

M.C. Mehta vs Union Of India & Others on 22 September, 1987

Equivalent citations: 1988 AIR 1115, 1988 SCR (2) 530, AIR 1988 SUPREME COURT 1037, (1987) 3 JT 630 (SC), 1987 (13) REPORTS 669, 1987 4 JT 630, 1988 (1) UJ (SC) 75, (1987) 3 COM LJ 69, 1987 UJ(SC) 1 75, 1987 (4) SCC 463, (1987) 2 CURCC 1025

Author: E.S. Venkataramiah

Bench: E.S. Venkataramiah, K.N. Singh

PETITIONER:

M.C. MEHTA

Vs.

RESPONDENT:

UNION OF INDIA & OTHERS

DATE OF JUDGMENT 22/09/1987

BENCH:

VENKATARAMIAH, E.S. (J)

BENCH:

VENKATARAMIAH, E.S. (J)

SINGH, K.N. (J)

CITATION:

1988 AIR 1115	1988 SCR (2) 530
1988 SCC (1) 471	JT 1988 (1) 69

ACT:

Constitution of India, 1950: Articles 48A and 51A-State to protect and improve environment-Fundamental duty of every citizen to improve natural environment.

Environmental Law

Water (Prevention and Control of Pollution) Act, 1974 and Environment (Protection) Act, 1986:

'Environment'-Discharge of effluents from tannery into the River Ganga-Necessity to establish primary treatment plants-Closure of tanneries directed on failure to comply-Life, health and ecology have great importance.

Practice and Procedure: Court can issue appropriate directions if it finds public nuisance being committed and statutory authorities not taking adequate steps to rectify the grievance.

HEADNOTE:

The petitioner, an active social worker, filed a petition before this Court complaining that neither the Government nor the people were giving adequate attention to stop the pollution of the river Ganga and it was, therefore, necessary to take steps for the purpose of protecting the cleanliness of the stream in the river Ganga which was in fact the life sustainer of a large part of the northern India, and sought the issue of a writ/order/direction in the nature of mandamus to the respondents other than respondents Nos. 1 and 7 to 9 restraining them from letting out the trade effluents into the river Ganga till such time they put necessary treatment plants for treating the trade effluents in order to arrest the pollution of water in the said river.

This Court directed issue of notice under order 1 Rule 8 of the
280

Code of Civil Procedure treating the case as a representative action by publishing the gist of the petition in the newspapers in circulation in northern India and calling upon industrialists and the municipal corporations and town municipal councils having jurisdiction over the areas through which the river Ganga flows to appear before the Court to show cause as to why direction should not be issued as prayed for by the petitioner asking them not to allow trade effluents and sewage into the river Ganga without appropriately treating them before discharging them into the river.

Pursuant to the aforesaid notice a large number of industrialists and legal bodies entered appearance. Some filed counter affidavits explaining the steps taken by them for treating trade effluents before discharging them into the river.

The case against the tanneries at Jajmau, Kanpur, was first taken up by the Court for consideration. Forty three respondents admitted in their counter affidavits that the tanneries discharged their trade effluents into the sewage nallah which led to the municipal sewage plant before they were thrown into the river Ganga.

The Court was informed that six of the tanneries had already set up and fourteen were engaged in construction of primary treatment plants, and some others pleaded for time to do so. It was submitted on behalf of the respondents that it would not be possible for them to have secondary system for treating waste water in view of the enormous expenditure involved, which the tanneries would not be able to meet. Some of the tanneries neither appeared nor were represented by counsel in this Court.

Issuing interim directions, this Court,

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HELD: 1.1 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. [288B-D; 289A, F]

1.2 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. [289-E; 290C]

1.3 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. [298C-E]

1.4 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. [298G-H; 299D, G-H; 300A]

Such of those tanneries who have already put up primary treatment plants may continue running provided they keep the plants in sound working order.[299F]

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]

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Per Singh, J: (supplementing)

The pollution of the river Ganga is affecting the life, health and

283

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. [301G-H; 302A-B]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition No. 3727 of 1985 Under Article 32 of the Constitution of India. M.C. Mehta (Petitioner-in-person).

B. Datta, Additional Solicitor General, R.P. Kapur, P.P Singh and Ms. A Subhashini for Respondent Nos. 2 and 3 R.A. Gupta for Respondent No. 87.

