

# MC MEHTA v. UNION OF INDIA

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*1988 AIR 1115, 1988 SCR (2) 530*

Bench: Venkataramiah, E.S. (J)

## Pronouncements:

- The Water (Prevention and Control of Pollution) Act, 1974
- Section 482 in The Code Of Criminal Procedure, 1973
- M.C. Mehta & Anr. Etc vs Union Of India & Ors. Etc on 17 February, 1986
- THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981
- The Environment (Protection) Act, 1986

The river Ganga is an important part of many religious ceremonies in India. Ganga is also known as the — “Holy River” and is treated with great reverence. After entering the plains at Hardiwar, River Ganga winds its way to the Bay of Bengal, covering 2,500 km through the provinces of Uttar Pradesh, Bihar and West Bengal. The growth of the tannery industries in Northern India has resulted in the excessive dumping of waste into the rivers. MC Mehta grew concerned about the discharge of harmful untreated effluents by the Kanpur Tanneries into river Ganga and filed a Public Interest Litigation (PIL) before the Supreme Court of India. This petition was later extended to the industries in other cities too

## FACTS:

WASTE DISCHARGED INTO GANGA BY TANNERIES IN KANPUR.

NEITHER THE GOVERNMENT NOR THE PEOPLE WERE CONCERNED ABOUT THE GROWING POLLUTION IN RIVER GANGA.

THE MUNICIPALITIES RESPONSIBLE FOR MAINTAINING CLEANING THE RIVER WERE NOT DOING THE DUTY THEY WERE ENTRUSTED WITH.

THE PROCESS OF CLEANING SEWERS AND THE TREATMENT OF THE SEWAGE WERE NOT SYSTEMATIC AS A RESULT OF WHICH GANGA WAS SEVERELY POLLUTED.

GANGA WAS BECOMING THE DUMPING GROUND FOR THE DISCHARGE OF UNTREATED EFFLUENTS FROM THE KANPUR TANNERIES.

M.C. MEHTA FILED A WRIT IN NATURE OF MANDAMUS AS PUBLIC INTEREST LITIGATION TO RESTRICT THE TANNERIES FROM THE DISCHARGING UNTREATED EFFLUENTS INTO THE RIVER UNLESS A PROPER SEWAGE TREATMENT PLANT IS SET UP FOR TREATING THE EFFLUENTS.

#### JUDGEMENT:

Article 48-A of the Constitution provides that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. Article 51-A of the Constitution imposes as one of the fundamental duties on every citizen the duty to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures. [285C-D] Realising the importance of the prevention and control of pollution of water for human existence, Parliament passed the Water (Prevention and Control of Pollution) Act, 1974, to provide for the 281 prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith Sections 16 and 17 of the Act describes the functions of the Central and the State Board. The Act was adopted by the State of Uttar Pradesh. In addition, Parliament also passed the Environmental (Prevention) Act, 1986 which came into effect from November, 1986 throughout India.

Notwithstanding the comprehensive provisions contained in the Act of 1974, no effective steps appear to have been taken by the State Board so far to prevent the discharge of effluents of the Jajmau near Kanpur to the river Ganga. The fact that such effluents are being first discharged into the municipal sewerage does not absolve the tanneries from being proceeded against under the provisions of the law in force since ultimately the effluents reach the river Ganga from the sewerage system of the municipality.

Not much has been done even under the Act of 1986 by the Central Government to stop the grave public nuisance caused by the tanneries at Jajmau, Kanpur.

There is no doubt that the discharge of the trade effluents from the tanneries into the river Ganga has been causing considerable damage to the life of the people who use the water of the river and also to the aquatic life in the river. The effluents discharged from a tannery is 10 times noxious when compared with the domestic sewage which flows into the river from any urban area on its banks. The tanneries at Jajmau, Kanpur cannot be allowed to continue to carry on the industrial activity unless they take steps to establish primary treatment plant. [298E-F] No doubt it may not be possible for the tanneries to establish immediately the secondary system plant in view of the large expenses involved, but having regard to the adverse effect the effluents are having on the river water, the tanneries at Jajmau, Kanpur, should at least set up primary treatment plants, which is the minimum that the tanneries should do in the circumstances of the case. The financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants. Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, a tannery, which cannot set up a primary treatment plant, cannot be permitted to continue to be in existence for the adverse 282 effect on the public at large which is likely to ensue by

the discharging of the trade effluents from the tannery to the river Ganga would be immense and it will outweigh any inconvenience that may be caused to the management and the labour employed by it on account of its closure. Moreover, the tanneries involved in this case are not taken by surprise. For several years they are being asked to take necessary steps to prevent the flow of untreated water from their factories into the river. Some of them have already complied with the demand.

