kind old man. He was fond of me. Moreover, he was staying nearby, which provided me with an opportunity to spend my spare time with him and learn from him.

He then talked with his colleagues at CERC. CERC lawyer, the late Rani Advani, got interested in the matter. She called on me. She asked if there were any other workers with similar complaints. We talked to our colleagues and found that there were 8 workers who had similar complaints. Ms. Advani petitioned the Gujarat High Court. The Court ordered the National Institute of Occupational Health (NIOH) to examine these workers and submit a report.

Two workers, viz. Motiram (5-01-96) and Manaji Rathod (02-02-96) died before the NIOH could examine them. NIOH examined the remaining 6 and submitted its report to the Court on 22-06-96. NIOH found 4 of them to be suffering from tuberculosis and 2 with asbestos related illness. The Court passed an order on 8-05-97 to pay interim compensation to the two workers. One of them, Kishan Gopalani, died soon after the court passed the order. His family was paid Rs.25,000. Another was Mangabhai, who was paid Rs.10,000 as interim compensation. The petition is pending since 96 for final disposal. We wonder when the final verdict will be delivered.

At this juncture, I am reminded of one incident which speaks volumes on the integrity of the medical professionals in the field. In the process of the petitioning the High Court, we received more and more complaints of illness which were probably related with workplace exposure. The list was submitted to the Court. The Court ordered that ESIS should examine individuals on the list and decide. As a result, the ESIS Medical Board invited these 41 workers to the Board on 28-09-98. Among the panel of doctors on this Board, was one from NIOH. Managabhai, who is accompanying me to this Conference, was among the 41 workers. He was examined by the same NIOH doctor in 96, where he was declared as one suffering from asbestos related illness. He was again examined by the same doctor, here as one of the panel of experts on the ESIS Board. Mangabhai was not asked about his history. When the Board finished examining the workers, we started

leaving. When we were coming out of the building, the NIOH expert asked me why we did not include the patient who was seen earlier by him and declared as an asbestos victim. I was stunned. I immediately introduced Mangabhai to him and said, 'sir, he is the same person whom you examined earlier at NIOH'. He thought for a while and then turned to the Chairperson and said, 'Madame, there is some mistake. NIOH has already seen this patient earlier'. They then went back and made some changes in their records. Had this not happened, Mangabhai would have been declared as suffering from TB!

Recently, with the help of Kalyaneshwari, a Kolkata based NGO, we examined 94 workers from an asbestos cement company and 12 from the power plant. A local hospital was engaged for carrying out lung function tests, X-rays, blood, urine tests etc. A questionnaire was filled in. Later, the X-rays were sent to an eminent expert in Bombay who read the X-rays and gave his opinion. It was revealed that, 55 workers from the cement plant and 12 workers from power plant are suffering from asbestos related illness. 3 females, wives of the 3 workers, were also found to be suffering from asbestos related disease. They have never worked in any industry. They were exposed through the work clothes their husbands brought from work.

Ahmedabad is far ahead of other regions. It is a torchbearer as far as the campaign against asbestos is concerned. Way back in 1996, CERC took up the issue of asbestos exposure at the asbestos cement plant in Ahmedabad. When they became convinced that the local administration would not be able to secure workers safety, they took a petition to the Supreme Court of India. The Supreme Court passed an historical judgment on this petition, after 1 year in 1996.

I assure the august gathering here that OSHA is committed to obtaining a complete asbestos ban in India. I hope this conference will go a long way in achieving this goal and create an atmosphere for securing safer workplaces, workplaces free of asbestos.