S.K. Dholakia, Deepak K. Thakur, Mukul Mudgal and P. Narasimhan for Respondent No. 89.

Miss Bina Gupta, B.P. Singh, S.R. Srivastava, Krishan Kumar, Vineet Kumar, R. Mohan, Mrs. Shobha Dikshit, A. Sharan, D. Goburdhan, Mrs. G.S. Mishra, Parijat Sinha, R.C. Verma, R.P. Singh, Ranjit Kumar, R.B. Mehrotra, Manoj Swarup & Co. Raj Birbal, J.B.D. & Co. S.S. Khanduja, B.P Singh, E.C. Aggrawala, Khaitan & Co., A.K. Srivastava, Swarup John & Co., Mehta Dave, R.S. Sodhi, Subodh Markandey, T.V.S.N. Chari, Ashok Grover, Narain and P.C. Kapur for the Respondents.

B.R.L. Iyenger and Surya Kant for the Intervener. The Judgment of the Court was delivered by VENKATARAMIAH, J. This is a public interest litigation The petitioner who is an active social worker has filed this petition inter alia for the issue of a writ/order/direction in the nature of mandamus to the respondents other than Respondents 1, and 7 to 9 restraining them from letting out the trade effluents into the river Ganga till such time they put up necessary treatment plants for treating the trade effluents in order to arrest the pollution of water in the said river. Respondent 1 is the Union of India, Respondent 7 is the Chairman of the Central Board for Prevention and Control of Pollution, Respondent 8 is the Chairman, Uttar Pradesh Pollution Control Board and Respondent 9 is the Indian Standards Institute.

Water is the most important of the elements of nature. River valleys are the credles of civilization from beginning of the world. Aryan civilization grew around the towns and villages on the banks of

the river Ganga. Varanasi which is one of the cities on the banks of the river Ganga is considered to be one of the oldest human settlements in the world. It is the popular belief that the river Ganga is the purifier of all but we are now led to the situation that action has to be taken to prevent the pollution of the water of the river Ganga since we have reached a stage that any further pollution of the river water is likely to lead to a catastrophe. There are today large towns inhabited by millions of people on the banks of the river Ganga. There are also large industries on its banks. Sewage of the towns and cities on the banks of the river and the trade effluents of the factories and other industries are continuously being discharged into the river. It is the complaint of the petitioner that neither the Government nor the people are giving adequate attention to stop the pollution of the river Ganga. Steps have, therefore, to be taken for the purpose of protecting the cleanliness of the stream in the river Ganga, which is in fact the life sustainer of a large part of the northern India.

When this petition came up for preliminary hearing, the Court directed the issue of notice under order 1 rule 8 of the Code of Civil Procedure treating this case as a representative action by publishing the gist of the petition in the newspapers in circulation in northern India and calling upon all the industrialists and the municipal corporations and the town municipal councils having jurisdiction over the areas through which the river Ganga flows to appear before the Court and to show cause as to why directions should not be issued to them as prayed by the petitioner asking them not to allow the trade effluents and the sewage into the river Ganga without appropriately treating them before discharging them into the river. Pursuant to the said notice a large number of industrialists and local bodies have entered appearance before the Court. Some of them have filed counteraffidavits explaining the steps taken by them for treating the trade effluents before discharging them into the river. When the above case came up for consideration before the Court on the last date of hearing we directed that the case against the tanneries at Jajmau area near Kanpur would be taken up for hearing first. Respondents 14 to 87 and 89 are the tanneries near Kanpur. Of them respondents 16 to 32, 34 to 36, 43, 47, 51, 52, 54, 55, 57, 58, 60 to 62, 64, 67 to 69, 72, 74, 75, 77 to 82, 85, 87 and 89 are represented by counsel. The remaining tanneries did not appear before the Court at the time of the hearing nor were they represented by any counsel.

Before proceeding to consider the facts of this case it is necessary to state a few words about the importance of and need for protecting our environment. 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. The proclamation adopted by the United Nations Conference on the Human Environment which took place at Stockholm from 5th to 16th of June, 1972 and in which the Indian delegation led by the Prime Minister of India took a leading role runs thus:

"1. Man is both creature and moulder of his environment which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless

ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights-even the right to life itself.

