



**VELLORE CITIZEN WELFARE
FORUM V UNION OF INDIA, AIR 1996
SCC 2715**

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Introduction

Environment plays a very important role for all the creatures in this world and we have are blessed with the mind abilities to think about that environment and we can protect that environment .The case through which we are about to deal is dealing with same issue where because of development some industries operated by humans only discharging harmful effluents from their factories to the river, Agricultural land which is not only causing harm to ecology but the people like us living around those industries life would be also in stake. In the case of Vellore Citizen Welfare Forum vs. Union of India¹, the bench of 3 judges analyzed the case and Justice Kuldeep Singh delivered the judgement.

Statement of Facts

In this case the petitioner filed a petition under Article 32² of Constitution of India which was filled in Public Interest which directed against the pollution which is being

caused by enormous discharge of untreated effluents by the tanneries (57 tanneries) of industries from state of Tamil Nadu. According to Petitioner these tanneries are discharging their harmful effluents to agricultural lands, road side water ways and open land because of which those untreated effluents are mixing into river water and which is polluting the drinking water for public at large and survey was conducted by Tamil Nadu Agricultural University research Centre Vellore says that, the 35000 hectare of land is becoming unfit for cultivation. The court after listening the argument and contentions from both the parties found the industries guilty for their ignorance which caused damage to environment and ordered some industries to be closed until they do not install pollution control devices in their industry and levied the compensation of 10000 rupees from each industries of State of Tamil Nadu.

Background

The petitioner filed the case under Article 32³ of the constitution which gives the right to approach towards Supreme Court of India. As we all know every person has a right to live in clean environment which comes under Article 21⁴ of the constitution. Rural litigation and entitlement Kendra v. State of

¹ *VELLORE CITIZENS WELFARE FORUM. VERSUS. UNION OF INDIA AIR 1996 SC 2715*

² Remedies for enforcement of rights conferred by this Part. (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

³ Supranote-2

⁴ "No person shall be deprived of his life or personal liberty except according to a procedure established by law."



U. P⁵, Limestone mining which denuded mussoorie hills of trees and forests cover and accentuated soil erosion resulting in blockage of underground water channels were banned. Because it was infringing the right of Citizen enshrined U/A 21⁶ of Constitution. The petitioner in this case argued for the same and filed the petition in the interest of public. The constitution also enshrined U/A 47⁷, 48A⁸ and 51A(g)⁹ that The state has duty to raise the level of nutrition and standard of living and to improve public health, Protection and improvement of environment and safeguarding of forest and wild life and the state, to protect and improve the natural environment including forest, lakes, rivers and wildlife, and to have compassion for living creatures, respectively. Apart from constitution, many other Acts were passed by the government for protection of Environment for e.g. The water prevention Act¹⁰, The Air Prevention Act¹¹ and The Environment Protection Act¹². And if we see in detail then the water prevention Act constitutes Central pollution Control Board and State pollution Control board which can prohibit the use of stream and wells for disposal of pollution matters and it is noted that this Act restricted on outlet and Discharge of Effluents without obtaining Consent from Boards .In this case the Respondents i.e. the State of Tamil Nadu was unable to perform their duty properly so that they could prevent the discharge from the

Tanneries which could prevent the harmful effects to the environment. Now if we see in international perspective then the most famous conference in which India participated held on Stockholm In June 1973, in this conference several measures were taken for environmental protection and after this conference only India passed the law to protected environment In the year 1986. After this conference Rio conference was held in the year 1992 in Rio which gathered all the leaders from different countries to talk about the Sustainable development because of which some important doctrines were came into picture i.e. Precautionary principle and Polluter pays principle. The polluter pays principle held to be sound principle by Indian Council for Enviro-legal Action v Union of India¹³, the court observed in this case that once the activity carried on which leads to harmful effect to the environment by any person, they will be held liable to recover the environment back as it would be, if that activity was not caused harm to the environment. So in this case also the industries held liable to recover the environment as their tanneries caused so much harm to the environment. This principle simply says that the absolute liability for harm to the environment extends not only to pay compensation to the victim but also the recover the environment or restore the environment degradation. And at same point precautionary principle enables

⁵ *RURAL LITIGATION AND ENTITLEMENT KENDRA & ORS versus STATE OF UTTAR* 1987 AIR 359

⁶ supranote-4

⁷ Duty of the State to raise the level of nutrition and the standard of living and to improve public health

⁸ Protection and improvement of environment and safeguarding of forests and wild life.