In cases of this nature this Court may issue appropriate directions if it finds that the public nuisance or other wrongful act affecting or likely to affect public is being committed and the statutory authorities which are charged with the duty to prevent it are not taking adequate steps to rectify the grievance. For every breach of right there should be a remedy. [298F-G] It is unfortunate that a number of tanneries at Jajmau even though they are aware of these proceedings have not cared even to enter appearance in this Court to express their willingness to take appropriate steps to establish the pretreatment plants. So far as they are concerned, they are directed to stop running of their tanneries and also not to let out trade effluents either directly or indirectly into the river Ganga without subjecting the trade effluents to a pretreatment process by setting up primary treatment plants as approved by the State Board with effect from October 1, 1987. Time granted till 31.3.1988 to other tanneries who are members of the Hindustan Chambers of Commerce and the other tanneries to establish primary treatment plants within six months. If any of these tanneries does not set up a primary treatment plant within 31.3.1988 such a tannery will stop business with effect from 1.4.1988. Such of those tanneries who have already put up primary treatment plants may continue running provided they keep the plants in sound working order.[299FI The Central Government, the Uttar Pradesh Board, established under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the District Magistrate, Kanpur are directed to enforce this order. [300B I Per Singh, J: (supplementing) The pollution of the river Ganga is affecting the life, health and ecology of the Indo-Gangetic Plain. The (Government as well as Parliament both have taken a number of steps to control the water pollution, but nothing substantial has been achieved. No law or authority can succeed in removing the pollution unless the people cooperate. It is the sacred duty of all those who reside or carry on business around the river Ganga to ensure the purity of Ganga. Tanneries at Jajmau area near Kanpur have been polluting the Ganga in a big way. Though notices were issued many industrialists have not bothered either to respond to the notice or to take elementary steps for the treatment of industrial effluent before discharging the same into the river. Those tanneries which have failed to take minimum steps required for the primary treatment of industrial effluent are directed to be closed. No doubt closure of tanneries may bring unemployment, loss of revenue, but life, health and ecology have greater importance to the people.

#### ANALYSIS:

A STATE IS RESPONSIBLE FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT. IT IS ALSO STATED UNDER ARTICLE 48A THAT THE STATE SHALL ENDEAVOUR TO PROTECT AND IMPROVE THE ENVIRONMENT AND TO SAFEGUARD THE FORESTS AND WILD LIFE OF THE COUNTRY.

THE COURT OPINED THAT UNDER ARTICLE 51-A OF THE INDIAN CONSTITUTION IT IS THE FUNDAMENTAL DUTY OF EVERY CITIZEN TO PROTECT AND IMPROVE THE NATURAL ENVIRONMENT INCLUDING FORESTS, LAKES, RIVERS, AND WILDLIFE, AND TO HAVE COMPASSION FOR ALL LIVING CREATURES, PLANTS, MICRO-ORGANISMS AND PROPERTY.

A STATUTORY PROHIBITION FOR THE DISPOSAL OF POLLUTANTS IN THE STREAMS OR WELL IS EMBEDDED IN SECTION 24 OF THE WATER(PREVENTION AND CONTROL OF POLLUTION) ACT, 1974. ACCORDING TO THE AFORESAID SECTION-

24(1)(a)- NO PERSON SHALL KNOWINGLY CAUSE OR PERMIT ANY POISONOUS, NOXIOUS OR POLLUTING MATTER DETERMINED IN ACCORDANCE WITH SUCH STANDARDS AS MAY BE LAID DOWN BY THE STATE BOARD TO ENTER INTO ANYONE[STREAM OR WELL OR SEWER OR ON LAND];

OR

24(1)(b)- NO PERSON SHALL KNOWINGLY CAUSE OR PERMIT TO ENTER INTO ANY STREAM ANY OTHER MATTER WHICH MAY TEND, EITHER DIRECTLY OR IN COMBINATION WITH SIMILAR MATTERS, OR IMPEDE THE PROPER FLOW OF THE WATER OF THE STREAM IN A MANNER LEADING OR LIKELY TO LEAD TO A SUBSTANTIAL AGGRAVATION OF POLLUTION DUE TO OTHER CAUSES OR OF ITS CONSEQUENCES.

THE COURT FURTHER HELD THAT IT WAS THE DUTY OF THE STATE GOVERNMENT, THROUGH THE STATE BOARDS, AND THE CENTRAL GOVERNMENT TO USE THE POWERS CONFERRED UPON THEM BY STATUTE[SEC. 16 AND 17 OF WATER ACT,1974] TO TAKE ALL SUCH MEASURES AS IT DEEMED NECESSARY OR EXPEDIET FOR THE PURPOSE OF PROTECTING AND IMPROVING THE QUALITY OF THE ENVIRONMENT AND PREVENTING, CONTROLLING AND ABATING ENVIRONMENTAL POLLUTION.

THE FINAL DECISION OF THE COURT WAS EXPLAINED THOUGH A COMPARISON BETWEEN A TANNERY AND AN INDUSTRY. IT WAS ARGUED THAT WHEN AN INDUSTRY IS INCAPABLE OF PAYING MINIMUM WAGES TO ITS WORKERS, THE EXISTENCE OF SUCH AN INDUSTRY CANNOT BE ALLOWED. SIMILARLY, A TANNERY MUST NOT BE ALLOWED TO EXIST IF IT CANNOT AFFORD SETTING UP A PRIMARY TREATMENT PLANT. THIS IS BECAUSE THE ADVERSE EFFECTS ON THE GANGA WOULD BE IMMENSE AND WOULD OUTWEIGH ANY INCONVENIENCE THAT MAY BE CAUSED TO THE MANAGEMENT AND THE LABOUR EMPLOYED BY IT ON ACCOUNT OF CLOSURE OF THE TANNERIES.

CONCLUSION:

THE SUPREME COURT TOOK A BOLD STANCE IN FAVOUR OF THE PREOTECTION OF ENVIRONMENT IN THIS CASE. IT LAID MORE EMPHASIS ON PREVENTING THE POLLUTION OF RIVER GANGA THAN THE INCONVENIENCE THAT WOULD BE CAUSED BY THE CLOSURE OF THE TANNERIES. THE SUPREME COURT MADE IT MANDATORY FOR THE TANNERIES TO HAVE PRIMARY TREATMENT PLANTS TO TREAT THE TRADE EFFLUENTS BEFORE DISCHARGING IT AND THE TANNERIES THAT COULDN'T AFFORD IT WERE ORDERED TO SHUT DOWN. THE TANNERIES ALREADY HAVING SUCH TREATMENTS PLANTS WERE DIRECTED TO MAINTAIN THE SAID TREATMENT PLANTS PROPERLY.