2. The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

3. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time man's capability to transform his surroundings, if used wisely, can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth; dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies harmful to the physical, mental and social health of man, in the man-made environment; particularly in the living and working environment.

A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build in collaboration with nature a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind-a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world-wide economic and social development.

To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environ-

ment of the future. Local and National Governments will bear the greatest burden for large-scale environmental policy and action within their jurisdictions. International

co-operation is also needed in order to raise resources to support the developing countries carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest. The Conference calls upon the Governments and peoples to exert common efforts for the preservation and improvement of the human environment, for the benefit of all the people and for their posterity."

The proclamation also contained certain common convictions of the participant nations and made certain recommendations on development and environment. The common convictions stated include the conviction that the discharge of toxic substances or of other substances and the release of heat in such quantities or concentrations as to exceed the capacity of environment to render them harmless must be halted in order to ensure that serious or irreversible damage is not inflicted upon eco systems, that States shall take all possible steps to prevent pollution of the seas so that hazards to human health, harm to living resources and marine life, damage to the amenities or interference with other legitimate uses of seas is avoided that the environmental policies would enhance and not adversely affect the present and future development potential of development countries, that science and technology as part of their contributions to economic and social development must be applied with identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind, that States have the responsibility to ensure that activities of exploitation of their own resources within their jurisdiction are controlled and do not cause damage to the environment of other States or areas beyond the limit of national jurisdiction, that it will be essential in all cases to consider the systems of values prevailing in each country and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost and that man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. These are only some of the statements of principles proclaimed by the Stockholm Conference.

(Vide Lal's Commentaries on Water and Air Pollution Laws (2nd Edn.) pages 6-7 Realising the importance of the prevention and control of pollution of water for human existence Parliament has passed the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974) (hereinafter referred to as 'the Act') to provide for the 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. The Act was passed pursuant to resolutions passed by all the Houses of Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal under clause (1) of Article 252 of the Constitution to the effect that the prevention and control of water pollution should be regulated in those States by Parliamentary legislation. The Act has been since adopted by the State of Uttar Pradesh also by resolutions passed in that behalf by the Houses of Legislature of the said State in the year 1975 (vide notification No. 897/ix-3-100-74 dated 3.2.1975). Section 24 of the Act prohibits the use of any stream or well for disposal of polluting matter etc. It provides that

subject to the provisions of the said section 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 whether directly or indirectly into any stream or well or 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 to 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 expression stream is defined by section 2(j) of the Act as including river, water course whether flowing or for the time being dry, inland water whether natural or artificial, sub-terranean waters, sea or tidal waters to such extent or as the case may be to such point as the State Government may by notification in the official Gazette, specify in that behalf. Under the Act it is permissible to establish a Central Board and the State Boards. The functions of the Central Board and the State Boards are described in section 16 and 17 respectively. One of the functions of the State Board is to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents, and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification and the system for the disposal of sewage or trade effluents. 'Trade effluent' includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any trade or industry, other than domestic sewage. The State Board is also entrusted with the work of laying down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents. The State Board is also entrusted with the power of making application to courts for restraining apprehended pollution of water in streams or wells. Notwithstanding the comprehensive provisions contained in the Act 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.

In addition to the above Act, Parliament has also passed the Environment (Protection) Act, 1986 (29 of 1986) which has been brought into force throughout India with effect from November 19, 1986. Section 3 of this Act confers power on the Central Government 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. 'Environment' includes water, air and land and the inter- relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property. (Vide section 2(a) of the Environment (Protection) Act, 1986). Under Section 3(2)(iv) of the said Act the Central Government may lay down standards for emission or discharge of environmental pollutants from various sources whatsoever. Notwithstanding anything contained in any other law but subject to the provisions of the Environment (Protection) Act, 1986, the Central Government may under section S of the Act, in the exercise of its powers and performance of its functions under that Act issue directions in writing to any person, officer or authority and such authority is bound to comply with such directions. The power to issue directions under the said section includes the power to direct the closure, prohibition or regulation of any industry, operation or process or stoppage or regulation of the supply of

electricity or water or any other service. Section 9 of the said Act imposes a duty on every person to take steps to prevent or mitigate the environmental pollution. Section 15 of the said Act contains provisions relating to penalties that may be imposed for the contravention of any of the provisions of the said Act or directions issued thereunder. It is to be noticed that not much has been done even under this Act by the Central Government to stop the grave public nuisance caused by the tanneries at Jajmau, Kanpur.