⁹ *Article 51A(g) in The Constitution Of India 1949*,(g) to protect and improve the natural environment

including forests, lakes, rivers and wild life, and to have compassion for living creatures;

¹⁰ Water (Prevention and Control of Pollution) Act, 1974

¹¹ The Air (Prevention and Control of Air Pollution) Act, 1981.

¹² The Environment (Protection) Act, 1986

¹³ Indian council for enviro-legal action v union of India 1996 (5) scc 281



decision makers to adopt precautionary measures when scientific evidence about an environment or human health hazard is uncertain. Narmada Bachao Andolan vs. UOI¹⁴ is fine example of this principle. Now in this particular case the central government has complete power under Environment Act¹⁵ of 1986 to take measures to protect and improve environment (U/S 3 of Environment Act)¹⁶, the respondent must have taken steps properly against industries which would not at all taken by them because of which the central government has power to take steps against them under this Section of the Act. And section 7¹⁷ of the same Act says that person carrying on industry, operation etc. not allow to emission or discharge any harmful pollutant to environment. And u/s 5 (1), the central government has also power to prohibit and restrict on the location of industries and carrying on the process and operation in different areas for a good reason in the interest of public. In this present case also Exactly the same judgement was passed by the Supreme Court i.e. to transfer some of the industries from the settlement of public, and also directed that to not to construct the industries within 1 kilometer from the embankments of water sources.

Analysis

As the per the affidavits filed on behalf of state of Tamil Nadu and Board clearly

indicated that the tanneries and other polluting industries in the state are being persuaded for the last about 10 years to control the pollution generated by them. They were given option either to have common effluent treatment plants or to set up pollution control devices but that till date most of the industries were not taken any steps. And as per the order by court to National environmental Engineering Research Instituting, Nagpur to send a team of experts to examine the feasibility of setting up of CEPT's¹⁸ has not started and also to inspect the existing CEPT's where the construction work is in process, that report by NEERI¹⁹ says that as far CEPT's are Concerned, there is improvement in the performance of industries but they are still not operating optimal level and are not meeting the standards as laid down by ministry of Environment NEERI has given their recommendations in this matter too which was followed by the court.²⁰ After taking into consideration of all the reports and contents of State government, the SC gave its judgement which was definitely correct. And the judgement so delivered by the court, it clearly indicated that they had applied the principle of precautionary principle and polluter pays principle that gave message to judicial system of India to take strict actions against the person or institution who is polluting the environment. The respondents

¹⁴ Narmada Bachao Andolan v. Union of India, [2000] 10 S.C.C. 664.

¹⁵ Supranote-12

¹⁶ Power of Central Government to take measures to protect and improve environment - Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution

¹⁷ Persons carrying on industry operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards - No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutants in excess of such standards as may be prescribed.

¹⁸ Centre for Environmental Planning and Technology

¹⁹ National Environmental Engineering Research Institute



were ignorant in this case as, according to NEERI it was also found that, court was monitoring in this particular case for the last 4 years but no proper instructions were followed by the industries in the State of Tamil Nadu give after so cause Notice given by the Court and in their report it was also found out that the physio-chemical characteristics of ground water for dug well water tannery clusters. According to report also shows that well waters around the tanneries is unfit for drinking. The court also considered the argument valid that the precautionary principle are important to be applied in this case as it is accepted as part of customary international law .Court also considered the point that for the development of Humans , these industries are required to get leathers, as India is the biggest Exporter of finished Leathers and Tamil Nadu is the great producers of leather but it is noted that in order to generate the revenues , we cannot put the environment into stake and there are approximately 900 tanneries in the 5 districts of Tamil Nadu from which some are operating according to the rules prescribed by the government but many of them are not installed the pollution control plants. As because of effluents from tanneries, the general people living around the industries, their life was in danger and they were not getting the proper water to drink and not even the proper air to breath. And as according to Public Trust doctrine which was not taken into consideration by courts that, this citizen has trust on the sovereign of the country that they will protect the resources of environment which was in this case getting polluted i.e. Water. So in this case according to me the State is also liable, as they did not properly do the investigation after even getting the order from the court. The court

would have also lived the compensation on State government of Tamil Nadu.

Conclusion

So according to my perspective the judgement delivered by the Supreme Court was correct but they should have also held the State Government of Tami Nadu to be responsible for being ignorant, to properly have an eye over the industries so that they would have followed by the instruction given by the State Boards. Because of Industries the lives of many individuals were put in the stake and it created inconvenience to them to drink the proper water. So the judgment given by Supreme court to compensate the all the victim is very much relevant and the learned MC Mehta has also played a great role in this case, that saved many lives for future also and sustainable development was considered properly by the Court in this Case and in the interest of Public the court has given appropriate judgement.