All the tanneries at Jajmau, Kanpur which were represented by counsel, except respondent Nos. 87 and 89 have relied upon a common counter-affidavit filed by them and their case is argued by Shri S.K. Dholakia and Shri Mukul Mudgal. Respondent No. 87 is represented by Shri R.P. Gupta and respondent No. 89 is represented by Shri P. Narasimhan. There is not much dispute on the question that the discharge of the trade effluents from these tanneries into the river Ganga has been causing considerable damage to the life of the people who use the water of the river Ganga and also to the aquatic life in the river. The tanneries at Jajmau in Kanpur have themselves formed an association called Jajmau Tanners Pollution Control Association with the objects among others:

- (1) To establish, equip and maintain laboratories, workshop, institutes, organisations and factories for conducting and carrying on p experiments and to provide funds for the main objects of the Company.
- (2) To procure and import wherever necessary the chemicals etc. for the purpose of pollution control in tanning industries.
- (3) To set up and maintain common effluent treatment plant for member tanners in and around Jajmau.
- (4) To make periodical charges on members for the effluent treatment based on the benefit he/it derives from time to time to meet the common expenses for maintenance, replacement incurred towards effluent treatment.

In the Fiscal Plan for setting up common Effluent Treatment Plants for Indian Tanning Industry-(March, 1986) prepared by the committee constituted by the Directorate General of Technical Development (Government of India) it is observed thus:-

"Leather industry is one of the three major industries besides paper and textiles consuming large quantities of water for processing of hides and skins into leather. Naturally most of the water used is discharged as wastewater. The wastewater contains putrescible organic and toxic inorganic materials which when discharged as such will deplete dissolved oxygen content of the receiving water courses resulting in the death of all aquatic life and emanating foul odour. Disposal of these untreated effluents on to land will pollute the ground water resources. Discharging of these effluents without treatment into public sewers results in the choking of sewers.

Realising the importance of keeping the environment clean, the Government of India has enacted the Water Pollution Control Act (Central Act 6 of 1974) and almost all the State Government have adopted the Act and implementing the Act by forming the Pollution Control Boards in their respective states. The Pollution Control Boards have been insisting that all industries have to treat their effluents to the prescribed standards and leather industry is no exception to this rule. Tanneries situated all over the country have been faced with the problem of treating their effluents. Seized with the problem of finding out a solution, the Central Leather Research Institute, Madras has brought out a Management Investment Report (CLRI Core Committee Report) as early as 1976 which contains 14 flow sheets indicating the treatment technologies for various types of leather processing techniques, quantity of effluents etc. including the cost of treatment."

A monograph entitled 'Treatment Technology of Tannery Effluents' prepared by S. Rajamani, W. Madavakrishna and G. Thyagarajan of the Central Leather Research Institute, Adyar, Madras states that generally the wastewater from beam house process namely soaking, liming, deliming etc. are highly alkaline containing decomposing organic matter, hair, lime sulphide etc. and is nearly ten times as strong as domestic sewage and refers to the various methods by which the effluents of the tanneries could be treated before their discharge into any river. They recommend four types of wastewater treatment technology so far as the tanneries are concerned -1) segregation or mixing of suitable sectional waste water from different processes; (2) primary treatment; (3) secondary biological treatment; and (4) disposal of solid wastes from the treatment system. The said monograph explains the work at the primary treatment unit thus:-

"The primary treatment units principally comprise of coarse screens, two numbers of settling tanks and sludge drying beds. The settling tank, each of about 1-2 days capacity acts as an equalisation- cum-setting tank as well. As an alternative, clarifier can be provided in place of settling tank for treating higher capacity effluents. Depending on the quality of composite effluent, addition of neutralising chemicals like lime, alum, ferric chloride etc. would be required for effective precipitation of chromium and removal of suspended solids in the sedimentation process. The sludge from the settling tanks and clarifier is removed and dried on sludge drying beds made up of filtering media gravel, sand and supporting masonry structure. For operational reasons, sludge drying beds are divided into four or more compartments. The dried sludge from the sludge drying beds can be used as manure or for landfill if it is vegetable tannery waste. In case of chrome tannery waste, the dried sludge should be buried or disposed off suitably as per the directions of regulatory agencies and local bodies. "

The secondary treatment units are explained in the said monograph thus:

"The pre-treated effluent needs suitable secondary biological treatment to meet the pollution control standards. The general biological treatment units which can be adopted under Indian conditions are anaerobic lagoon, aerated lagoon, extended

aeration systems like oxidation ditch, activated sludge process etc. Anaerobic lagoon is a simple anaerobic treatment unit suitable for effluents with high BOD like vegetable tannery (Raw to E. 1) wastewater. In depth of the lagoon varies from 3-5 metres and detention time from 10-20 days depending upon the pollutional load and atmospheric conditions. This is an open type digester with no provision for gas collection. No power is required for this system and its performance is proved to be efficient in South Indian conditions.

Anaerobic contract filter is also an anaerobic treatment unit. This is a closed tank type unit made up of R.C.C. Or masonry structure filled up with media like broken granite stones etc. This unit occupies less land area since the detention time is about 1-2 days only. This system is reported to be efficient for treating high organic load, but the capital cost would be comparatively high.

Aerated lagoon is a shallow water tight pond of about 2-3 metres depth with a detention time of about 4-6 days. Fixed or floating type surface aerators are provided to transfer oxygen from atmospheric air to the effluent for biological treatment using micro-organisms under aerobic conditions. The system is suitable for treating low organic load.

Extended aeration systems like 'activated sludge process' and 'oxidation ditch' are the improved aerobic biological treatment systems occupying less land area since the detention time/capacity would be only about 1-2 days. These units require secondary settling tank and sludge recirculation arrangements. Extended aeration systems are proved to be efficient. The operational and maintenance cost is comparatively high for smaller installations, but economical for treatment capacity of 150 M³ and above per day. "

A study of the conditions prevailing at Jajmau, Kanpur was made by the Sub-Committee on Effluent Disposal constituted by the Development Council for Leather and Leather Goods Industries along with the various tanneries situated in some other parts of India and in its report submitted in April, 1984, the Sub-Committee has observed in the case of the tanneries at Jajmau, Kanpur thus:-

"In the case of Jajmau, Kanpur, the committee visited few tanneries where the effort has been made to have primary treatment of the effluent before it is dis-

charged to the common drain/the river Ganges. There are 60 tanneries in Jajmau which will be covered under joint effluent disposal. The total production is to the tune of 12000 hides with a total discharge of 5 million litres per day. The State Government has taken appropriate steps in preparation of the feasibility report under the guidance of U.P. Pollution Control Board. This proposal was also supported by Central Pollution Board, Delhi by sharing the total fee of Rs.80,000 to be paid to the Public Health Engineering Consultancy, Bombay which has prepared the report with the help of IIT, Bombay. The report suggests that each tannery should make

arrangement for the primary treatment of their effluent and then it will be discharged into common treatment plant."

There is a reference to the Jajmau tanneries in 'an Action Plan for Prevention of Pollution of the Ganga' prepared by the Department of Environment, Government of India in the year 1985, which is as under:-

"1.1 The Ganga drains eight States Himachal Pradesh, Punjab, Haryana, Uttar Pradesh, Rajasthan, Madhya Pradesh, Bihar, West Bengal and the Union Territory of Delhi. It is also the most important river of India and has served as the cradle of Indian Civilization. Several major pilgrim centres have existed on its banks for centuries and millions of people come to bathe in the river during religious festivals, especially the Kumbhs of Haridwar and Allahabad. Many towns on the Ganga, e.g., Kanpur, Allahabad, Patna and Calcutta have very large populations and the river also serves as the source of water supply for these towns. The Ganga is, however, being grossly polluted especially near the towns situated on its banks. Urgent steps need to be taken to prevent this pollution and restore the purity of river water.

2.0. Sources of Pollution 2.1 The main sources of pollution of the Ganga are the following:-

Urban liquid waste (Sewage, storm drainage mixed with sewage, human, cattle and kitchen wastes carried by drains etc.) Industrial liquid waste A Surface run-off of cultivated land where cultivators use chemical fertilisers, pesticides, insecticides and such manures the mixing of which may make the river water unsafe for drinking and bathing.

Surface run-off from areas on which urban solid wastes are dumped Surface run-off from areas on which industrial solid wastes are dumped

4.4.12 Effluent from industries:

Under the laws of the land the responsibility for treatment of the industrial effluents is that of the industry. While the concept of 'Strict Liability' should be adhered to in some cases, circumstances may require that plans for sewerage and treatment systems should consider industrial effluents as well. Clusters of small industries located in a contiguous area near the river bank and causing direct pollution to the river such as the tanneries in Jajmau in Kanpur is a case in point. In some cases, waste waters from some industrial units may have already been connected to the city sewer and, therefore, merit treatment along with the sewage in the sewage treatment plant. It may also be necessary in some crowded areas to accept wastewaters of industries in a city sewer to be fed to the treatment plant, provided the industrial waste is free from heavy metals, toxic chemicals and is not abnormally acidic or alkaline.

In such circumstances, scheme proposals have to carefully examine the case of integrating or segregating industrial wastes for purposes of conveyance and treatment as also the possibilities for appointment of capital and operating costs between the city authorities and the industries concerned." (emphasis added) Appearing on behalf of the Department of Environment, (Government of India, Shri B. Dutta the learned Ist Additional H Solicitor General of India placed before us a memorandum explaining the existing situation at Jajmau area of Kanpur. It reads thus:

"Status regarding construction of treatment facilities for treatment of wastes from Tanneries in Jajmau area of Kanpur.

1. About 70 small, medium and large tanneries are located in Jajmau area of Kanpur. On an average they generate 4.5 MLD of waste water.
2. Under the existing laws, tanneries like other industries are expected to provide treatment of their effluents to different standards depending on whether these are discharged into stream or land. It is the responsibility of the industry concerned to ensure that the quality of the wastewater conforms to the standards laid down
3. From time to time, tanneries of Kanpur have re presented that due to lack of physical facilities, technical knowhow and funds, it has not been possible to install adequate treatment facilities.
4. Jajmau is an environmentally degraded area of Kanpur. The location of numerous tanneries in the area is a major cause of the degradation. Civic facilities for water supply, sanitation, solid waste removal etc. are also highly inadequate. Because the area abuts the Ganga river, its pollution affects the river quality as well. Accordingly, under the Ganga Action Plan an integrated sanitation project is being taken up for the Jajmau area. Some aspects of the Plan relate to tannery wastes as follows:
 - (i) The medium and large units will have to up pre treatment facilities to ensure that the standard of sewage discharged into the municipal sewer also conform to the standards laid down.

Scientific institutions such as Central Leather Research Institute are looking into the possibility of pretreatment including recovery of materials such as chromium. The setting up of pre- treatment facility in the respective units will be the responsibility of the individual units concerned. The Ganga Project Directorate as part of the Ganga Action Plan, will play a facilitative role to demonstrate application of modern technologies for cost A effective pre-treatment which the small tanners can afford.

- (ii) Since the wastes will be ultimately discharged into the river, the waste will have to further conform to the standards laid down for discharge into the stream. For this purpose, it will be

necessary to treat the waste further and as part of the Ganga Action Plan a treatment plant will be constructed for this purpose utilising some advanced processes. It is also proposed to combine the domestic waste with the industrial waste conveyed through the industrial sewer which will then be treated in a treatment plant

(iii) It is estimated that cost of this proposed sewage treatment facility which will treat the waste from the domestic sources and the pretreated wastes from tanneries will be about Rs.2.5 crores. It will have a capacity of 25 MLD and the first demonstration module of about 5 MLD is expected to be installed in early 1988-89. Necessary work for designing of the plant has already been initiated and the infrastructure facilities such as availability of land, soil testing etc. have also been ensured. Tender specifications are being provided and it is expected that the tenders will be floated sometime in October 87. It is expected that in the combined treatment facility of 25 MLD, about 20 MLD will be from the domestic sources and 5 MLD will be from the tanneries after pretreatment in the region." In the counter-affidavit filed on behalf of the Hindustan Chambers of Commerce, of which 43 respondents are members it is admitted that the tanneries discharge their trade effluents into the sewage nullah which leads to the municipal sewage plant before they are thrown into the river Ganga. It is not disputed by any of the respondents that the water in the river Ganga is being polluted grossly by the effluent discharged by the tanneries. We are informed that six of the tanneries have already set up the primary treatment plants for carrying out the pre-treatment of the effluent before it is discharged into the municipal Sewerage which ultimately leads to the river Ganga. About 14 of the tanneries are stated to be engaged in the construction of the primary treatment plants. It is pleaded on behalf of the rest of the tanneries who are the members of the Hindustan Chambers of Commerce and three other tanneries represented by Shir Mukul Mudgal that if some time is given to them to establish the pre-treatment plants they would H do so. It is, however, submitted by all of them that it would not be possible for them to have the secondary system for treating wastewater as that would involve enormous expenditure which the tanneries themselves would not be able to meet. It is true that it may not be possible for the tanneries to establish immediately the secondary system plant in view of the large expenditure 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 of the primary treatment plants and that is the minimum which the tanneries should do in the circumstances of the case. In the counter-affidavit filed on behalf of the Hindustan Chamber of Commerce it is seen that the cost of pretreatment plant for a 'A' class tannery is Rs.3,68,000, the cost of the plant for a 'B' class tannery is Rs.2,30,000 and the cost of the plant for 'C' class tannery is Rs.50,000 This cost does not appear to be excessive. 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 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 these cases are not taken by surprise. For several years they are being asked to take necessary steps to prevent the flow of untreated wastewater from their factories into the river. Some of them have already complied with the demand. It should be remembered that the effluent discharged from a tannery is ten times

noxious when compared with the domestic sewage water which flows into the river from any urban areas on its banks. We feel that the tanneries at Jajmau, Kanpur cannot be allowed to continue to carry on the industrial activity unless they take steps to establish primary treatment plants. 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 the public is being committed and the statutory authorities who are charged with the duty to prevent it are not taking adequate steps to rectify the grievance. For every breach of a right there should be a remedy. 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 an order directing them to stop working their tanneries should be passed.

We accordingly direct M/s. Delight Tannery (respondent 14), M/s. Hindustan Tannery (respondent 15), M/s. Primer Allarmin Tannery (respondent 33), M/s. Mahaboob Tannery (respondent

37), M/s. Popular Tannery (respondent 38), M/s. Standard Tannery (respondent 39), M/s. Vikash Tarmery (respondent

40), M/s. New Golden Tannery (respondent 41), M/s. D.D. Tannery (respondent 42), M/s. Himalaya Tannery (respondent

44), M/s. Commercial Industry (respondent 45), M/s. Madina Tannery (respondent 46), M/s. Kanpur Tannery (respondent

48), M/s. New Jab Tannery (respondent 49), M/s. Famous Tannery (respondent 50), M/s. Glaxy Tannery (respondent 53), M/s. Bengal Tannery (respondent 56), M/s. Chhangal Tannery (respondent 59), M/s. Nadari Tannery (respondent 63), M/s. Jajmau Tanners (respondent 65), M/s. International Tanning Industry (respondent 66), M/s. Poorwanchal Tanning Industry (respondent 70), M/s. Navratan Tanning (respondent 71), M/s. Haroou Tannery (respondent 73), M/s. Himalaya Tanners (respondent 76), M/s. R.A. Traders (respondent 79), M/s. Alam Tannery (respondent 83), M/s. G.T. Tannery (respondent 84), and M/s. Awadh Tannery (respondent 86) to stop the running of their tanneries and also not to let out trade effluents from their tanneries 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 (respondent 8) with effect from 1. 10.1987.

M/s. Indian Tanning Industry (respondent 30), the U.P. Tannery (respondent 19), M/s. Zaz Tannery (respondent 28), M/s. Super Tannery India Ltd. (respondent 21), M/s. Shewan Tannery (respondent 20), M/s. Pioneer Tannery (respondent

23), and M/s. M.K.J. Corporation (respondent 89) who have already put up the primary treatment plants may continue to carry on production in their factories subject to the condition that they should continue to keep the primary treatment plants established by them in sound working order.

Shri S.K. Dholakia, learned counsel for the other tanneries who are members of the Hindustan Chambers of Commerce and the other tanneries who have entered appearance through Shri Mukul Mudgal submits that they will establish primary treatment plants within six months and he further submits that in the event of their not completing the construction of the primary treatment plants as approved by the State Board (respondent 8) and bringing them into operation within the period of six months the said tanneries will stop carrying on their business. We record the statement made by the learned counsel and grant them time till 31.3.1988 to set up the primary treatment plants. If any of these tanneries does not set up a primary treatment plant within 31.3.1988 it is directed to stop its business with effect from 1.4.1988.

We issue a direction to 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 to enforce our order faithfully. Copies of this order shall be sent to them for information. The case is adjourned to 27th October, 1987 to consider the case against the municipal bodies in the State of Uttar Pradesh having jurisdiction over the areas through which the river Ganga is passing.

SINGH, J. I respectfully agree with every word what my learned brother Venkataramiah, J. has stated in the proposed order and the directions issued by that order. However, I wish to add few words.

The river Ganga is one of the greatest rivers of the world, although its entire course is only 1560 miles from its source in Himalaya to the sea. There are many rivers larger in shape and longer in size but no river in the world has been so great as the Ganga. It is great because to millions of people since centuries it is the most sacred river. It is called "Sursari" river of the Gods, 'Patitpawani' purifier of all sins and 'Ganga Ma' Mother Ganges. To millions of Hindus, it is the most sacred, most venerated river on earth. According to the Hindu belief and mythology to bathe in it, is to wash away guilt, to drink the water, having bathed in it, and to carry it away in containers for those who may have not had the good fortune to make the pilgrimage, to it, is meritorious. To be cremated on its banks, or to die there, and to have one's ashes cast on its waters, is the wish of every Hindu. Many P saints and sages have pursued their quest for knowledge and enlightenment on the banks of the river Ganga. Its water has not only purified the body and soul of the millions but it has given fertile land to the country in Uttar Pradesh and Bihar. Ganga has been used as means of water transport for trade and commerce. The Indian civilization of the Northern India thrived in the plains of Ganga and most of the important towns and places of pilgrimage are situated on its banks. The river Ganga has been part of Hindu civilization. Pt. Jawahar Lal Nehru who did not consider himself a devout Hindu gave expression to his feelings for the Ganga that is to be found in his Will and Testament, a short extract from which is as under:

"My desire to have a handful of my ashes thrown into the Ganga at Allahabad has no religious significance, so far as I am concerned. I have no religious sentiment in the matter. I have been attached to the Ganga and the Jamuna rivers in Allahabad ever since my childhood and, as I have grown older, this attachment has also grown. I have watched their varying moods as the seasons changed, and have often thought of the history and myth and tradition and song and story that have become attached to

them through the long ages and become part of their flowing waters. The Ganga, especially, as the river of India, beloved of her people, round which are intertwined her racial memories, her hopes and fears, her songs of triumph, her victories and her defeats. She has been a symbol of India's age-long culture and civilization, ever-changing, ever-flowing, and yet ever the same Ganga. She reminds me of the snow-covered peaks and the deep valleys of the Himalayas, which I have loved so much, and of the rich and vast plains below, where my life and work have been cast."

The river Ganga is the life line of millions of people of India, Indian culture and civilization has grown around it. This great river drains of eight States of India, Himachal Pradesh, Punjab, Haryana, Uttar Pradesh, Rajasthan, Madhya Pradesh, Bihar and West Bengal. The Ganga has always been an integral part of the nation's history, culture and environment. It has been the source of sustenance of the millions of people who have lived on its banks from time immemorial.

Millions of our people bathe in the Ganga drink its water under an abiding faith and belief to purify themselves and to achieve moksha release from the cycle of birth and death. It is tragic that the Ganga, which has since time immemorial, purified the people is being polluted by man in numerous ways, by dumping of garbage, throwing carcass of dead animals and discharge of effluents. Scientific investigations and survey reports have shown that the Ganga which serves one-third of the India's population is polluted by the discharge of municipal sewage and the industrial effluents in the river. 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. I need not refer to those steps as my learned brother has referred to them in detail. No law or authority can succeed in removing the pollution unless the people cooperate. To my mind, 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. This Court issued notices to them but in spite of notice 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. We are therefore issuing the directions for the closure of those tanneries which have failed to take minimum steps required for the primary treatment of industrial effluent. We are conscious that closure of tanneries may bring unemployment, loss of revenue, but life, health and ecology have greater importance to the people. N.P.V.